UNOFFICIAL, EARLY-RELEASE VERSION OF THE 2027 IOWA CODE

Volume VI

Chapters 486 to 523I

Published by the
Legislative Services Agency
GENERAL ASSEMBLY OF IOWA
Des Moines

EXPLANATORY NOTE AND DISCLAIMER

This unofficial, early-release version of the 2027 Iowa Code provides early access to legislative and editorial additions and changes to Code section text, history, and footnotes with an effective date of January 1, 2027, or earlier. Final data checks, updates, and related corrections have not all been made, but will be included in the official text PDF version of the Iowa Code, which is published annually on this website and biennially in printed hardbound volumes.

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CODE EDITOR'S NOTES

Reference

Simple Harmonization Note

The multiple amendments do not conflict, so they were harmonized to give effect to each as required by Code sections 2B.13 and 4.11. In some cases where this note is referenced, the amendments are identical. Under Code section 2B.13, a strike or repeal prevails over an amendment to the same material and does not create a conflict.

811.1

2026 Acts, ch 1159, §4, amends subsection 2, unnumbered paragraph 1, by establishing an exception to that provision in a new subsection 3, as enacted in 2026 Acts, ch 1159, §5. 2026 Acts, ch 1156, §33, separately amends subsection 2, unnumbered paragraph 1, by also establishing an exception to that provision in a new subsection 3, as enacted in 2026 Acts, ch 1156, §34. Each Act establishes an independent alternate exception. Therefore, the new subsection 3, enacted in 2026 Acts, ch 1156, §34, was codified as subsection 4, and subsection 2, unnumbered paragraph 1, was editorially modified to give effect to both amendments by adding "or 4" to the resulting exception clause being added by both 2026 Acts, ch 1159, §4, and 2026 Acts, ch 1156, §33.

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TITLE XII

BUSINESS ENTITIES

Referred to in §9.13, 714H.4

SUBTITLE 1

PARTNERSHIPS

CHAPTER 486

UNIFORM PARTNERSHIP LAW

Repealed effective January 1, 2001, by
98 Acts, ch 1201, §78; see chapter 486A

CHAPTER 486A

UNIFORM PARTNERSHIP ACT

Referred to in §9.11, 10.1, 169.4A, 501.101, 501A.102, 558.72, 602.6803, 669.14

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ARTICLE 1
GENERAL PROVISIONS

486A.101 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Business"* includes every trade, occupation, and profession.

2. *"Debtor in bankruptcy"* means a person who is the subject of any of the following:

a. An order for relief under Tit. 11 of the United States Code or a comparable order under a successor statute of general application.

b. A comparable order under federal, state, or foreign law governing insolvency.

3. *"Distribution"* means a transfer of money or other property from a partnership to a partner in the partner's capacity as a partner or to the partner's transferee.

4. *"Foreign limited liability partnership"* means a partnership that satisfies both of the following:

a. The partnership is formed under laws other than the laws of this state.

b. The partnership has the status of a limited liability partnership under those laws.

5. *"Limited liability partnership"* means a partnership that has filed a statement of qualification under section 486A.1001 and does not have a similar statement in effect in any other jurisdiction.

6. *"Partnership"* means an association of two or more persons to carry on as co-owners a business for profit formed under section 486A.202, predecessor law, or comparable law of another jurisdiction.

7. *"Partnership agreement"* means the agreement, whether written, oral, or implied, among the partners concerning the partnership, including amendments to the partnership agreement.

8. *"Partnership at will"* means a partnership in which the partners have not agreed to remain partners until the expiration of a definite term or the completion of a particular undertaking.

9. *"Partnership interest"* or *"partner's interest in the partnership"* means all of a partner's interests in the partnership, including the partner's transferable interest and all management and other rights.

10. *"Person"* means as defined in section 4.1.

11. *"Property"* means all property, real, personal, or mixed, tangible or intangible, or any interest in such property.

12. *"State"* means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

13. *"Statement"* means a statement of partnership authority under section 486A.303, a statement of denial under section 486A.304, a statement of dissociation under section 486A.704, a statement of dissolution under section 486A.805, a statement of merger under section 486A.907, a statement of qualification under section 486A.1001, a statement of foreign qualification under section 486A.1102, or an amendment or cancellation of any of the foregoing.

14. *"Transfer"* includes an assignment, conveyance, lease, mortgage, deed, and encumbrance.

98 Acts, ch 1201, §1, 79, 82; 2010 Acts, ch 1061, §180
Referred to in §142D.2, 673A.3

486A.102 Knowledge and notice.

1. A person knows a fact if the person has actual knowledge of it.

2. A person has notice of a fact if any of the following apply:

a. The person knows of it.

b. The person has received a notification of it.

c. The person has reason to know it exists from all of the facts known to the person at the time in question.

3. A person notifies or gives a notification to another by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person learns of it.

4. A person receives a notification when any of the following occur:

a. The notification comes to the person's attention.

b. The notification is duly delivered at the person's place of business or at any other place held out by the person as a place for receiving communications.

5. Except as otherwise provided in subsection 6, a person other than an individual knows, has notice, or receives a notification of a fact for purposes of a particular transaction when

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the individual conducting the transaction knows, has notice, or receives a notification of the fact, or in any event when the fact would have been brought to the individual's attention if the person had exercised reasonable diligence. The person exercises reasonable diligence if the person maintains reasonable routines for communicating significant information to the individual conducting the transaction and there is reasonable compliance with the routines. Reasonable diligence does not require an individual acting for the person to communicate information unless the communication is part of the individual's regular duties or the individual has reason to know of the transaction and that the transaction would be materially affected by the information.

6. A partner's knowledge, notice, or receipt of a notification of a fact relating to the partnership is effective immediately as knowledge by, notice to, or receipt of a notification by the partnership, except in the case of a fraud on the partnership committed by or with the consent of that partner.

98 Acts, ch 1201, §2, 79, 82

486A.103 Effect of partnership agreement — nonwaivable provisions.

1. Except as otherwise provided in subsection 2, relations among the partners and between the partners and the partnership are governed by the partnership agreement. To the extent the partnership agreement does not otherwise provide, this chapter governs relations among the partners and between the partners and the partnership.

2. The partnership agreement shall not do any of the following:

a. Vary the rights and duties under section 486A.105 except to eliminate the duty to provide copies of statements to all of the partners.

b. Unreasonably restrict the right of access to books and records under section 486A.403, subsection 2.

c. Eliminate the duty of loyalty under section 486A.404, subsection 2, or 486A.603, subsection 2, paragraph "*c*", except as follows:

(1) The partnership agreement may identify specific types or categories of activities that do not violate the duty of loyalty, if not manifestly unreasonable.

(2) All of the partners or a number or percentage specified in the partnership agreement may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty.

d. Unreasonably reduce the duty of care under section 486A.404, subsection 3, or 486A.603, subsection 2, paragraph "*c*".

e. Eliminate the obligation of good faith and fair dealing under section 486A.404, subsection 4, but the partnership agreement may prescribe the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable.

f. Vary the power to dissociate as a partner under section 486A.602, subsection 1, except to require the notice under section 486A.601, subsection 1, to be in writing.

g. Vary the right of a court to expel a partner in the events specified in section 486A.601, subsection 5.

h. Vary the requirement to wind up the partnership business in cases specified in section 486A.801, subsection 4, 5, or 6.

i. Vary the law applicable to a limited liability partnership under section 486A.106, subsection 2.

j. Restrict rights of third parties under this chapter.

98 Acts, ch 1201, §3, 79, 82

486A.104 Supplemental principles of law.

1. Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.

2. If an obligation to pay interest arises under this chapter and the rate is not specified, the rate is that specified in section 535.3.

98 Acts, ch 1201, §4, 79, 82

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486A.105 Execution, filing, and recording of statements.

1. A statement may be filed in the office of the secretary of state. A certified copy of a statement that is filed in an office in another state may be filed in the office of the secretary of state. Either filing has the effect provided in this chapter with respect to partnership property located in or transactions that occur in this state.

2. A certified copy of a statement that has been filed in the office of the secretary of state and recorded in the office for recording transfers of real property has the effect provided for recorded statements in this chapter. A recorded statement that is not a certified copy of a statement filed in the office of the secretary of state does not have the effect provided for recorded statements in this chapter.

3. A statement filed by a partnership must be executed by at least two partners. Other statements must be executed by a partner or other person authorized by this chapter. An individual who executes a statement as, or on behalf of, a partner or other person named as a partner in a statement shall personally declare under penalty of perjury that the contents of the statement are accurate.

4. A person authorized by this chapter to file a statement may amend or cancel the statement by filing an amendment or cancellation that names the partnership, identifies the statement, and states the substance of the amendment or cancellation.

5. A person who files a statement pursuant to this section shall promptly send a copy of the statement to every nonfiling partner and to any other person named as a partner in the statement. Failure to send a copy of a statement to a partner or other person does not limit the effectiveness of the statement as to a person not a partner.

6. The secretary of state may collect a fee for filing or providing a certified copy of a statement. The county recorder may collect a fee for recording a statement.

98 Acts, ch 1201, §5, 79, 82
Referred to in §9.11, 486A.103, 486A.303, 486A.907, 486A.1001, 486A.1102

486A.105A Secretary of state — extra services — surcharge.

Upon the request of a filer of a document under this chapter, the secretary of state shall provide an extra filing service and assess a surcharge as provided in chapter 9, subchapter II.

2021 Acts, ch 165, §254

486A.106 Governing law.

1. Except as otherwise provided in subsection 2, the law of the jurisdiction in which a partnership has its chief executive office governs relations among the partners and between the partners and the partnership.

2. The law of this state governs relations among the partners and the partnership and the liability of partners for an obligation of a limited liability partnership.

98 Acts, ch 1201, §6, 79, 82
Referred to in §486A.103

486A.107 Partnership subject to amendment or repeal of chapter.

A partnership governed by this chapter is subject to any amendment to or repeal of this chapter.

98 Acts, ch 1201, §7, 79, 82

ARTICLE 2

NATURE OF PARTNERSHIP

486A.201 Partnership as entity.

1. A partnership is an entity distinct from its partners.

2. A limited liability partnership continues to be the same entity that existed before the filing of a statement of qualification under section 486A.1001.

98 Acts, ch 1201, §8, 79, 82

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486A.202 Formation of partnership.

1. Except as otherwise provided in subsection 2, the association of two or more persons to carry on as co-owners a business for profit forms a partnership, whether or not the persons intend to form a partnership.

2. An association formed under a statute other than this chapter, a predecessor statute, or a comparable statute of another jurisdiction is not a partnership under this chapter.

3. In determining whether a partnership is formed, the following rules apply:

a. Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property, or part ownership does not by itself establish a partnership, even if the co-owners share profits made by the use of the property.

b. The sharing of gross returns does not by itself establish a partnership, even if the persons sharing them have a joint or common right or interest in property from which the returns are derived.

c. A person who receives a share of the profits of a business is presumed to be a partner in the business, unless the profits were received in payment of or for any of the following:

(1) Of a debt by installments or otherwise.

(2) For services as an independent contractor or of wages or other compensation to an employee.

(3) Of rent.

(4) Of an annuity or other retirement or health benefit to a beneficiary, representative, or designee of a deceased or retired partner.

(5) Of interest or other charge on a loan, even if the amount of payment varies with the profits of the business, including a direct or indirect present or future ownership of the collateral, or rights to income, proceeds, or increase in value derived from the collateral.

(6) For the sale of the goodwill of a business or other property by installments or otherwise.

98 Acts, ch 1201, §9, 79, 82

Referred to in §468.506, 486A.101, 489.1001

486A.203 Partnership property.

Property acquired by a partnership is property of the partnership and not of the partners individually.

98 Acts, ch 1201, §10, 79, 82

486A.204 When property is partnership property.

1. Property is partnership property if acquired in the name of any of the following:

a. The partnership.

b. One or more partners with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership but without an indication of the name of the partnership.

2. Property is acquired in the name of the partnership by a transfer to any of the following:

a. The partnership in its name.

b. One or more partners in their capacity as partners in the partnership, if the name of the partnership is indicated in the instrument transferring title to the property.

3. Property is presumed to be partnership property if purchased with partnership assets, even if not acquired in the name of the partnership or of one or more partners with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership.

4. Property acquired in the name of one or more of the partners, without an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership and without use of partnership assets, is presumed to be separate property, even if used for partnership purposes.

98 Acts, ch 1201, §11, 79, 82

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ARTICLE 3

RELATIONS OF PARTNERS TO
PERSONS DEALING WITH PARTNERSHIP

486A.301 Partner agent of partnership.

Subject to the effect of a statement of partnership authority under section 486A.303:

1. Each partner is an agent of the partnership for the purpose of its business. An act of a partner, including the execution of an instrument in the partnership name, for apparently carrying on in the ordinary course the partnership business or business of the kind carried on by the partnership binds the partnership, unless the partner had no authority to act for the partnership in the particular matter and the person with whom the partner was dealing knew or had received a notification that the partner lacked authority.

2. An act of a partner which is not apparently for carrying on in the ordinary course the partnership business or business of the kind carried on by the partnership binds the partnership only if the act was authorized by the other partners.

98 Acts, ch 1201, §12, 79, 82
Referred to in §486A.302, 486A.401, 486A.702, 486A.804, 486A.805

486A.302 Transfer of partnership property.

1. Partnership property may be transferred as follows:

a. Subject to the effect of a statement of partnership authority under section 486A.303, partnership property held in the name of the partnership may be transferred by an instrument of transfer executed by a partner in the partnership name.

b. Partnership property held in the name of one or more partners with an indication in the instrument transferring the property to the partners of their capacity as partners or of the existence of a partnership, but without an indication of the name of the partnership, may be transferred by an instrument of transfer executed by the persons in whose name the property is held.

c. Partnership property held in the name of one or more persons other than the partnership, without an indication in the instrument transferring the property to the partners of their capacity as partners or of the existence of a partnership, may be transferred by an instrument of transfer executed by the persons in whose name the property is held.

2. A partnership may recover partnership property from a transferee only if it proves that execution of the instrument of initial transfer did not bind the partnership under section 486A.301 and if one of the following applies:

a. As to a subsequent transferee who gave value for property transferred under subsection 1, paragraphs *"a"* and *"b"*, proves that the subsequent transferee knew or had received a notification that the person who executed the instrument of initial transfer lacked authority to bind the partnership.

b. As to a transferee who gave value for property transferred under subsection 1, paragraph *"c"*, proves that the transferee knew or had received a notification that the property was partnership property and that the person who executed the instrument of initial transfer lacked authority to bind the partnership.

3. A partnership shall not recover partnership property from a subsequent transferee if the partnership would not have been entitled to recover the property, under subsection 2, from any earlier transferee of the property.

4. If a person holds all of the partners' interests in the partnership, all of the partnership property vests in that person. The person may execute a document in the name of the partnership to evidence vesting of the property in that person and may file or record the document.

98 Acts, ch 1201, §13, 79, 82
Referred to in §486A.907

486A.303 Statement of partnership authority.

1. A partnership may file a statement of partnership authority as provided in this subsection.

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a. The statement of partnership authority must include all of the following:

(1) The name of the partnership.

(2) The street address of its chief executive office and of one office in this state, if there is one.

(3) The names and mailing addresses of all of the partners or of an agent appointed and maintained by the partnership for the purpose of subsection 2.

(4) The names of the partners authorized to execute an instrument transferring real property held in the name of the partnership.

b. The statement of partnership authority may state the authority, or limitations on the authority, of some or all of the partners to enter into other transactions on behalf of the partnership and any other matter.

2. If a statement of partnership authority names an agent, the agent shall maintain a list of the names and mailing addresses of all of the partners and make it available to any person on request for good cause shown.

3. If a filed statement of partnership authority is executed pursuant to section 486A.105, subsection 3, and states the name of the partnership but does not contain all of the other information required by subsection 1, the statement nevertheless operates with respect to a person not a partner as provided in subsections 4 and 5.

4. Except as otherwise provided in subsection 7, a filed statement of partnership authority supplements the authority of a partner to enter into transactions on behalf of the partnership as follows:

a. Except for transfers of real property, a grant of authority contained in a filed statement of partnership authority is conclusive in favor of a person who gives value without knowledge to the contrary, so long as and to the extent that a limitation on that authority is not then contained in another filed statement. A filed cancellation of a limitation on authority revives the previous grant of authority.

b. A grant of authority to transfer real property held in the name of the partnership contained in a certified copy of a filed statement of partnership authority recorded in the office for recording transfers of that real property is conclusive in favor of a person who gives value without knowledge to the contrary, so long as and to the extent that a certified copy of a filed statement containing a limitation on that authority is not then of record in the office for recording transfers of that real property. The recording in the office for recording transfers of that real property of a certified copy of a filed cancellation of a limitation on authority revives the previous grant of authority.

5. A person not a partner is deemed to know of a limitation on the authority of a partner to transfer real property held in the name of the partnership if a certified copy of the filed statement containing the limitation on authority is of record in the office for recording transfers of that real property.

6. Except as otherwise provided in subsections 4 and 5 and sections 486A.704 and 486A.805, a person not a partner is not deemed to know of a limitation on the authority of a partner merely because the limitation is contained in a filed statement.

7. A statement of partnership authority filed by the secretary of state is effective until amended or canceled, unless an earlier cancellation date is specified in the statement.

98 Acts, ch 1201, §14, 79, 82; 2013 Acts, ch 108, §1

Referred to in §486A.101, 486A.301, 486A.302, 486A.304, 486A.702, 486A.703, 486A.704, 486A.805, 633A.4606

486A.304 Statement of denial.

A partner or other person named as a partner in a filed statement of partnership authority or in a list maintained by an agent pursuant to section 486A.303, subsection 2, may file a statement of denial stating the name of the partnership and the fact that is being denied, which may include denial of a person's authority or status as a partner. A statement of denial is a limitation on authority as provided in section 486A.303, subsections 4 and 5.

98 Acts, ch 1201, §15, 79, 82

Referred to in §486A.101, 486A.1205

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486A.305 Partnership liable for partner's actionable conduct.

1. A partnership is liable for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act or omission, or other actionable conduct, of a partner acting in the ordinary course of business of the partnership or with authority of the partnership.

2. If, in the course of the partnership's business or while acting with authority of the partnership, a partner receives or causes the partnership to receive money or property of a person not a partner, and the money or property is misapplied by a partner, the partnership is liable for the loss.

98 Acts, ch 1201, §16, 79, 82

486A.306 Partner's liability.

1. Except as otherwise provided in subsections 2 and 3, all partners are liable jointly and severally for all obligations of the partnership unless otherwise agreed by the claimant or provided by law.

2. A person admitted as a partner into an existing partnership is not personally liable for any partnership obligation incurred before the person's admission as a partner.

3. An obligation of a partnership incurred while the partnership is a limited liability partnership, whether arising in contract, tort, or otherwise, is solely the obligation of the partnership. A partner is not personally liable, directly or indirectly, by way of contribution or otherwise, for such an obligation solely by reason of being or so acting as a partner. This subsection applies notwithstanding anything inconsistent in the partnership agreement that existed immediately before the vote required to become a limited liability partnership under section 486A.1001, subsection 2.

98 Acts, ch 1201, §17, 79, 82

Referred to in §486A.307, 486A.703, 486A.806, 486A.807, 486A.903, 486A.906

486A.307 Actions by and against partnership and partners.

1. A partnership may sue and be sued in the name of the partnership.

2. An action may be brought against the partnership and, to the extent not inconsistent with section 486A.306, any or all of the partners in the same action or in separate actions.

3. A judgment against a partnership is not by itself a judgment against a partner. A judgment against a partnership shall not be satisfied from a partner's assets unless there is also a judgment against the partner.

4. A judgment creditor of a partner shall not levy execution against the assets of the partner to satisfy a judgment based on a claim against the partnership unless the partner is personally liable for the claim under section 486A.306 and one or more of the following apply:

a. A judgment based on the same claim has been obtained against the partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part.

b. The partnership is a debtor in bankruptcy.

c. The partner has agreed that the creditor need not exhaust partnership assets.

d. A court grants permission to the judgment creditor to levy execution against the assets of a partner based on a finding that partnership assets subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of partnership assets is excessively burdensome, or that the grant of permission is an appropriate exercise of the court's equitable powers.

e. Liability is imposed on the partner by law or contract independent of the existence of the partnership.

5. This section applies to any partnership liability or obligation resulting from a representation by a partner or purported partner under section 486A.308.

98 Acts, ch 1201, §18, 79, 82

486A.308 Liability of purported partner.

1. If a person, by words or conduct, purports to be a partner, or consents to being represented by another as a partner, in a partnership or with one or more persons not partners, the purported partner is liable to a person to whom the representation is made,

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if that person, relying on the representation, enters into a transaction with the actual or purported partnership. If the representation, either by the purported partner or by a person with the purported partner's consent, is made in a public manner, the purported partner is liable to a person who relies upon the purported partnership even if the purported partner is not aware of being held out as a partner to the claimant. If partnership liability results, the purported partner is liable with respect to that liability as if the purported partner were a partner. If no partnership liability results, the purported partner is liable with respect to that liability jointly and severally with any other person consenting to the representation.

2. If a person is thus represented to be a partner in an existing partnership, or with one or more persons not partners, the purported partner is an agent of persons consenting to the representation to bind the persons to the same extent and in the same manner as if the purported partner were a partner, with respect to persons who enter into transactions in reliance upon the representation. If all of the partners of the existing partnership consent to the representation, a partnership act or obligation results. If fewer than all of the partners of the existing partnership consent to the representation, the person acting and the partners consenting to the representation are jointly and severally liable.

3. A person is not liable as a partner merely because the person is named by another in a statement of partnership authority.

4. A person does not continue to be liable as a partner merely because of a failure to file a statement of dissociation or to amend a statement of partnership authority to indicate the partner's dissociation from the partnership.

5. Except as otherwise provided in subsections 1 and 2, persons who are not partners as to each other are not liable as partners to other persons.

98 Acts, ch 1201, §19, 79, 82
Referred to in §486A.307

ARTICLE 4

RELATIONS OF PARTNERS TO EACH OTHER AND TO PARTNERSHIP

486A.401 Partner's rights and duties.

1. Each partner is deemed to have an account subject to the following:

a. The account is credited with an amount equal to the money plus the value of any other property, net of the amount of any liabilities, the partner contributes to the partnership and the partner's share of the partnership profits.

b. The account is charged with an amount equal to the money plus the value of any other property, net of the amount of any liabilities, distributed by the partnership to the partner and the partner's share of the partnership losses.

2. Each partner is entitled to an equal share of the partnership profits and is chargeable with a share of the partnership losses in proportion to the partner's share of the profits.

3. A partnership shall reimburse a partner for payments made and indemnify a partner for liabilities incurred by the partner in the ordinary course of the business of the partnership or for the preservation of its business or property, if such payments were made or liabilities incurred without violation of the partner's duties to the partnership or the other partners.

4. A partnership shall reimburse a partner for an advance to the partnership beyond the amount of capital the partner agreed to contribute.

5. A payment or advance made by a partner which gives rise to a partnership obligation under subsection 3 or 4 constitutes a loan to the partnership which accrues interest from the date of the payment or advance.

6. Each partner has equal rights in the management and conduct of the partnership business.

7. A partner may use or possess partnership property only on behalf of the partnership.

8. A partner is not entitled to remuneration for services performed for the partnership, except for reasonable compensation for services rendered in winding up the business of the partnership.

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9. A person may become a partner only with the consent of all of the partners.

10. A difference arising as to a matter in the ordinary course of business of a partnership may be decided by a majority of the partners. An act outside the ordinary course of business of a partnership and an amendment to the partnership agreement may be undertaken only with the consent of all of the partners.

11. This section does not affect the obligations of a partnership to other persons under section 486A.301.

98 Acts, ch 1201, §20, 79, 82
Referred to in §486A.405

486A.402 Distributions in kind.

A partner has no right to receive, and shall not be required to accept, a distribution in kind.

98 Acts, ch 1201, §21, 79, 82

486A.403 Partner's rights and duties with respect to information.

1. A partnership shall keep its books and records, if any, at its chief executive office.

2. A partnership shall provide partners and their agents and attorneys access to its books and records. It shall provide former partners and their agents and attorneys access to books and records pertaining to the period during which the former partners were partners. The right of access provides the opportunity to inspect and copy books and records during ordinary business hours. A partnership may impose a reasonable charge, covering the costs of labor and material, for copies of documents furnished.

3. Each partner and the partnership shall furnish to a partner, and to the legal representative of a deceased partner or partner under legal disability, all of the following:

a. Without demand, any information concerning the partnership's business and affairs reasonably required for the proper exercise of the partner's rights and duties under the partnership agreement or this chapter.

b. On demand, any other information concerning the partnership's business and affairs, except to the extent the demand or the information demanded is unreasonable or otherwise improper under the circumstances.

98 Acts, ch 1201, §22, 79, 82
Referred to in §486A.103, 486A.405

486A.404 General standards of partner's conduct.

1. The only fiduciary duties a partner owes to the partnership and the other partners are the duty of loyalty and the duty of care set forth in subsections 2 and 3.

2. A partner's duty of loyalty to the partnership and the other partners is limited to the following:

a. To account to the partnership and hold as trustee for the partnership any property, profit, or benefit derived by the partner in the conduct and winding up of the partnership business or derived from a use by the partner of partnership property, including the appropriation of a partnership opportunity.

b. To refrain from dealing with the partnership in the conduct or winding up of the partnership business as or on behalf of a party having an interest adverse to the partnership.

c. To refrain from competing with the partnership in the conduct of the partnership business before the dissolution of the partnership.

3. A partner's duty of care to the partnership and the other partners in the conduct and winding up of the partnership business is limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law.

4. A partner shall discharge the duties to the partnership and the other partners under this chapter or under the partnership agreement and exercise any rights consistently with the obligation of good faith and fair dealing.

5. A partner does not violate a duty or obligation under this chapter or under the partnership agreement merely because the partner's conduct furthers the partner's own interest.

6. A partner may lend money to and transact other business with the partnership, and as

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to each loan or transaction the rights and obligations of the partner are the same as those of a person who is not a partner, subject to other applicable law.

7. This section applies to a person winding up the partnership business as the personal or legal representative of the last surviving partner as if the person were a partner.

98 Acts, ch 1201, §23, 79, 82
Referred to in §486A.103, 486A.405, 486A.601, 486A.603

486A.405 Actions by partnership and partners.

1. A partnership may maintain an action against a partner for a breach of the partnership agreement, or for the violation of a duty to the partnership, causing harm to the partnership.

2. A partner may maintain an action against the partnership or another partner for legal or equitable relief, with or without an accounting as to partnership business, to do any of the following:

a. Enforce the partner's rights under the partnership agreement.

b. Enforce the partner's rights under this chapter, including any or all of the following:

(1) The partner's rights under section 486A.401, 486A.403, or 486A.404.

(2) The partner's right on dissociation to have the partner's interest in the partnership purchased pursuant to section 486A.701 or enforce any other right under article 6 or 7.

(3) The partner's right to compel a dissolution and winding up of the partnership business under section 486A.801 or enforce any other right under article 8.

c. Enforce the rights and otherwise protect the interests of the partner, including rights and interests arising independently of the partnership relationship.

3. The accrual of, and any time limitation on, a right of action for a remedy under this section is governed by other law. A right to an accounting upon a dissolution and winding up does not revive a claim barred by law.

98 Acts, ch 1201, §24, 79, 82
Referred to in §486A.701

486A.406 Continuation of partnership beyond definite term or particular undertaking.

1. If a partnership for a definite term or particular undertaking is continued, without an express agreement, after the expiration of the term or completion of the undertaking, the rights and duties of the partners remain the same as they were at the expiration or completion, so far as is consistent with a partnership at will.

2. If the partners, or those of them who habitually acted in the business during the term or undertaking, continue the business without any settlement or liquidation of the partnership, they are presumed to have agreed that the partnership will continue.

98 Acts, ch 1201, §25, 79, 82

ARTICLE 5

TRANSFEREES AND CREDITORS
OF PARTNER

486A.501 Partner not co-owner of partnership property.

A partner is not a co-owner of partnership property and has no interest in partnership property which can be transferred, either voluntarily or involuntarily.

98 Acts, ch 1201, §26, 79, 82

486A.502 Partner's transferable interest in partnership.

The only transferable interest of a partner in the partnership is the partner's share of the profits and losses of the partnership and the partner's right to receive distributions. The interest is personal property.

98 Acts, ch 1201, §27, 79, 82

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486A.503 Transfer of partner's transferable interest.

1. A transfer, in whole or in part, of a partner's transferable interest in the partnership is or does all of the following:

a. Is permissible.

b. Does not by itself cause the partner's dissociation or a dissolution and winding up of the partnership business.

c. Does not, as against the other partners or the partnership, entitle the transferee, during the continuance of the partnership, to participate in the management or conduct of the partnership business, to require access to information concerning partnership transactions, or to inspect or copy the partnership books or records.

2. A transferee of a partner's transferable interest in the partnership has a right to all of the following:

a. To receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled.

b. To receive upon the dissolution and winding up of the partnership business, in accordance with the transfer, the net amount otherwise distributable to the transferor.

c. To seek under section 486A.801, subsection 6, a judicial determination that it is equitable to wind up the partnership business.

3. In a dissolution and winding up, a transferee is entitled to an account of partnership transactions only from the date of the latest account agreed to by all of the partners.

4. Upon transfer, the transferor retains the rights and duties of a partner other than the interest in distributions transferred.

5. A partnership need not give effect to a transferee's rights under this section until it has notice of the transfer.

6. A transfer of a partner's transferable interest in the partnership in violation of a restriction on transfer contained in the partnership agreement is ineffective as to a person having notice of the restriction at the time of transfer.

98 Acts, ch 1201, §28, 79, 82

486A.504 Partner's transferable interest subject to charging order.

1. On application by a judgment creditor of a partner or of a partner's transferee, a court having jurisdiction may charge the transferable interest of the judgment debtor to satisfy the judgment. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or which the circumstances of the case may require.

2. A charging order constitutes a lien on the judgment debtor's transferable interest in the partnership. The court may order a foreclosure of the interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee.

3. At any time before foreclosure, an interest charged may be redeemed by or with any of the following:

a. By the judgment debtor.

b. With property other than partnership property, by one or more of the other partners.

c. With partnership property, by one or more of the other partners with the consent of all of the partners whose interests are not so charged.

4. This chapter does not deprive a partner of a right under exemption laws with respect to the partner's interest in the partnership.

5. This section provides the exclusive remedy by which a judgment creditor of a partner or partner's transferee may satisfy a judgment out of the judgment debtor's transferable interest in the partnership.

98 Acts, ch 1201, §29, 79, 82

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ARTICLE 6

PARTNER'S DISSOCIATION

Referred to in §486A.405

486A.601 Events causing partner's dissociation.

A partner is dissociated from a partnership upon the occurrence of any of the following events:

1. The partnership's having notice of the partner's express will to withdraw as a partner or on a later date specified by the partner.

2. An event agreed to in the partnership agreement as causing the partner's dissociation.

3. The partner's expulsion pursuant to the partnership agreement.

4. The partner's expulsion by the unanimous vote of the other partners if any of the following apply:

a. It is unlawful to carry on the partnership business with that partner.

b. There has been a transfer of all or substantially all of that partner's transferable interest in the partnership, other than a transfer for security purposes, or a court order charging the partner's interest, which has not been foreclosed.

c. Within ninety days after the partnership notifies a corporate partner that it will be expelled because it has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no reinstatement of its charter or its right to conduct business.

d. A partnership, limited partnership, or limited liability company that is a partner has been dissolved and its business is being wound up.

5. On application by the partnership or another partner, the partner's expulsion by judicial determination because of any of the following:

a. The partner engaged in wrongful conduct that adversely and materially affected the partnership business.

b. The partner willfully or persistently committed a material breach of the partnership agreement or of a duty owed to the partnership or the other partners under section 486A.404.

c. The partner engaged in conduct relating to the partnership business which makes it not reasonably practicable to carry on the business in partnership with the partner.

6. The partner's actions constituting any of the following:

a. Becoming a debtor in bankruptcy.

b. Executing an assignment for the benefit of creditors.

c. Seeking, consenting to, or acquiescing in the appointment of a trustee, receiver, or liquidator of that partner or of all or substantially all of that partner's property.

d. Failing, within ninety days after the appointment, to have vacated or stayed the appointment of a trustee, receiver, or liquidator of the partner or of all or substantially all of the partner's property obtained without the partner's consent or acquiescence, or failing within ninety days after the expiration of a stay to have the appointment vacated.

7. In the case of a partner who is an individual any of the following:

a. The partner's death.

b. The appointment of a general guardian or general conservator for the partner.

c. A judicial determination that the partner has otherwise become incapable of performing the partner's duties under the partnership agreement.

8. In the case of a partner that is a trust or is acting as a partner by virtue of being a trustee of a trust, distribution of the trust's entire transferable interest in the partnership, but not merely by reason of the substitution of a successor trustee.

9. In the case of a partner that is an estate or is acting as a partner by virtue of being a personal representative of an estate, distribution of the estate's entire transferable interest in the partnership, but not merely by reason of the substitution of a successor personal representative.

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10. Termination of a partner who is not an individual, partnership, corporation, trust, or estate.

98 Acts, ch 1201, §30, 79, 82
Referred to in §486A.103, 486A.602, 486A.801

486A.602 Partner's power to dissociate — wrongful dissociation.

1. A partner has the power to dissociate at any time, rightfully or wrongfully, by express will pursuant to section 486A.601, subsection 1.

2. A partner's dissociation is wrongful only if any of the following applies:

a. It is in breach of an express provision of the partnership agreement.

b. In the case of a partnership for a definite term or particular undertaking, before the expiration of the term or the completion of the undertaking if any of the following occur:

(1) The partner withdraws by express will, unless the withdrawal follows within ninety days after another partner's dissociation by death or otherwise under section 486A.601, subsections 6 through 10, or wrongful dissociation under this subsection.

(2) The partner is expelled by judicial determination under section 486A.601, subsection 5.

(3) The partner is dissociated by becoming a debtor in bankruptcy.

(4) In the case of a partner who is not an individual, trust other than a business trust, or estate, the partner is expelled or otherwise dissociated because it willfully dissolved or terminated.

3. A partner who wrongfully dissociates is liable to the partnership and to the other partners for damages caused by the dissociation. The liability is in addition to any other obligation of the partner to the partnership or to the other partners.

98 Acts, ch 1201, §31, 79, 82
Referred to in §486A.103, 486A.701, 486A.801

486A.603 Effect of partner's dissociation.

1. If a partner's dissociation results in a dissolution and winding up of the partnership business, article 8 applies; otherwise, article 7 applies.

2. Upon a partner's dissociation all of the following apply:

a. The partner's right to participate in the management and conduct of the partnership business terminates, except as otherwise provided in section 486A.803.

b. The partner's duty of loyalty under section 486A.404, subsection 2, paragraph *"c"*, terminates.

c. The partner's duty of loyalty under section 486A.404, subsection 2, paragraphs *"a"* and *"b"*, and duty of care under section 486A.404, subsection 3, continue only with regard to matters arising and events occurring before the partner's dissociation, unless the partner participates in winding up the partnership's business pursuant to section 486A.803.

98 Acts, ch 1201, §32, 79, 82
Referred to in §486A.103

ARTICLE 7

PARTNER'S DISSOCIATION WHEN BUSINESS NOT WOUND UP

Referred to in §486A.405, 486A.603

486A.701 Purchase of dissociated partner's interest.

1. If a partner is dissociated from a partnership without resulting in a dissolution and winding up of the partnership business under section 486A.801, the partnership shall cause the dissociated partner's interest in the partnership to be purchased for a buyout price determined pursuant to subsection 2.

2. The buyout price of a dissociated partner's interest is the amount that would have been distributable to the dissociating partner under section 486A.807, subsection 2, if, on the date of dissociation, the assets of the partnership were sold at a price equal to the greater of the liquidation value or the value based on a sale of the entire business as a going concern without

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the dissociated partner and the partnership were wound up as of that date. Interest must be paid from the date of dissociation to the date of payment.

3. Damages for wrongful dissociation under section 486A.602, subsection 2, and all other amounts owing, whether or not presently due, from the dissociated partner to the partnership, must be offset against the buyout price. Interest must be paid from the date the amount owed becomes due to the date of payment.

4. A partnership shall indemnify a dissociated partner whose interest is being purchased against all partnership liabilities, whether incurred before or after the dissociation, except liabilities incurred by an act of the dissociated partner under section 486A.702.

5. If no agreement for the purchase of a dissociated partner's interest is reached within one hundred twenty days after a written demand for payment, the partnership shall pay, or cause to be paid, in cash to the dissociated partner the amount the partnership estimates to be the buyout price and accrued interest, reduced by any offsets and accrued interest under subsection 3.

6. If a deferred payment is authorized under subsection 8, the partnership may tender a written offer to pay the amount the partnership estimates to be the buyout price and accrued interest, reduced by any offsets under subsection 3, stating the time of payment, the amount and type of security for payment, and the other terms and conditions of the obligation.

7. The payment or tender required by subsection 5 or 6 must be accompanied by all of the following:

a. A written statement of partnership assets and liabilities as of the date of dissociation.

b. The latest available partnership balance sheet and income statement, if any.

c. A written explanation of how the estimated amount of the payment was calculated.

d. Written notice that the payment is in full satisfaction of the obligation to purchase unless, within one hundred twenty days after the written notice, the dissociated partner commences an action to determine the buyout price, any offsets under subsection 3, or other terms of the obligation to purchase.

8. A partner who wrongfully dissociates before the expiration of a definite term or the completion of a particular undertaking is not entitled to payment of any portion of the buyout price until the expiration of the term or completion of the undertaking, unless the partner establishes to the satisfaction of the court that earlier payment will not cause undue hardship to the business of the partnership. A deferred payment must be adequately secured and bear interest.

9. A dissociated partner may maintain an action against the partnership, pursuant to section 486A.405, subsection 2, paragraph "*b*", subparagraph (2), to determine the buyout price of that partner's interest, any offsets under subsection 3, or other terms of the obligation to purchase. The action must be commenced within one hundred twenty days after the partnership has tendered payment or an offer to pay or within one year after written demand for payment if no payment or offer to pay is tendered. The court shall determine the buyout price of the dissociated partner's interest, any offset due under subsection 3, and accrued interest, and enter judgment for any additional payment or refund. If deferred payment is authorized under subsection 8, the court shall also determine the security for payment and other terms of the obligation to purchase. The court may assess reasonable attorney's fees and the fees and expenses of appraisers or other experts for a party to the action, in amounts the court finds equitable, against a party that the court finds acted arbitrarily, vexatiously, or not in good faith. The finding may be based on the partnership's failure to tender payment or an offer to pay or to comply with subsection 7.

98 Acts, ch 1201, §33, 79, 82
Referred to in §486A.405, 486A.906

486A.702 Dissociated partner's power to bind and liability to partnership.

1. For two years after a partner dissociates without resulting in a dissolution and winding up of the partnership business, the partnership, including a surviving partnership under article 9, is bound by an act of the dissociated partner which would have bound the partnership under section 486A.301 before dissociation only if at the time of entering into the transaction all of the following apply:

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a. The other party reasonably believed that the dissociated partner was then a partner.

b. The other party did not have notice of the partner's dissociation.

c. The other party is not deemed to have had knowledge under section 486A.303, subsection 5, or notice under section 486A.704, subsection 3.

2. A dissociated partner is liable to the partnership for any damage caused to the partnership arising from an obligation incurred by the dissociated partner after dissociation for which the partnership is liable under subsection 1.

98 Acts, ch 1201, §34, 79, 82
Referred to in §486A.701, 486A.704, 486A.906

486A.703 Dissociated partner's liability to other persons.

1. A partner's dissociation does not of itself discharge the partner's liability for a partnership obligation incurred before dissociation. A dissociated partner is not liable for a partnership obligation incurred after dissociation, except as otherwise provided in subsection 2.

2. A partner who dissociates without resulting in a dissolution and winding up of the partnership business is liable as a partner to the other party in a transaction entered into by the partnership, or a surviving partnership under article 9, within two years after the partner's dissociation, only if the partner is liable for the obligation under section 486A.306 and at the time of entering into the transaction all of the following apply:

a. The other party reasonably believed that the dissociated partner was then a partner.

b. The other party did not have notice of the partner's dissociation.

c. The other party is not deemed to have had knowledge under section 486A.303, subsection 5, or notice under section 486A.704, subsection 3.

3. By agreement with the partnership creditor and the partners continuing the business, a dissociated partner may be released from liability for a partnership obligation.

4. A dissociated partner is released from liability for a partnership obligation if a partnership creditor, with notice of the partner's dissociation but without the partner's consent, agrees to a material alteration in the nature or time of payment of a partnership obligation.

98 Acts, ch 1201, §35, 79, 82
Referred to in §486A.704, 486A.906

486A.704 Statement of dissociation.

1. A dissociated partner or the partnership may file a statement of dissociation stating the name of the partnership and that the partner is dissociated from the partnership.

2. A statement of dissociation is a limitation on the authority of a dissociated partner for the purposes of section 486A.303, subsections 4 and 5.

3. For the purposes of section 486A.702, subsection 1, paragraph "*c*", and section 486A.703, subsection 2, paragraph "*c*", a person not a partner is deemed to have notice of the dissociation ninety days after the statement of dissociation is filed.

98 Acts, ch 1201, §36, 79, 82
Referred to in §486A.101, 486A.303, 486A.702, 486A.703

486A.705 Continued use of partnership name.

Continued use of a partnership name, or a dissociated partner's name as part of a partnership name, by partners continuing the business does not of itself make the dissociated partner liable for an obligation of the partners or the partnership continuing the business.

98 Acts, ch 1201, §37, 79, 82

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ARTICLE 8

WINDING UP PARTNERSHIP BUSINESS

Referred to in §486A.405, 486A.603, 486A.904

486A.801 Events causing dissolution and winding up of partnership business.

A partnership is dissolved, and its business must be wound up, only upon the occurrence of any of the following events:

1. In a partnership at will, the partnership's having notice from a partner, other than a partner who is dissociated under section 486A.601, subsections 2 through 10, of that partner's express will to withdraw as a partner, or on a later date specified by the partner.

2. In a partnership for a definite term or particular undertaking if any of the following occur or are present:

a. The expiration of ninety days after a partner's dissociation by death or otherwise under section 486A.601, subsections 6 through 10, or wrongful dissociation under section 486A.602, subsection 2, unless before that time a majority in interest of the remaining partners, including partners who have rightfully dissociated pursuant to section 486A.602, subsection 2, paragraph "*b*", subparagraph (1), agree to continue the partnership.

b. The express will of all of the partners to wind up the partnership business.

c. The expiration of the term or the completion of the undertaking.

3. An event agreed to in the partnership agreement resulting in the winding up of the partnership business.

4. An event that makes it unlawful for all or substantially all of the business of the partnership to be continued, but a cure of illegality within ninety days after notice to the partnership of the event is effective retroactively to the date of the event for purposes of this section.

5. On application by a partner, a judicial determination that concludes any of the following:

a. The economic purpose of the partnership is likely to be unreasonably frustrated.

b. Another partner has engaged in conduct relating to the partnership business which makes it not reasonably practicable to carry on the business in partnership with that partner.

c. It is not otherwise reasonably practicable to carry on the partnership business in conformity with the partnership agreement.

6. On application by a transferee of a partner's transferable interest, a judicial determination that it is equitable to wind up the partnership business at any of the following times:

a. After the expiration of the term or completion of the undertaking, if the partnership was for a definite term or particular undertaking at the time of the transfer or entry of the charging order that gave rise to the transfer.

b. At any time, if the partnership was a partnership at will at the time of the transfer or entry of the charging order that gave rise to the transfer.

98 Acts, ch 1201, §38, 79, 82

Referred to in §486A.103, 486A.405, 486A.503, 486A.701

486A.802 Partnership continues after dissolution.

1. Subject to subsection 2, a partnership continues after dissolution only for the purpose of winding up its business. The partnership is terminated when the winding up of its business is completed.

2. At any time after the dissolution of a partnership and before the winding up of its business is completed, all of the partners, including any dissociating partner other than a wrongfully dissociating partner, may waive the right to have the partnership's business wound up and the partnership terminated. In that event all of the following apply:

a. The partnership resumes carrying on its business as if dissolution had never occurred, and any liability incurred by the partnership or a partner after the dissolution and before the waiver is determined as if dissolution had never occurred.

b. The rights of a third party accruing under section 486A.804, subsection 1, or arising out

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of conduct in reliance on the dissolution before the third party knew or received a notification of the waiver shall not be adversely affected.

98 Acts, ch 1201, §39, 79, 82

486A.803 Right to wind up partnership business.

1. After dissolution, a partner who has not wrongfully dissociated may participate in winding up the partnership's business, but on application of any partner, partner's legal representative, or transferee, the court, for good cause shown, may order judicial supervision of the winding up.

2. The legal representative of the last surviving partner may wind up a partnership's business.

3. A person winding up a partnership's business may preserve the partnership business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal, or administrative, settle and close the partnership's business, dispose of and transfer the partnership's property, discharge the partnership's liabilities, distribute the assets of the partnership pursuant to section 486A.807, settle disputes by mediation or arbitration, and perform other necessary acts.

98 Acts, ch 1201, §40, 79, 82

Referred to in §486A.603

486A.804 Partner's power to bind partnership after dissolution.

Subject to section 486A.805, a partnership is bound by a partner's act after dissolution that meets any of the following criteria:

1. Is appropriate for winding up the partnership business.

2. Would have bound the partnership under section 486A.301 before dissolution, if the other party to the transaction did not have notice of the dissolution.

98 Acts, ch 1201, §41, 79, 82

Referred to in §486A.802, 486A.805, 486A.806

486A.805 Statement of dissolution.

1. After dissolution, a partner who has not wrongfully dissociated may file a statement of dissolution stating the name of the partnership and that the partnership has dissolved and is winding up its business.

2. A statement of dissolution cancels a filed statement of partnership authority for the purposes of section 486A.303, subsection 4, and is a limitation on authority for the purposes of section 486A.303, subsection 5.

3. For the purposes of sections 486A.301 and 486A.804, a person not a partner is deemed to have notice of the dissolution and the limitation on the partners' authority as a result of the statement of dissolution ninety days after it is filed.

4. After filing and, if appropriate, recording a statement of dissolution, a dissolved partnership may file and, if appropriate, record a statement of partnership authority which will operate with respect to a person not a partner as provided in section 486A.303, subsections 4 and 5, in any transaction, whether or not the transaction is appropriate for winding up the partnership business.

98 Acts, ch 1201, §42, 79, 82

Referred to in §486A.101, 486A.303, 486A.804

486A.806 Partner's liability to other partners after dissolution.

1. Except as otherwise provided in subsection 2 and section 486A.306, after dissolution a partner is liable to the other partners for the partner's share of any partnership liability incurred under section 486A.804.

2. A partner who, with knowledge of the dissolution, incurs a partnership liability under section 486A.804, subsection 2, by an act that is not appropriate for winding up the partnership business is liable to the partnership for any damage caused to the partnership arising from the liability.

98 Acts, ch 1201, §43, 79, 82

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486A.807 Settlement of accounts and contributions among partners.

1. In winding up a partnership's business, the assets of the partnership, including the contributions of the partners required by this section, must be applied to discharge its obligations to creditors, including, to the extent permitted by law, partners who are creditors. Any surplus must be applied to pay in cash the net amount distributable to partners in accordance with their right to distributions under subsection 2.

2. Each partner is entitled to a settlement of all partnership accounts upon winding up the partnership business. In settling accounts among the partners, profits and losses that result from the liquidation of the partnership assets must be credited and charged to the partners' accounts. The partnership shall make a distribution to a partner in an amount equal to any excess of the credits over the charges in the partner's account. A partner shall contribute to the partnership an amount equal to any excess of the charges over the credits in the partner's account, but excluding from the calculation charges attributable to an obligation for which the partner is not personally liable under section 486A.306.

3. If a partner fails to contribute the full amount required under subsection 2, all of the other partners shall contribute, in the proportions in which those partners share partnership losses, the additional amount necessary to satisfy the partnership obligations for which they are personally liable under section 486A.306. A partner or partner's legal representative may recover from the other partners any contributions the partner makes to the extent the amount contributed exceeds that partner's share of the partnership obligations for which the partner is personally liable under section 486A.306.

4. After the settlement of accounts, each partner shall contribute, in the proportion in which the partner shares partnership losses, the amount necessary to satisfy partnership obligations that were not known at the time of the settlement and for which the partner is personally liable under section 486A.306.

5. The estate of a deceased partner is liable for the partner's obligation to contribute to the partnership.

6. An assignee for the benefit of creditors of a partnership or a partner, or a person appointed by a court to represent creditors of a partnership or a partner, may enforce a partner's obligation to contribute to the partnership.

98 Acts, ch 1201, §44, 79, 82
Referred to in §486A.701, 486A.803, 486A.906

ARTICLE 9

CONVERSIONS AND MERGERS

Referred to in §486A.702, 486A.703

486A.901 Definitions.

In this article:

1. *"Converted organization"* means the organization into which a converting domestic partnership converts pursuant to this article, and continues in existence after the conversion takes effect.

2. *"Converting organization"* means a domestic partnership that converts into another organization pursuant to this article and does not continue in existence after the conversion takes effect.

3. *"Domestic"*, with respect to an organization, means formed and governed as to its internal affairs by a domestic governing statute.

4. *"Domestic governing statute"* means a statute of this state governing the formation and internal affairs of a domestic organization, including this chapter governing a partnership; chapter 488 governing a limited partnership, including a limited liability limited partnership; chapter 489 governing a limited liability company; chapter 490 governing a business corporation; chapter 504 governing a not-for-profit corporation; or chapter 633A governing a business trust.

5. *"Foreign"*, with respect to an organization, means formed and governed as to its internal affairs by the laws of another jurisdiction.

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6. *"Foreign governing statute"* means a statute of another jurisdiction governing the formation and internal affairs of a foreign organization.

7. *"General partner"* means a partner in a partnership and a general partner in a limited partnership.

8. *"Governing statute"* means a domestic governing statute or foreign governing statute, including any predecessor statute.

9. *"Limited partner"* means a limited partner in a limited partnership.

10. *"Limited partnership"* means a limited partnership formed under chapter 488.

11. *"Organization"* means a partnership; limited partnership, including a limited liability limited partnership; limited liability company; business corporation; nonprofit corporation; or business trust formed if the organization is formed under a domestic governing statute or foreign governing statute; or any other foreign organization formed under a comparable foreign governing statute.

12. *a. "Organizational document"* means a public organic document and other document or record that determines an organization's internal governance and the relations among the persons that own the organization, have an interest in the organization, or are members of the organization, as provided in its governing statute, and includes any amendment to or restatement of that document or record.

b. "Organizational document" includes but is not limited to the following:

(1) For a domestic general partnership, its partnership agreement as provided in its domestic governing statute; or for a foreign general partnership, its partnership agreement or a comparable document as provided in its foreign governing statute.

(2) For a domestic limited partnership, its certificate of limited partnership as provided in its domestic governing statute; or for a foreign limited partnership, its certificate of limited partnership or a comparable document as provided in its foreign governing statute.

(3) For a domestic limited liability company, its certificate of organization and operating agreement as provided in its domestic governing statute; or for a foreign limited liability company, its certificate of organization or articles of organization, and operating agreement, or comparable records as provided in its foreign governing statute.

(4) For a domestic business corporation, its articles of incorporation, bylaws, and other agreements among its shareholders authorized by its domestic governing statute, as provided in its domestic governing statute; or for a foreign business corporation, its articles of incorporation, bylaws, other agreements among its shareholders authorized by its foreign governing statute, or comparable documents as provided in its foreign governing statute.

(5) For a domestic nonprofit corporation, its articles of incorporation, bylaws, and other agreements among its members authorized by its domestic governing statute, as provided in its domestic governing statute; and for a foreign nonprofit corporation, its articles of incorporation, bylaws, and other agreements among its members authorized by its foreign governing statute, or comparable records as provided in its foreign governing statute.

(6) For a domestic business trust, its certificate of trust, agreement of trust, or declaration of trust; and for a foreign business trust, its certificate of trust, agreement of trust, declaration of trust, or comparable records as provided in its foreign governing statute.

13. *"Partner"* includes either a partner in a general partnership or a general or limited partner in a limited partnership.

14. *a. "Public organic document"* means a document or record the filing of which by the secretary of state is required to form an organization and includes any amendment to or restatement of that document or record.

b. "Public organic document" includes but is not limited to any of the following:

(1) For a domestic limited partnership, a certificate of limited partnership as provided in its domestic governing statute; or for a foreign limited partnership, its certificate of limited partnership or a comparable document as provided in its foreign governing statute.

(2) For a domestic limited partnership, its certificate of limited partnership as provided in its domestic governing statute; or for a foreign limited partnership, its certificate of limited partnership or a comparable document as provided in its foreign governing statute.

(3) For a domestic limited liability company, its certificate of organization as provided in its domestic governing statute; or for a foreign limited liability company, its certificate

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of organization or articles of organization or comparable records as provided in its foreign governing statute.

(4) For a domestic business corporation, its articles of incorporation as provided in its domestic governing statute; or for a foreign business corporation, its articles of incorporation or comparable documents as provided in its foreign governing statute.

(5) For a domestic nonprofit corporation, its articles of incorporation as provided in its domestic governing statute; and for a foreign nonprofit corporation, its articles of incorporation or comparable records as provided in its foreign governing statute.

(6) For a domestic business trust, its certificate of trust, agreement of trust, or declaration of trust; and for a foreign business trust, its certificate of trust, agreement of trust, declaration of trust, or comparable documents as provided in its foreign governing statute.

98 Acts, ch 1201, §45, 79, 82; 2004 Acts, ch 1021, §111, 117, 118; 2026 Acts, ch 1097, §1
Section stricken and rewritten

486A.902 Conversion of partnership to another type of organization.

1. A domestic partnership may be converted to another type of domestic or foreign organization pursuant to this section if all of the following apply:

a. The other organization's governing statute authorizes the conversion.

b. The conversion is not prohibited by the law of the jurisdiction that enacted the other organization's governing statute.

c. The other organization complies with its governing statute in effecting the conversion.

2. A plan of conversion setting forth the terms and conditions of the conversion of a domestic partnership to another organization must be approved by all of the partners or by a number or percentage specified for conversion in the partnership agreement.

3. A plan of conversion must be in a document and must include all of the following:

a. The name of the converting organization.

b. The name, type of organization, and jurisdiction of the governing statute of the converted organization.

c. The terms and conditions of the conversion, including the manner and basis for converting interests in the converting organization into any combination of money, interests in the converted organization, and other consideration.

d. The organizational documents of the converted organization.

e. In addition to the requirements of paragraphs *"a"* through *"d"*, a plan of conversion may contain any other provision not prohibited by law.

4. After the plan of conversion is approved by the partners, the partnership shall deliver to the secretary of state for filing articles of conversion which must include all of the following:

a. A statement that the partnership has been converted into another type of organization.

b. The name, type of organization of the converting organization, and the jurisdiction of the governing statute of the converted organization.

c. The name, type of organization of the converted organization, and the jurisdiction of the governing statute of the converted organization.

d. The date the conversion is effective under the governing statute of the converted organization.

e. A statement that the conversion was approved as required by this chapter.

f. A statement that the conversion was approved as required by the governing statute of the converted organization.

5. The conversion takes effect when the articles of conversion and any public organic document required by the converted organization's governing statute are filed or at any later date specified in the filed articles of conversion.

6. After a conversion pursuant to this chapter, a general partner of a converting general partnership remains liable as a general partner for an obligation incurred by the partnership before the conversion takes effect. A person not a partner is deemed to have notice of a partnership's participation in a conversion ninety days after the articles of conversion under this section become effective.

98 Acts, ch 1201, §46, 79, 82; 2004 Acts, ch 1021, §112, 117, 118; 2026 Acts, ch 1097, §2
Section stricken and rewritten

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486A.903 Conversion of limited partnership to partnership.

1. A limited partnership may be converted to a partnership pursuant to this section.

2. Notwithstanding a provision to the contrary in a limited partnership agreement, the terms and conditions of a conversion of a limited partnership to a partnership must be approved by all of the partners.

3. After the conversion is approved by the partners, the limited partnership shall cancel its certificate of limited partnership.

4. The conversion takes effect when the certificate of limited partnership is canceled.

5. A limited partner who becomes a general partner as a result of the conversion remains liable only as a limited partner for an obligation incurred by the limited partnership before the conversion takes effect. Except as otherwise provided in section 486A.306, the partner is liable as a general partner for an obligation of the partnership incurred after the conversion takes effect.

98 Acts, ch 1201, §47, 79, 82

486A.904 Effect of conversion.

1. An organization that has been converted pursuant to this article is for all purposes the same organization that existed before the conversion.

2. When a conversion takes effect, all of the following procedures apply:

a. All property owned by the converting organization remains vested in the converted organization.

b. All debts, liabilities, and other obligations of the converting organization continue as obligations of the converted organization.

c. An action or proceeding pending by or against the converting organization may be continued as if the conversion had not occurred.

d. Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of the converting organization remain vested in the converted organization.

e. Except as otherwise provided in the plan of conversion, the terms and conditions of the plan of conversion take effect.

f. Except as otherwise agreed, the conversion does not dissolve a partnership for the purposes of article 8.

3. *a.* A converted foreign organization consents to the jurisdiction of the courts of this state to enforce any obligation owed by the converting organization, if before the conversion the converting organization was subject to suit in this state on the obligation.

b. A converted foreign organization that is not authorized to transact business in this state shall appoint the secretary of state as its agent for service of process for purposes of enforcing an obligation under this subsection.

98 Acts, ch 1201, §48, 79, 82; 2026 Acts, ch 1097, §3
Section stricken and rewritten

486A.905 Merger of partnerships.

1. Pursuant to a plan of merger approved as provided in subsection 3, a partnership may be merged with one or more partnerships or limited partnerships.

2. The plan of merger must set forth all of the following:

a. The name of each partnership or limited partnership that is a party to the merger.

b. The name of the surviving entity into which the other partnerships or limited partnerships will merge.

c. Whether the surviving entity is a partnership or a limited partnership and the status of each partner.

d. The terms and conditions of the merger.

e. The manner and basis of converting the interests of each party to the merger into interests or obligations of the surviving entity, or into money or other property in whole or part.

f. The street address of the surviving entity's chief executive office.

3. The plan of merger must be approved as follows:

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a. In the case of a partnership that is a party to the merger, by all of the partners, or a number or percentage specified for merger in the partnership agreement.

b. In the case of a limited partnership that is a party to the merger, by the vote required for approval of a merger by the law of the state or foreign jurisdiction in which the limited partnership is organized and, in the absence of such a specifically applicable law, by all of the partners, notwithstanding a provision to the contrary in the partnership agreement.

4. After a plan of merger is approved and before the merger takes effect, the plan may be amended or abandoned as provided in the plan.

5. The merger takes effect on the later of any of the following:

a. The approval of the plan of merger by all parties to the merger, as provided in subsection 3.

b. The filing of all documents required by law to be filed as a condition to the effectiveness of the merger.

c. Any effective date specified in the plan of merger.

98 Acts, ch 1201, §49, 79, 82

486A.906 Effect of merger.

1. When a merger takes effect all of the following apply:

a. The separate existence of every partnership or limited partnership that is a party to the merger, other than the surviving entity, ceases.

b. All property owned by each of the merged partnerships or limited partnerships vests in the surviving entity.

c. All obligations of every partnership or limited partnership that is a party to the merger become the obligations of the surviving entity.

d. An action or proceeding pending against a partnership or limited partnership that is a party to the merger may be continued as if the merger had not occurred, or the surviving entity may be substituted as a party to the action or proceeding.

2. The secretary of state of this state is the agent for service of process in an action or proceeding against a surviving foreign partnership or limited partnership to enforce an obligation of a domestic partnership or limited partnership that is a party to a merger. The surviving entity shall promptly notify the secretary of state of the mailing address of its chief executive office and of any change of address. Upon receipt of process, the secretary of state shall mail a copy of the process to the surviving foreign partnership or limited partnership.

3. A partner of the surviving partnership or limited partnership is liable for all of the following:

a. All obligations of a party to the merger for which the partner was personally liable before the merger.

b. All other obligations of the surviving entity incurred before the merger by a party to the merger, but those obligations may be satisfied only out of property of the surviving entity.

c. Except as otherwise provided in section 486A.306, all obligations of the surviving entity incurred after the merger takes effect, but those obligations may be satisfied only out of property of the surviving entity if the partner is a limited partner.

4. If the obligations incurred before the merger by a party to the merger are not satisfied out of the property of the surviving partnership or limited partnership, the general partners of that party immediately before the effective date of the merger shall contribute the amount necessary to satisfy that party's obligations to the surviving entity, in the manner provided in section 486A.807 or in chapter 488 or under the law of the jurisdiction in which the party was formed, as the case may be, as if the merged party were dissolved.

5. A partner of a party to a merger who does not become a partner of the surviving partnership or limited partnership is dissociated from the entity, of which that partner was a partner, as of the date the merger takes effect. The surviving entity shall cause the partner's interest in the entity to be purchased under section 486A.701 or another statute specifically applicable to that partner's interest with respect to a merger. The surviving entity is bound under section 486A.702 by an act of a general partner dissociated under this subsection, and

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the partner is liable under section 486A.703 for transactions entered into by the surviving entity after the merger takes effect.

98 Acts, ch 1201, §50, 79, 82; 99 Acts, ch 114, §40; 2004 Acts, ch 1021, §113, 117, 118

486A.907 Statement of merger.

1. After a merger, the surviving partnership or limited partnership may file a statement that one or more partnerships or limited partnerships have merged into the surviving entity.

2. A statement of merger must contain all of the following:

a. The name of each partnership or limited partnership that is a party to the merger.

b. The name of the surviving entity into which the other partnerships or limited partnership were merged.

c. The street address of the surviving entity's chief executive office and of an office in this state, if any.

d. Whether the surviving entity is a partnership or a limited partnership.

3. Except as otherwise provided in subsection 4, for the purposes of section 486A.302, property of the surviving partnership or limited partnership which before the merger was held in the name of another party to the merger is property held in the name of the surviving entity upon filing a statement of merger.

4. For the purposes of section 486A.302, real property of the surviving partnership or limited partnership which before the merger was held in the name of another party to the merger is property held in the name of the surviving entity upon recording a certified copy of the statement of merger in the office for recording transfers of that real property.

5. A filed and, if appropriate, recorded statement of merger, executed and declared to be accurate pursuant to section 486A.105, subsection 3, stating the name of a partnership or limited partnership that is a party to the merger in whose name property was held before the merger and the name of the surviving entity, but not containing all of the other information required by subsection 2, operates with respect to the partnerships or limited partnerships named to the extent provided in subsections 3 and 4.

98 Acts, ch 1201, §51, 79, 82

Referred to in §486A.101

486A.908 Nonexclusive.

This article is not exclusive. Partnerships or limited partnerships may be converted or merged in any other manner provided by law.

98 Acts, ch 1201, §52, 79, 82

ARTICLE 10

LIMITED LIABILITY PARTNERSHIP

486A.1001 Statement of qualification.

1. A partnership may become a limited liability partnership pursuant to this section.

2. The terms and conditions on which a partnership becomes a limited liability partnership must be approved by the vote necessary to amend the partnership agreement except, in the case of a partnership agreement that expressly considers obligations to contribute to the partnership, by the vote necessary to amend those provisions.

3. After the approval required by subsection 2, a partnership may become a limited liability partnership by filing a statement of qualification. The statement must contain all of the following:

a. The name of the partnership.

b. The street address of the partnership's chief executive office and, if different, the street address of an office in this state, if any.

c. The address of a registered office and the name and address of a registered agent for service of process in this state, which the partnership is required to maintain as provided in section 486A.1211.

d. A statement that the partnership elects to be a limited liability partnership.

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e. A deferred effective date, if any.

4. The statement shall be executed by one or more partners authorized to execute the statement on behalf of the partnership.

5. The status of a partnership as a limited liability partnership is effective on the later of the filing of the statement or a date specified in the statement. The status remains effective, regardless of changes in the partnership, until the statement is canceled pursuant to section 486A.105, subsection 4.

6. The status of a partnership as a limited liability partnership and the liability of its partners is not affected by errors or later changes in the information required to be contained in the statement of qualification under subsection 3.

7. The filing of a statement of qualification establishes that a partnership has satisfied all conditions precedent to the qualification of the partnership as a limited liability partnership.

8. An amendment or cancellation of a statement of qualification is effective when it is filed or on a deferred effective date specified in the amendment or cancellation.

98 Acts, ch 1201, §53, 79, 82

Referred to in §486A.101, 486A.201, 486A.306, 486A.1211, 488.108, 490.401, 504.401, 504.403

486A.1002 Name.

The name of a limited liability partnership must end with "Registered Limited Liability Partnership", "Limited Liability Partnership", "R.L.L.P.", "L.L.P.", "RLLP", or "LLP".

98 Acts, ch 1201, §54, 79, 82

Referred to in §488.108, 490.401, 504.401, 504.403

ARTICLE 11

FOREIGN LIMITED LIABILITY PARTNERSHIP

486A.1101 Law governing foreign limited liability partnership.

1. The law under which a foreign limited liability partnership is formed governs relations among the partners and between the partners and the partnership and the liability of partners for obligations of the partnership.

2. A foreign limited liability partnership may not be denied a statement of foreign qualification by reason of any difference between the law under which the partnership was formed and the law of this state.

3. A statement of foreign qualification does not authorize a foreign limited liability partnership to engage in any business or exercise any power that a partnership may not engage in or exercise in this state as a limited liability partnership.

98 Acts, ch 1201, §55, 79, 82

486A.1102 Statement of foreign qualification.

1. Before transacting business in this state, a foreign limited liability partnership must file a statement of foreign qualification. The statement must contain all of the following:

a. The name of the foreign limited liability partnership which satisfies the requirements of the state or other jurisdiction under whose law it is formed and ends with "Registered Limited Liability Partnership", "Limited Liability Partnership", "R.L.L.P.", "L.L.P.", "RLLP", or "LLP".

b. The street address of the partnership's chief executive office and, if different, the street address of an office of the partnership in this state, if any.

c. If there is no office of the partnership in this state, the name and street address of the partnership's agent for service of process.

d. A deferred effective date, if any.

2. The agent of a foreign limited liability partnership for service of process must be an individual who is a resident of this state or other person authorized to do business in this state.

3. The status of a partnership as a foreign limited liability partnership is effective on the later of the filing of the statement of foreign qualification or a date specified in the statement.

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The status remains effective, regardless of changes in the partnership, until it is canceled pursuant to section 486A.105, subsection 4.

4. An amendment or cancellation of a statement of foreign qualification is effective when it is filed or on a deferred effective date specified in the amendment or cancellation.

98 Acts, ch 1201, §56, 79, 82; 2002 Acts, ch 1119, §178
Referred to in §486A.101

486A.1103 Effect of failure to qualify.

1. A foreign limited liability partnership transacting business in this state may not maintain an action or proceeding in this state unless it has in effect a statement of foreign qualification.

2. The failure of a foreign limited liability partnership to have in effect a statement of foreign qualification does not impair the validity of a contract or act of the foreign limited liability partnership or preclude it from defending an action or proceeding in this state.

3. A limitation on personal liability of a partner is not waived solely by transacting business in this state without a statement of foreign qualification.

4. If a foreign limited liability partnership transacts business in this state without a statement of foreign qualification, the secretary of state is its agent for service of process with respect to a right of action arising out of the transaction of business in this state.

98 Acts, ch 1201, §57, 79, 82

486A.1104 Activities not constituting transacting business.

1. Activities of a foreign limited liability partnership which do not constitute transacting business for the purpose of this article include all of the following:

a. Maintaining, defending, or settling an action or proceeding.

b. Holding meetings of its partners or carrying on any other activity concerning its internal affairs.

c. Maintaining bank accounts.

d. Maintaining offices or agencies for the transfer, exchange, and registration of the partnership's own securities or maintaining trustees or depositories with respect to those securities.

e. Selling through independent contracts.

f. Soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts.

g. Creating or acquiring indebtedness, with or without a mortgage, or other security interest in property.

h. Collecting debts or foreclosing mortgages or other security interests in property securing the debts, and holding, protecting, and maintaining property so acquired.

i. Conducting an isolated transaction that is completed within thirty days and is not one in the course of similar transactions.

j. Transacting business in interstate commerce.

2. For purposes of this article, the ownership in this state of income-producing real property or tangible personal property, other than property excluded under subsection 1, constitutes transacting business in this state.

3. This section does not apply in determining the contracts or activities that may subject a foreign limited liability partnership to service of process, taxation, or regulation under any other law of this state.

98 Acts, ch 1201, §58, 79, 82

486A.1105 Action by attorney general.

The attorney general may maintain an action to restrain a foreign limited liability partnership from transacting business in this state in violation of this article.

98 Acts, ch 1201, §59, 79, 82

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ARTICLE 12
FILING PROVISIONS

486A.1201 Filing requirements.

1. A document shall satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to filing.

2. The document shall be filed in the office of the secretary of state.

3. The document shall contain the information required by this chapter. The document may contain other information as well.

4. The document shall be typewritten or printed. The typewritten or printed portion shall be black. Manually signed photocopies, or other reproduced copies, including facsimiles or other electronically or computer-generated copies of typewritten or printed documents may be filed.

5. The document shall be in the English language. A limited partnership name need not be in English if written in English letters or Arabic or Roman numerals.

6. Except as otherwise provided in this chapter, the document shall be executed by one of the following methods:

a. By two or more partners.

b. By a person authorized under this chapter, the partnership agreement, or other law to execute the document.

c. If the partnership is in the hands of a receiver, trustee, or other court-appointed fiduciary, by such receiver, trustee, or fiduciary.

d. If the document is that of a registered agent, by the registered agent, if the person is an individual, or by a person authorized by the registered agent to execute the document, if the registered agent is an entity.

7. The person executing the document shall sign it and state beneath or opposite the person's signature, the person's name and the capacity in which the person signs. The secretary of state may accept for filing a document containing a copy of a signature, however made.

8. If, pursuant to any provision of this chapter, the secretary of state has prescribed a mandatory form for the document, the document shall be in or on the prescribed form.

9. The document shall be delivered to the office of the secretary of state for filing and shall be accompanied by the correct filing fee.

10. The secretary of state may adopt rules for the electronic filing of documents and the certification of electronically filed documents.

98 Acts, ch 1201, §60, 79, 82
Referred to in §486A.1205

486A.1202 Fees.

1. The secretary of state shall collect fees for documents described in this subsection which are delivered to the secretary's office for filing as follows:

DOCUMENT	FEE
a. Statement of qualification	$ 50
b. Statement of foreign qualification	$100
c. Amendment to statement of qualification	$ 20
d. Amendment to statement of foreign qualification	$ 20
e. Cancellation of statement of qualification	$ 20
f. Cancellation of statement of foreign qualification	$ 20
g. Application for certificate of existence or qualification	$ 5
h. Articles of conversion	$ 50

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i. Any other statement or document
required or permitted to be filed ..... $ 5

2. The secretary of state shall collect a fee of five dollars each time process is served on the secretary under this chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

3. The secretary of state shall collect fees for copying and certifying the copy of any filed document relating to a domestic or foreign partnership as follows:

a. One dollar a page for copying.

b. Five dollars for the certificate.

98 Acts, ch 1201, §61, 79, 82; 2026 Acts, ch 1097, §4
Referred to in §9.11
Subsection 1, NEW paragraph h and former paragraph h redesignated as i

486A.1203 Effective time and date of documents.

1. Except as provided in subsection 2 and section 486A.1204, subsection 3, a document accepted for filing is effective at the later of the following:

a. At the time of filing on the date it is filed, as evidenced by the secretary of state's date and time endorsement on the original document.

b. At the time specified in the document as its effective time on the date it is filed.

2. A document may specify a delayed effective time and date, and if it does so the document becomes effective at the time and date specified. If a delayed effective date but no time is specified, the document is effective at the close of business on that date. A delayed effective date for a document shall not be later than the ninetieth day after the date it is filed.

98 Acts, ch 1201, §62, 79, 82

486A.1204 Correcting filed documents.

1. A partnership may correct a document filed by the secretary of state if the document satisfies one or both of the following:

a. The document contains an incorrect statement.

b. The document was defectively executed, attested, sealed, verified, or acknowledged.

2. A document is corrected by complying with both of the following:

a. By preparing a statement of correction that satisfies all of the following:

(1) The statement describes the document, including its filing date, or a copy of the document is attached to the statement.

(2) The statement specifies the incorrect statement and the reason it is incorrect or the manner in which the execution was defective.

(3) The statement corrects the incorrect statement or defective execution.

b. By delivering the statement to the secretary of state for filing.

3. Statements of corrections are effective on the effective date of the document they correct except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, statements of correction are effective when filed.

98 Acts, ch 1201, §63, 79, 82
Referred to in §9.14, 486A.1203

486A.1205 Filing duty of secretary of state.

1. Except as provided in subsection 5, if a document delivered to the office of the secretary of state for filing satisfies the requirements of section 486A.1201, the secretary of state shall file it and issue any necessary certificate.

2. The secretary of state files a document by stamping or otherwise endorsing "filed", together with the secretary of state's name and official title and the date and time of receipt, on both the document and the receipt for the filing fee. After filing a document, and except as provided in sections 486A.304 and 486A.1213, the secretary of state shall deliver the document, with the filing fee receipt, or acknowledgment of receipt if no fee is required, attached, to the domestic or foreign partnership or its representative.

3. If the secretary of state refuses to file a document, the secretary of state shall return it to the domestic or foreign partnership or its representative within ten days after the document

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was received by the secretary of state, together with a brief, written explanation of the reason for the refusal.

4. The secretary of state's duty to file documents under this section is ministerial. Filing or refusing to file a document does not do any of the following:

a. Affect the validity or invalidity of the document in whole or part.

b. Relate to the correctness or incorrectness of information contained in the document.

c. Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

5. *a.* The secretary of state may require a document to be delivered by mail or in person if the secretary of state receives credible information that the document is being submitted for filing fraudulently or may be used to accomplish a fraudulent, criminal, or unlawful purpose.

b. As used in paragraph *"a"*, *"credible information"* means any of the following:

(1) An affidavit of unauthorized use as provided in section 486A.1214A.

(2) Information provided to the secretary of state by another government agency.

(3) Information collected by the secretary of state from a credible third-party data set.

98 Acts, ch 1201, §64, 79, 82; 2026 Acts, ch 1145, §1, 2
Subsection 1 amended
NEW subsection 5

486A.1206 Appeal from secretary of state's refusal to file document.

1. If the secretary of state refuses to file a document delivered to the secretary of state's office for filing, the domestic or foreign partnership may appeal the refusal, within thirty days after the return of the document, to the district court for the county in which the partnership's principal office is located or, if none is located in this state, for the county in which its registered office is or will be located. The appeal is commenced by petitioning the court to compel filing the document and by attaching to the petition the document and the secretary of state's explanation of the refusal to file.

2. The court may summarily order the secretary of state to file the document or take other action the court considers appropriate.

3. The court's final decision may be appealed as in other civil proceedings.

98 Acts, ch 1201, §65, 79, 82

486A.1207 Evidentiary effect of copy of filed document.

A certificate attached to a copy of a document filed by the secretary of state, bearing the secretary of state's signature, which may be in facsimile, and the seal of the secretary of state, is conclusive evidence that the original document is on file with the secretary of state.

98 Acts, ch 1201, §66, 79, 82

486A.1208 Certificates issued by secretary of state.

1. The secretary of state shall issue to any person, upon request, a certificate that sets forth any facts recorded in the office of the secretary of state.

2. A certificate issued by the secretary of state may be relied upon, subject to any qualification stated in the certificate, as prima facie evidence of the facts set forth in the certificate.

98 Acts, ch 1201, §67, 79, 82

486A.1209 Penalty for signing false document.

1. A person commits an offense if that person signs a document the person knows is false in any material respect with intent that the document be delivered to the secretary of state for filing.

2. An offense under this section is a serious misdemeanor punishable by a fine not to exceed one thousand dollars.

98 Acts, ch 1201, §68, 79, 82

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486A.1210 Secretary of state powers.

The secretary of state has the power reasonably necessary to perform the duties required of the secretary of state by this chapter.

98 Acts, ch 1201, §69, 79, 82

486A.1211 Registered office and registered agent.

Each partnership that is qualified under section 486A.1001 shall continuously maintain in this state the following:

1. A registered office.
2. A registered agent, who is one of the following:

a. An individual who resides in this state and whose business office is identical with the registered office.

b. A domestic corporation whose business office is identical with the registered office.

c. A foreign corporation authorized to transact business in this state whose business office is identical with the registered office.

98 Acts, ch 1201, §70, 79, 82

Referred to in §486A.1001

486A.1212 Change of registered office or registered agent.

1. A partnership may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth all of the following:

a. The name of the partnership.

b. The street address of its current registered office.

c. If the registered office is to be changed, the street address of the new registered office.

d. The name of its current registered agent.

e. If the registered agent is to be changed, the name of the new registered agent and the new registered agent's written consent to the appointment, either on the statement of change or in an accompanying document.

f. That, after the change or changes are made, the street addresses of its registered office and of the business office of its registered agent will be identical.

2. If a registered agent changes the street address of the registered agent's business office, the registered agent may change the street address of the registered office of any partnership for which the registered agent is the registered agent by giving written notice to the partnership of the change and executing, either manually or in facsimile, and delivering to the secretary of state for filing a statement of change that complies with the requirements of subsection 1 and recites that notice of the change has been given to the partnership.

98 Acts, ch 1201, §71, 79, 82

Referred to in §9.11

486A.1213 Resignation of registered agent.

1. The registered agent of a partnership may resign the agency by delivering to the secretary of state for filing a statement of resignation, which shall be accompanied by two exact or conformed copies of such statement. The statement of resignation may include a statement that the registered office is also discontinued.

2. After filing the statement of resignation, the secretary of state shall deliver one copy to the registered office of the partnership and the other copy to the chief executive office of the partnership.

3. A statement of resignation takes effect on the earlier of the following:

a. 12:01 a.m. on the thirty-first day after the date on which it is filed with the secretary of state.

b. The designation of a new registered agent for the partnership.

98 Acts, ch 1201, §72, 79, 82; 2020 Acts, ch 1058, §1

Referred to in §9.11, 486A.1205

486A.1214 Service on partnership.

1. A partnership's registered agent is the partnership's agent for service of any process, notice, or demand required or permitted by law to be served on the partnership.

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2. If a partnership has no registered agent, or the registered agent cannot with reasonable diligence be served, the partnership may be served by registered or certified mail, return receipt requested, addressed to the partnership at its chief executive office. Service is perfected under this subsection at the earliest of the following:

a. The date the partnership receives the process, notice, or demand.

b. The date shown on the return receipt, if signed on behalf of the partnership.

c. Five days after mailing.

3. This section does not prescribe the only means, or necessarily the required means, of serving a partnership.

98 Acts, ch 1201, §73, 79, 82

486A.1214A Statement of removal — removal of information not authorized to be provided.

1. *a.* A person whose name, street address, mailing address, or email address has, without that person's authorization, been provided to the secretary of state as that of the registered agent or of the principal office in a partnership's filing may deliver to the secretary of state a notarized, sworn affidavit of unauthorized use that does all of the following:

(1) Identifies the partnership registration by name and business number.

(2) Indicates the affiant's mailing address.

(3) States that neither the affiant nor any agent of the affiant has authorized the filing identifying the affiant as the registered agent, providing the affiant's street address or mailing address as an address of the registered agent or principal office, or providing the affiant's email address as that of the registered agent.

b. The affiant shall specify in the affidavit of unauthorized use the information that was not authorized to be provided.

c. The secretary of state may reject an affidavit that is incomplete or that the secretary of state believes was delivered to the secretary of state with the intent to harass or defraud the partnership or the individual named as affiant.

d. The office of the secretary of state shall adopt an affidavit of unauthorized use form in accordance with this section.

2. The secretary of state shall conduct an administrative review to determine whether the filing was authorized to identify the stated information as applicable.

3. If the secretary of state concludes that the filing was not authorized to provide the information identified in the affidavit, the secretary of state shall promptly file a statement of removal with respect to the identified information, and shall promptly cause the identified information to cease to be listed as identified for the partnership.

4. The secretary of state shall not charge a fee for the filing of an affidavit of unauthorized use under subsection 1 or a statement of removal under subsection 3. The filing office shall not return any fee paid for filing the partnership filing identified in the affidavit.

5. Upon filing a statement of removal, the secretary of state shall send to the principal office address or registered agent's mailing address on record for the partnership, if any, a notice stating that the statement of removal has been filed and is effective immediately. The notice shall also state that the partnership is without a registered agent or registered agent address, as applicable.

6. The secretary of state shall adopt rules pursuant to chapter 17A necessary or desirable to administer this section.

2026 Acts, ch 1145, §3
Referred to in §486A.1205, 486A.1214B
NEW section

486A.1214B Interrogatories.

1. *a.* The secretary of state may serve one or more written interrogatories regarding any matter that pertains to a partnership and that is within the purview of the secretary of state if the secretary of state receives credible information that a partnership is being used to accomplish a fraudulent, criminal, or unlawful purpose.

b. As used in paragraph "*a*", "*credible information*" means any of the following:

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(1) An affidavit of unauthorized use as provided in section 486A.1214A.
(2) Information provided to the secretary of state by another government agency.
(3) Information collected by the secretary of state from a credible third-party data set.

2. The secretary of state shall serve such interrogatories on the partnership that is the subject of the interrogatories by mail at the address of the registered agent that appears on the secretary of state's records at the time the information required by subsection 1 is received, or if the partnership has no registered agent, at the partnership's principal office address shown on the partnership's most recent filing.

3. The interrogatories must be answered by a person with the authority to answer on behalf of the partnership that is the subject of the interrogatories. Each interrogatory must be answered in writing separately and in a manner that is responsive to the interrogatory. The declaration on the completed interrogatories form must be signed by a person with the authority to sign on behalf of the partnership.

4. To be considered responsive, the completed and signed interrogatories form must be received by the secretary of state by mail or in-person delivery within twenty-one calendar days after the form was mailed.

5. A response to any interrogatory that indicates to the secretary of state that the partnership violated any provision of this chapter constitutes the partnership's concession to such violation.

6. A failure to respond to any interrogatory within the allotted time constitutes the partnership's concession that the partnership violated a provision or provisions of this chapter that are the subjects of the interrogatories.

7. If the secretary of state receives a response to each interrogatory that indicates to the secretary of state that the partnership has not violated any provision of this chapter, the secretary of state shall take no action.

8. The secretary of state shall adopt rules pursuant to chapter 17A necessary or desirable to administer this section.

2026 Acts, ch 1145, §4
NEW section

ARTICLE 13

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486A.1301 Uniformity of application and construction.

This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

98 Acts, ch 1201, §74, 79, 82

486A.1302 Short title.

This chapter may be cited as the *"Uniform Partnership Act"*.

98 Acts, ch 1201, §75, 79, 82

CHAPTER 487

UNIFORM LIMITED PARTNERSHIP LAW

Repealed by its own terms effective January 1, 2006;
2004 Acts, ch 1021, §114; see chapter 488

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CHAPTER 488

UNIFORM LIMITED PARTNERSHIP ACT

Referred to in §9.11, 9H.1, 10B.1, 486A.901, 486A.906, 501A.102, 547.1, 558.72, 602.6803, 669.14

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ARTICLE 1

GENERAL PROVISIONS

488.101 Short title.

This chapter may be cited as the *"Uniform Limited Partnership Act"*.

2004 Acts, ch 1021, §1, 118

488.102 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Certificate of limited partnership"* means the certificate required by section 488.201. The term includes the certificate as amended or restated.

2. *"Contribution"*, except in the phrase *"right of contribution"*, means any benefit provided by a person to a limited partnership in order to become a partner or in the person's capacity as a partner.

3. *"Debtor in bankruptcy"* means a person that is the subject of either of the following:

a. An order for relief under Tit. 11 of the United States Code or a comparable order under a successor statute of general application.

b. A comparable order under federal, state, or foreign law governing insolvency.

4. *"Deliver"*, *"delivery"*, or *"delivered"* means any method of delivery used in conventional commercial practice, including delivery in person, by mail, commercial delivery, and electronic transmission.

5. *"Distribution"* means a transfer of money or other property from a limited partnership to a partner in the partner's capacity as a partner or to a transferee on account of a transferable interest owned by the transferee.

6. *"Electronic transmission"* or *"electronically transmitted"* means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient.

7. *"Foreign limited liability limited partnership"* means a foreign limited partnership whose general partners have limited liability for the obligations of the foreign limited partnership under a provision similar to section 488.404, subsection 3.

8. *"Foreign limited partnership"* means a partnership formed under the laws of a jurisdiction other than Iowa and required by those laws to have one or more general partners and one or more limited partners. The term includes a foreign limited liability limited partnership.

9. *"General partner"* means:

a. With respect to a limited partnership, a person that is either of the following:

(1) A person that becomes a general partner under section 488.401.

(2) A person that was a general partner in a limited partnership when the limited partnership became subject to this chapter under section 488.1204, subsection 1 or 2.

b. With respect to a foreign limited partnership, a person that has rights, powers, and obligations similar to those of a general partner in a limited partnership.

10. *"Limited liability limited partnership"*, except in the phrase *"foreign limited liability limited partnership"*, means a limited partnership whose certificate of limited partnership states that the limited partnership is a limited liability limited partnership.

11. *"Limited partner"* means:

a. With respect to a limited partnership, a person that is either of the following:

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(1) A person that becomes a limited partner under section 488.301.

(2) A person that was a limited partner in a limited partnership when the limited partnership became subject to this chapter under section 488.1204, subsection 1 or 2.

b. With respect to a foreign limited partnership, a person that has rights, powers, and obligations similar to those of a limited partner in a limited partnership.

12. *"Limited partnership"*, except in the phrases *"foreign limited partnership"* and *"foreign limited liability limited partnership"*, means an entity, having one or more general partners and one or more limited partners, which is formed under this chapter by two or more persons or becomes subject to this chapter under article 11 or section 488.1204, subsection 1 or 2. The term includes a limited liability limited partnership.

13. *"Partner"* means a limited partner or general partner.

14. *"Partnership agreement"* means the partners' agreement, whether oral, implied, in a record, or in any combination, concerning the limited partnership. The term includes the agreement as amended.

15. *"Person"* means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

16. *"Person dissociated as a general partner"* means a person dissociated as a general partner of a limited partnership.

17. *"Principal office"* means the office where the principal executive office of a limited partnership or foreign limited partnership is located, whether or not the office is located in this state.

18. *"Record"* means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

19. *"Registered office"* means:

a. With respect to a limited partnership, the office that the limited partnership is required to designate and maintain under section 488.114.

b. With respect to a foreign limited partnership, its principal office.

20. *"Required information"* means the information that a limited partnership is required to maintain under section 488.111.

21. *"Sign"* means either of the following:

a. To execute or adopt a tangible symbol with the present intent to authenticate a record.

b. To attach or logically associate an electronic symbol, sound, or process to or with a record with the present intent to authenticate the record.

22. *"State"* means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

23. *"Transfer"* includes an assignment, conveyance, deed, bill of sale, lease, mortgage, security interest, encumbrance, gift, and transfer by operation of law.

24. *"Transferable interest"* means a partner's right to receive distributions.

25. *"Transferee"* means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a partner.

2004 Acts, ch 1021, §2, 118; 2004 Acts, ch 1175, §373 – 375; 2010 Acts, ch 1061, §180; 2016 Acts, ch 1097, §1, 2

Referred to in §9H.1, 10B.1

488.103 Knowledge and notice.

1. A person knows a fact if the person has actual knowledge of it.

2. A person has notice of a fact if any of the following apply:

a. The person knows of it.

b. The person has received a notification of it.

c. The person has reason to know it exists from all of the facts known to the person at the time in question.

d. The person has notice of it under subsection 3 or 4.

3. A certificate of limited partnership on file in the office of the secretary of state is notice

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that the partnership is a limited partnership and the persons designated in the certificate as general partners are general partners. Except as otherwise provided in subsection 4, the certificate is not notice of any other fact.

4. A person has notice of any of the following:

a. Another person's dissociation as a general partner, ninety days after the effective date of an amendment to the certificate of limited partnership which states that the other person has dissociated, or ninety days after the effective date of a statement of dissociation pertaining to the other person, whichever occurs first.

b. A limited partnership's dissolution, ninety days after the effective date of an amendment to the certificate of limited partnership stating that the limited partnership is dissolved.

c. A limited partnership's termination, ninety days after the effective date of a statement of termination.

d. A limited partnership's conversion under article 11, ninety days after the effective date of the articles of conversion.

e. A merger under article 11, ninety days after the effective date of the articles of merger.

5. A person notifies or gives a notification to another person by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person learns of it.

6. A person receives a notification when either of the following applies:

a. Notification comes to the person's attention.

b. Notification is delivered at the person's place of business or at any other place held out by the person as a place for receiving communications.

7. Except as otherwise provided in subsection 8, a person other than an individual knows, has notice, or receives a notification of a fact for purposes of a particular transaction when the individual conducting the transaction for the person knows, has notice, or receives a notification of the fact, or in any event when the fact would have been brought to the individual's attention if the person had exercised reasonable diligence. A person other than an individual exercises reasonable diligence if the person maintains reasonable routines for communicating significant information to the individual conducting the transaction for the person and there is reasonable compliance with the routines. Reasonable diligence does not require an individual acting for the person to communicate information unless the communication is part of the individual's regular duties or the individual has reason to know of the transaction and that the transaction would be materially affected by the information.

8. A general partner's knowledge, notice, or receipt of a notification of a fact relating to the limited partnership is effective immediately as knowledge of, notice to, or receipt of a notification by the limited partnership, except in the case of a fraud on the limited partnership committed by or with the consent of the general partner. A limited partner's knowledge, notice, or receipt of a notification of a fact relating to the limited partnership is not effective as knowledge of, notice to, or receipt of a notification by the limited partnership.

2004 Acts, ch 1021, §3, 118
Referred to in §488.207, 488.402

488.104 Nature, purpose, and duration of entity.

1. A limited partnership is an entity distinct from its partners. A limited partnership is the same entity regardless of whether its certificate states that the limited partnership is a limited liability limited partnership.

2. A limited partnership may be organized under this chapter for any lawful purpose.

3. A limited partnership has a perpetual duration.

2004 Acts, ch 1021, §4, 118
Referred to in §488.1204

488.105 Powers.

A limited partnership has the powers to do all things necessary or convenient to carry on its activities, including the power to sue, be sued, and defend in its own name and to maintain

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an action against a partner for harm caused to the limited partnership by a breach of the partnership agreement or violation of a duty to the partnership.

2004 Acts, ch 1021, §5, 118
Referred to in §488.110

488.106 Governing law.

The law of this state governs relations among the partners of a limited partnership and between the partners and the limited partnership and the liability of partners as partners for an obligation of the limited partnership.

2004 Acts, ch 1021, §6, 118
Referred to in §488.110

488.107 Supplemental principles of law — rate of interest.

1. Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.

2. If an obligation to pay interest arises under this chapter and the rate is not specified, the rate shall be set according to the provisions of section 535.3.

2004 Acts, ch 1021, §7, 118

488.108 Name.

1. The name of a limited partnership may contain the name of any partner.

2. The name of a limited partnership that is not a limited liability limited partnership must contain the phrase "limited partnership" or the abbreviation "L. P." or "LP" and must not contain the phrase "limited liability limited partnership" or the abbreviation "LLLP" or "L. L. L. P.".

3. The name of a limited liability limited partnership must contain the phrase "limited liability limited partnership" or the abbreviation "LLLP" or "L. L. L. P." and must not contain the abbreviation "LP" or "L. P.".

4. Unless authorized by subsection 5, the name of a limited partnership must be distinguishable in the records of the secretary of state from all of the following:

a. The name of each person other than an individual incorporated, organized, or authorized to transact business in this state.

b. A name reserved, registered, or protected as follows:

(1) For a limited liability partnership, section 486A.1001 or 486A.1002.

(2) For a limited partnership, this section, section 488.109, or section 488.810.

(3) For a business corporation, section 490.401, 490.402, 490.403, or 490.1422.

(4) For a limited liability company under chapter 489, section 489.112, 489.113, 489.114, or 489.710.

(5) For a nonprofit corporation, section 504.401, 504.402, 504.403, or 504.1423.

5. A limited partnership may apply to the secretary of state for authorization to use a name that does not comply with subsection 4. The secretary of state shall authorize use of the name applied for if, as to each conflicting name, at least one of the following applies:

a. The present user, registrant, or owner of the conflicting name consents in a signed record to the use and submits an undertaking in a form satisfactory to the secretary of state to change the conflicting name to a name that complies with subsection 4 and is distinguishable in the records of the secretary of state from the name applied for.

b. The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

c. The applicant delivers to the secretary of state proof satisfactory to the secretary of state that at least one of the following applies to the present user, registrant, or owner of the conflicting name:

(1) The present user, registrant, or owner of the conflicting name has merged into the applicant.

(2) The present user, registrant, or owner of the conflicting name has been converted into the applicant.

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(3) The present user, registrant, or owner of the conflicting name has transferred substantially all of its assets, including the conflicting name, to the applicant.

6. Subject to section 488.905, this section applies to any foreign limited partnership transacting business in this state, having a certificate of authority to transact business in this state, or applying for a certificate of authority.

7. This chapter does not control the use of fictitious names. However, a limited partnership which uses a fictitious name in this state shall deliver to the secretary of state for filing a copy of the resolution of the limited partnership certified by its general partners, adopting the fictitious name.

2004 Acts, ch 1021, §8, 118; 2004 Acts, ch 1049, §191; 2005 Acts, ch 4, §1; 2005 Acts, ch 19, §70; 2006 Acts, ch 1089, §1; 2008 Acts, ch 1162, §137, 154, 155; 2023 Acts, ch 152, §149, 161
Referred to in §488.109, 488.201, 488.810, 488.902, 488.905, 490.401, 504.401, 504.403

488.109 Reservation of name.

1. The exclusive right to the use of a name that complies with section 488.108 may be reserved by any of the following:

a. A person intending to organize a limited partnership under this chapter and to adopt the name.

b. A limited partnership or a foreign limited partnership authorized to transact business in this state intending to adopt the name.

c. A foreign limited partnership intending to obtain a certificate of authority to transact business in this state and adopt the name.

d. A person intending to organize a foreign limited partnership and intending to have it obtain a certificate of authority to transact business in this state and adopt the name.

e. A foreign limited partnership formed under the name.

f. A foreign limited partnership formed under a name that does not comply with section 488.108, subsection 2 or 3, but the name reserved under this paragraph may differ from the foreign limited partnership's name only to the extent necessary to comply with section 488.108, subsections 2 and 3.

2. A person may apply to reserve a name under subsection 1 by delivering to the secretary of state for filing an application that states the name to be reserved and the paragraph of subsection 1 that applies. If the secretary of state finds that the name is available for use by the applicant, the secretary of state shall file a statement of name reservation and reserve the name for the exclusive use of the applicant for a nonrenewable period of one hundred twenty days.

3. A person that has reserved a name under this section may deliver to the secretary of state for filing a notice of transfer that states the reserved name, the name and street and mailing address of some other person to which the reservation is to be transferred, and the paragraph of subsection 1 which applies to the other person. Subject to section 488.206, subsection 3, the transfer is effective when the secretary of state files the notice of transfer.

2004 Acts, ch 1021, §9, 118
Referred to in §488.108, 490.401, 504.401, 504.403

488.110 Effect of partnership agreement — nonwaivable provisions.

1. Except as otherwise provided in subsection 2, the partnership agreement governs relations among the partners and between the partners and the partnership. To the extent the partnership agreement does not otherwise provide, this chapter governs relations among the partners and between the partners and the partnership.

2. A partnership agreement shall not do any of the following:

a. Vary a limited partnership's power under section 488.105 to sue, be sued, and defend in its own name.

b. Vary the law applicable to a limited partnership under section 488.106.

c. Vary the requirements of section 488.204.

d. Vary the information required under section 488.111 or unreasonably restrict the right to information under section 488.304 or 488.407, but the partnership agreement may impose reasonable restrictions on the availability and use of information obtained under those

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sections and may define appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on use.

e. Eliminate the duty of loyalty under section 488.408, but the partnership agreement may do any of the following:

(1) Identify specific types or categories of activities that do not violate the duty of loyalty, if not manifestly unreasonable.

(2) Specify the number or percentage of partners which may authorize or ratify, after full disclosure to all partners of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty.

f. Unreasonably reduce the duty of care under section 488.408, subsection 3.

g. Eliminate the obligation of good faith and fair dealing under section 488.305, subsection 2, and section 488.408, subsection 4, but the partnership agreement may prescribe the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable.

h. Vary the power of a person to dissociate as a general partner under section 488.604, subsection 1, except to require that the notice under section 488.603, subsection 1, be in a record.

i. Vary the power of a court to decree dissolution in the circumstances specified in section 488.802.

j. Vary the requirement to wind up the partnership's business as specified in section 488.803.

k. Unreasonably restrict the right to maintain an action under article 10.

l. Restrict the right of a partner under section 488.1110, subsection 1, to approve a conversion or merger, or the right of a general partner under section 488.1110, subsection 2, to consent to an amendment to the certificate of limited partnership which deletes a statement that the limited partnership is a limited liability limited partnership.

m. Restrict rights under this chapter of a person other than a partner or a transferee.

2004 Acts, ch 1021, §10, 118
Referred to in §488.201

488.111 Required information.

A limited partnership shall maintain at its registered office all of the following information:

1. A current list showing the full name and last known street and mailing address of each partner, separately identifying the general partners, in alphabetical order, and the limited partners, in alphabetical order.

2. A copy of the initial certificate of limited partnership and all amendments to and restatements of the certificate, together with signed copies of any powers of attorney under which any certificate, amendment, or restatement has been signed.

3. A copy of any filed articles of conversion or merger.

4. A copy of the limited partnership's federal, state, and local income tax returns and reports, if any, for the three most recent years.

5. A copy of any partnership agreement made in a record and any amendment made in a record to any partnership agreement.

6. A copy of any financial statement of the limited partnership for the three most recent years.

7. A copy of the three most recent biennial reports delivered by the limited partnership to the secretary of state pursuant to section 488.210.

8. A copy of any record made by the limited partnership during the past three years of any consent given by or vote taken of any partner pursuant to this chapter or the partnership agreement.

9. Unless contained in a partnership agreement made in a record, a record stating all of the following:

a. The amount of cash, and a description and statement of the agreed value of the other benefits, contributed and agreed to be contributed by each partner.

b. The times at which, or events on the happening of which, any additional contributions agreed to be made by each partner are to be made.

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c. For any person that is both a general partner and a limited partner, a specification of what transferable interest the person owns in each capacity.

d. Any events upon the happening of which the limited partnership is to be dissolved and its activities wound up.

2004 Acts, ch 1021, §11, 118; 2016 Acts, ch 1097, §3
Referred to in §488.102, 488.110

488.112 Business transactions of partner with partnership.

A partner may lend money to and transact other business with the limited partnership and has the same rights and obligations with respect to the loan or other transaction as a person that is not a partner.

2004 Acts, ch 1021, §12, 118

488.113 Dual capacity.

A person may be both a general partner and a limited partner. A person that is both a general and limited partner has the rights, powers, duties, and obligations provided by this chapter and the partnership agreement in each of those capacities. When the person acts as a general partner, the person is subject to the obligations, duties, and restrictions under this chapter and the partnership agreement for general partners. When the person acts as a limited partner, the person is subject to the obligations, duties, and restrictions under this chapter and the partnership agreement for limited partners.

2004 Acts, ch 1021, §13, 118

488.114 Registered office and registered agent for service of process.

1. A limited partnership shall designate and continuously maintain in this state both of the following:

a. A registered office, which need not be a place of its activity in this state.

b. A registered agent for service of process.

2. A foreign limited partnership shall designate and continuously maintain in this state a registered agent for service of process.

3. A registered agent for service of process of a limited partnership or foreign limited partnership must be an individual who is a resident of Iowa or other person authorized to do business in this state.

2004 Acts, ch 1021, §14, 118; 2016 Acts, ch 1097, §4
Referred to in §488.102, 488.802, 488.803, 488.807A, 488.906

488.115 Change of registered office or registered agent for service of process.

1. In order to change its registered office, registered agent for service of process, or the address of its registered agent for service of process, a limited partnership or a foreign limited partnership may deliver to the secretary of state for filing a statement of change containing all of the following:

a. The name of the limited partnership or foreign limited partnership.

b. The street and mailing address of its current registered office.

c. If the current registered office is to be changed, the street and mailing address of the new registered office.

d. The name and street and mailing address of its current registered agent for service of process.

e. If the current registered agent for service of process or an address of the agent is to be changed, the new information.

2. Subject to section 488.206, subsection 3, a statement of change is effective when filed by the secretary of state.

2004 Acts, ch 1021, §15, 118; 2016 Acts, ch 1097, §5
Referred to in §488.202, 488.208, 488.210, 488.906

488.116 Resignation of registered agent for service of process.

1. In order to resign as a registered agent for service of process of a limited partnership or foreign limited partnership, the agent must deliver to the secretary of state for filing a

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statement of resignation containing the name of the limited partnership or foreign limited partnership.

2. After receiving a statement of resignation, the secretary of state shall file it and mail a copy to the registered office of the limited partnership or foreign limited partnership and another copy to the principal office if the address of the office appears in the records of the secretary of state and is different from the address of the registered office.

3. A statement of resignation takes effect on the earlier of the following:

a. 12:01 a.m. on the thirty-first day after the day on which it is filed with the secretary of state.

b. The designation of a new registered agent for the limited partnership.

2004 Acts, ch 1021, §16, 118; 2016 Acts, ch 1097, §6; 2020 Acts, ch 1058, §2
Referred to in §9.11, 488.206

488.117 Service of process.

1. A registered agent for service of process appointed by a limited partnership or foreign limited partnership is a registered agent of the limited partnership or foreign limited partnership for service of any process, notice, or demand required or permitted by law to be served upon the limited partnership or foreign limited partnership.

2. If a limited partnership or foreign limited partnership does not appoint or maintain a registered agent for service of process in this state or the registered agent for service of process cannot with reasonable diligence be found at the registered agent's address, the secretary of state is an agent of the limited partnership or foreign limited partnership upon whom process, notice, or demand may be served.

3. Service of any process, notice, or demand on the secretary of state may be made by delivering to and leaving with the secretary of state duplicate copies of the process, notice, or demand. If a process, notice, or demand is served on the secretary of state, the secretary of state shall forward one of the copies by certified mail or restricted certified mail to the limited partnership or foreign limited partnership at its registered office.

4. Service is effected under subsection 3 at the earliest of any of the following:

a. The date the limited partnership or foreign limited partnership receives the process, notice, or demand.

b. The date shown on the return receipt, if signed on behalf of the limited partnership or foreign limited partnership.

c. Five days after the process, notice, or demand is deposited in the mail, if mailed postpaid and correctly addressed.

5. The secretary of state shall keep a record of each process, notice, and demand served pursuant to this section and record the time of, and the action taken regarding, the service.

6. This section does not affect the right to serve process, notice, or demand in any other manner provided by law.

2004 Acts, ch 1021, §17, 118; 2016 Acts, ch 1097, §7
Referred to in §488.1105, 488.1109

488.117A Fees.

1. The secretary of state shall collect the following fees when the documents described in this subsection are delivered to the secretary's office for filing:

a. Certificate of limited partnership $100

b. Application for registration of foreign limited partnership and for issuance of a certificate of registration to transact business in this state $100

c. Amendment to certificate of limited partnership $100

d. Amendment to application for registration of foreign limited partnership $100

e. Cancellation of certificate of limited partnership ..... $ 20

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f. Cancellation of registration of foreign limited partnership ..... $ 20
g. A consent required to be filed under this chapter..... $ 20
h. Application to reserve a limited partnership name ..... $ 10
i. A notice of transfer of reservation of name ..... $ 10
j. Articles of correction ..... $ 5
k. Application for certificate of existence or registration ..... $ 5
l. A statement of dissociation ..... $ 20
m. A statement of dissolution ..... $ 20
n. A statement of termination ..... $ 20
o. A statement of change ..... $ 20
p. Any other document required or permitted to be filed ..... $ 5

2. The secretary of state shall collect a fee of five dollars each time process is served on the secretary under this chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

3. The secretary of state shall collect the following fees for copying and certifying the copy of any filed document relating to a limited partnership or foreign limited partnership:

a. One dollar per page for copying.
b. Five dollars for certification.

2004 Acts, ch 1021, §107, 118
C2005, §488.1206
2019 Acts, ch 24, §104
C2020, §488.117A
Referred to in §9.11

488.118 Consent and proxies of partners.

Action requiring the consent of partners under this chapter may be taken without a meeting, and a partner may appoint a proxy to consent or otherwise act for the partner by signing an appointment record, either personally or by the partner's attorney in fact.

2004 Acts, ch 1021, §18, 118

488.119 through 488.200 Reserved.

ARTICLE 2

FORMATION — CERTIFICATE OF LIMITED PARTNERSHIP AND OTHER FILINGS

488.201 Formation of limited partnership — certificate of limited partnership.

1. In order for a limited partnership to be formed, a certificate of limited partnership must be delivered to the secretary of state for filing. The certificate must state all of the following:

a. The name of the limited partnership, which must comply with section 488.108.
b. The street and mailing address of the initial registered office and the name and street and mailing address of the initial registered agent for service of process.
c. The name and the street and mailing address of each general partner.
d. Whether the limited partnership is a limited liability limited partnership.
e. Any additional information required by article 11.

2. A certificate of limited partnership may also contain any other matters but shall not vary or otherwise affect the provisions specified in section 488.110, subsection 2, in a manner inconsistent with that subsection.

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3. If there has been substantial compliance with subsection 1, subject to section 488.206, subsection 3, a limited partnership is formed when the secretary of state files the certificate of limited partnership. The secretary of state's filing of the certificate is conclusive proof that all conditions precedent to formation of the limited partnership have been satisfied except in a proceeding by the state to cancel or revoke the certificate or involuntarily dissolve the limited partnership.

4. Subject to subsection 2, if any provision of a partnership agreement is inconsistent with the filed certificate of limited partnership or with a filed statement of dissociation, termination, or change or filed articles of conversion or merger, all of the following apply:

a. The partnership agreement prevails as to partners and transferees.

b. The filed certificate of limited partnership, statement of dissociation, termination, or change or articles of conversion or merger prevail as to persons, other than partners and transferees, that reasonably rely on the filed record to their detriment.

2004 Acts, ch 1021, §19, 118; 2016 Acts, ch 1097, §8
Referred to in §488.102, 488.1104, 488.1204, 633A.4606

488.202 Amendment or restatement of certificate.

1. In order to amend its certificate of limited partnership, a limited partnership must deliver to the secretary of state for filing an amendment or, pursuant to article 11, articles of merger stating all of the following:

a. The name of the limited partnership.

b. The date of filing of its initial certificate.

c. The changes the amendment makes to the certificate as most recently amended or restated.

2. A limited partnership shall promptly deliver to the secretary of state for filing an amendment to a certificate of limited partnership to reflect any of the following:

a. The admission of a new general partner.

b. The dissociation of a person as a general partner.

c. The appointment of a person to wind up the limited partnership's activities under section 488.803, subsection 3 or 4.

3. A general partner that knows that any information in a filed certificate of limited partnership was false when the certificate was filed or has become false due to changed circumstances shall promptly do at least one of the following:

a. Cause the certificate to be amended.

b. If appropriate, deliver to the secretary of state for filing a statement of change pursuant to section 488.115 or a statement of correction pursuant to section 488.207.

4. A certificate of limited partnership may be amended at any time for any other proper purpose as determined by the limited partnership.

5. A restated certificate of limited partnership may be delivered to the secretary of state for filing in the same manner as an amendment.

6. Subject to section 488.206, subsection 3, an amendment or restated certificate is effective when filed by the secretary of state.

2004 Acts, ch 1021, §20, 118; 2004 Acts, ch 1175, §376
Referred to in §9.11, 488.208

488.203 Statement of termination.

A dissolved limited partnership that has completed winding up may deliver to the secretary of state for filing a statement of termination that states all of the following:

1. The name of the limited partnership.

2. The date of filing of its initial certificate of limited partnership.

3. Any other information as determined by the general partners filing the statement or by a person appointed pursuant to section 488.803, subsection 3 or 4.

2004 Acts, ch 1021, §21, 118
Referred to in §488.803

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488.204 Signing of records.

1. Each record delivered to the secretary of state for filing pursuant to this chapter must be signed in the following manner:

a. An initial certificate of limited partnership must be signed by all general partners listed in the certificate.

b. An amendment adding or deleting a statement that the limited partnership is a limited liability limited partnership must be signed by all general partners listed in the certificate.

c. An amendment designating as general partner a person admitted under section 488.801, subsection 3, paragraph *"b"*, following the dissociation of a limited partnership's last general partner must be signed by the new general partner.

d. An amendment required by section 488.803, subsection 3, following the appointment of a person to wind up the dissolved limited partnership's activities must be signed by that person.

e. Any other amendment must be signed by all of the following:

(1) At least one general partner listed in the certificate.

(2) Each other person designated in the amendment as a new general partner.

(3) Each person that the amendment indicates has dissociated as a general partner, unless any of the following applies:

(a) The person is deceased or a guardian or general conservator has been appointed for the person and the amendment so states.

(b) The person has previously delivered to the secretary of state for filing a statement of dissociation.

f. A restated certificate of limited partnership must be signed by at least one general partner listed in the certificate, and, to the extent the restated certificate effects a change under any other paragraph of this subsection, the certificate must be signed in a manner that satisfies that paragraph.

g. A statement of termination must be signed by all general partners listed in the certificate or, if the certificate of a dissolved limited partnership lists no general partners, by the person appointed pursuant to section 488.803, subsection 3 or 4, to wind up the dissolved limited partnership's activities.

h. Articles of conversion must be signed by each general partner listed in the certificate of limited partnership.

i. Articles of merger must be signed as provided in section 488.1108, subsection 1.

j. Any other record delivered on behalf of a limited partnership to the secretary of state for filing must be signed by at least one general partner listed in the certificate.

k. A statement by a person pursuant to section 488.605, subsection 1, paragraph *"d"*, stating that the person has dissociated as a general partner must be signed by that person.

l. A statement of withdrawal by a person pursuant to section 488.306 must be signed by that person.

m. A record delivered on behalf of a foreign limited partnership to the secretary of state for filing must be signed by at least one general partner of the foreign limited partnership.

n. Any other record delivered on behalf of any person to the secretary of state for filing must be signed by that person.

2. Any person may sign by an attorney in fact any record to be filed pursuant to this chapter.

2004 Acts, ch 1021, §22, 118
Referred to in §488.110

488.205 Signing and filing pursuant to judicial order.

1. If a person required by this chapter to sign a record or deliver a record to the secretary of state for filing does not do so, any other person that is aggrieved may petition the appropriate court to order any of the following:

a. The person to sign the record.

b. The person to deliver the record to the secretary of state for filing.

c. The secretary of state to file the record unsigned.

2. If the person aggrieved under subsection 1 is not the limited partnership or foreign

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limited partnership to which the record pertains, the aggrieved person shall make the limited partnership or foreign limited partnership a party to the action. A person aggrieved under subsection 1 may seek the remedies provided in subsection 1 in the same action in combination or in the alternative.

3. A record filed unsigned pursuant to this section is effective without being signed.

2004 Acts, ch 1021, §23, 118

Referred to in §488.208

488.206 Delivery to and filing of records by secretary of state — effective time and date.

1. A record authorized or required to be delivered to the secretary of state for filing under this chapter must be captioned to describe the record's purpose, contain the information required by this chapter but may include other information as well, and be in a medium permitted by the secretary of state. The document must be typewritten or printed. If the document is electronically transmitted, it must be in a format that can be retrieved or reproduced in typewritten or printed form. The document must be delivered to the office of the secretary of state for filing. Delivery may be made by electronic transmission if and to the extent permitted by the secretary of state. The secretary of state may adopt rules for the electronic filing of documents and the certification of electronically filed documents. If it is filed in typewritten or printed form and not transmitted electronically, the secretary of state may require an exact or conformed copy to be delivered with the document. Except as provided in subsection 6, unless the secretary of state determines that a record does not comply with the filing requirements of this chapter, and if all filing fees have been paid, the secretary of state shall file the record and perform all of the following:

a. For a statement of dissociation, send all of the following:

(1) A copy of the filed statement and a receipt for the fees to the person which the statement indicates has dissociated as a general partner.

(2) A copy of the filed statement and receipt to the limited partnership.

b. For a statement of withdrawal, send all of the following:

(1) A copy of the filed statement and a receipt for the fees to the person on whose behalf the record was filed.

(2) If the statement refers to an existing limited partnership, a copy of the filed statement and receipt to the limited partnership.

c. For all other records, send a copy of the filed record and a receipt for the fees to the person on whose behalf the record was filed.

2. Upon request and payment of a fee, the secretary of state shall send to the requester a certified copy of the requested record.

3. Except as otherwise provided in sections 488.116 and 488.207, a record delivered to the secretary of state for filing under this chapter may specify an effective time and a delayed effective date. Except as otherwise provided in this chapter, a record filed by the secretary of state is effective according to the following:

a. If the record does not specify an effective time and does not specify a delayed effective date, on the date and at the time the record is filed, as evidenced by the secretary of state's endorsement of the date and time on the record.

b. If the record specifies an effective time but not a delayed effective date, on the date the record is filed at the time specified in the record.

c. If the record specifies a delayed effective date but not an effective time, at 12:01 a.m. on the earlier of either of the following:

(1) The specified date.

(2) The ninetieth day after the record is filed.

d. If the record specifies an effective time and a delayed effective date, at the specified time on the earlier of either of the following:

(1) The specified date.

(2) The ninetieth day after the record is filed.

4. If the secretary of state refuses to file a document, the secretary of state shall return it to the limited partnership or foreign limited partnership or its representative, together with a brief, written explanation of the reason for the refusal.

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5. The secretary of state's duty to file documents under this section is ministerial. Filing or refusing to file a document does not do any of the following:

a. Affect the validity or invalidity of the document in whole or part.

b. Relate to the correctness or incorrectness of information contained in the document.

c. Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

6. *a.* The secretary of state may require a record to be delivered by mail or in person if the secretary of state receives credible information that the record is being submitted for filing fraudulently or may be used to accomplish a fraudulent, criminal, or unlawful purpose.

b. As used in paragraph "*a*", "*credible information*" means any of the following:

(1) An affidavit of unauthorized use as provided in section 488.210A.

(2) Information provided to the secretary of state by another government agency.

(3) Information collected by the secretary of state from a credible third-party data set.

2004 Acts, ch 1021, §24, 118; 2026 Acts, ch 1145, §5, 6
Referred to in §9.11, 488.109, 488.115, 488.201, 488.202, 488.907, 488.1108
Subsection 1, unnumbered paragraph 1 amended
NEW subsection 6

488.206A Secretary of state — extra services — surcharge.

Upon the request of a filer of a document under this chapter, the secretary of state shall provide an extra filing service and assess a surcharge as provided in chapter 9, subchapter II.

2021 Acts, ch 165, §255

488.207 Correcting filed record.

1. A limited partnership or foreign limited partnership may deliver to the secretary of state for filing a statement of correction to correct a record previously delivered by the limited partnership or foreign limited partnership to the secretary of state and filed by the secretary of state, if at the time of filing the record contained false or erroneous information or was defectively signed.

2. A statement of correction shall not state a delayed effective date and must do all of the following:

a. Describe the record to be corrected, including its filing date, or attach a copy of the record as filed.

b. Specify the incorrect information and the reason it is incorrect or the manner in which the signing was defective.

c. Correct the incorrect information or defective signature.

3. When filed by the secretary of state, a statement of correction is effective retroactively as of the effective date of the record the statement corrects, but the statement is effective when filed for the following:

a. For the purposes of section 488.103, subsections 3 and 4.

b. As to persons relying on the uncorrected record and adversely affected by the correction.

2004 Acts, ch 1021, §25, 118
Referred to in §9.14, 488.202, 488.206, 488.208

488.208 Liability for false information in filed record — penalty.

1. If a record delivered to the secretary of state for filing under this chapter and filed by the secretary of state contains false information, a person that suffers loss by reliance on the information may recover damages for the loss from any or all of the following:

a. A person that signed the record, or caused another to sign it on the person's behalf, and knew the information to be false at the time the record was signed.

b. A general partner that has notice that the information was false when the record was filed or has become false because of changed circumstances, if the general partner has notice for a reasonably sufficient time before the information is relied upon to enable the general partner to effect an amendment under section 488.202, file a petition pursuant to section 488.205, or deliver to the secretary of state for filing a statement of change pursuant to section 488.115 or a statement of correction pursuant to section 488.207.

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2. Signing a record authorized or required to be filed under this chapter that the signer knows to be false in material respect constitutes a serious misdemeanor punishable by a fine not to exceed one thousand dollars.

2004 Acts, ch 1021, §26, 118

488.209 Certificate of existence or authorization.

1. The secretary of state, upon request and payment of the requisite fee, shall furnish a certificate of existence for a limited partnership if the records filed in the office of the secretary of state show that the secretary of state has filed a certificate of limited partnership and has not filed a statement of termination. A certificate of existence must state all of the following:

a. The limited partnership's name.

b. That it was duly formed under the laws of this state and the date of formation.

c. Whether all fees, taxes, and penalties under this chapter or other law due the secretary of state have been paid.

d. Whether the limited partnership's most recent biennial report required by section 488.210 has been filed by the secretary of state.

e. Whether the secretary of state has administratively dissolved the limited partnership.

f. Whether the limited partnership's certificate of limited partnership has been amended to state that the limited partnership is dissolved.

g. That a statement of termination has not been filed by the secretary of state.

h. Other facts of record in the office of the secretary of state which may be requested by the applicant.

2. The secretary of state, upon request and payment of the requisite fee, shall furnish a certificate of authorization for a foreign limited partnership if the records filed in the office of the secretary of state show that the secretary of state has filed a certificate of authority, has not revoked the certificate of authority, and has not filed a notice of cancellation. A certificate of authorization must state all of the following:

a. The foreign limited partnership's name and any alternate name adopted under section 488.905, subsection 1, for use in this state.

b. That it is authorized to transact business in this state.

c. Whether all fees, taxes, and penalties under this chapter or other law due the secretary of state have been paid.

d. Whether the foreign limited partnership's most recent biennial report required by section 488.210 has been filed by the secretary of state.

e. That the secretary of state has not revoked its certificate of authority and has not filed a notice of cancellation.

f. Other facts of record in the office of the secretary of state which may be requested by the applicant.

3. Subject to any qualification stated in the certificate, a certificate of existence or authorization issued by the secretary of state may be relied upon as conclusive evidence that the limited partnership or foreign limited partnership is in existence or is authorized to transact business in this state.

2004 Acts, ch 1021, §27, 118; 2004 Acts, ch 1175, §377, 378

488.210 Biennial report for secretary of state.

1. A limited partnership or a foreign limited partnership authorized to transact business in this state shall deliver to the secretary of state for filing a biennial report that states all of the following:

a. The name of the limited partnership or foreign limited partnership.

b. The street and mailing address of its registered office and the name and street and mailing address of its registered agent for service of process in this state.

c. In the case of a limited partnership, the street and mailing address of its principal office.

d. In the case of a foreign limited partnership, the state or other jurisdiction under whose law the foreign limited partnership is formed and any alternate name adopted under section 488.905, subsection 1.

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2. Information in a biennial report must be current as of the date the biennial report is delivered to the secretary of state for filing.

3. If a biennial report does not contain the information required in subsection 1, the secretary of state shall promptly notify the reporting limited partnership or foreign limited partnership and return the report to it for correction. If the report is corrected to contain the information required in subsection 1 and delivered to the secretary of state within thirty days after the effective date of the notice, it is timely delivered.

4. If a filed biennial report contains an address of a registered office or the name or address of a registered agent for service of process which differs from the information shown in the records of the secretary of state immediately before the filing, the differing information in the biennial report is considered a statement of change under section 488.115.

5. The first biennial report shall be delivered to the secretary of state between January 1 and April 1 of the first odd-numbered year following the calendar year in which a limited partnership was formed or a foreign limited partnership was authorized to transact business. Subsequent biennial reports must be delivered to the secretary of state between January 1 and April 1 of the following odd-numbered calendar years. A filing fee for the biennial report shall be determined by the secretary of state. For purposes of this section, each biennial report shall contain information related to the two-year period immediately preceding the calendar year in which the report is filed.

2004 Acts, ch 1021, §28, 118; 2016 Acts, ch 1097, §9, 10
Referred to in §9.11, 488.111, 488.209, 488.906

488.210A Statement of removal — removal of information not authorized to be provided.

1. *a.* A person whose name, street address, mailing address, or email address has, without that person's authorization, been provided to the secretary of state as that of the registered agent or of the principal office in a limited partnership's filing may deliver to the secretary of state a notarized, sworn affidavit of unauthorized use that does all of the following:

(1) Identifies the limited partnership registration by name and business number.

(2) Indicates the affiant's mailing address.

(3) States that neither the affiant nor any agent of the affiant has authorized the filing identifying the affiant as the registered agent, providing the affiant's street address or mailing address as an address of the registered agent or principal office, or providing the affiant's email address as that of the registered agent.

b. The affiant shall specify in the affidavit of unauthorized use the information that was not authorized to be provided.

c. The secretary of state may reject an affidavit of unauthorized use that is incomplete or that the secretary of state believes was delivered to the secretary of state with the intent to harass or defraud the limited partnership or the individual named as affiant.

d. The office of the secretary of state shall adopt an affidavit of unauthorized use form in accordance with this section.

2. The secretary of state shall conduct an administrative review to determine whether the filing was authorized to identify the stated information as applicable.

3. If the secretary of state concludes that the filing was not authorized to provide the information identified in the affidavit, the secretary of state shall promptly file a statement of removal with respect to the identified information, and shall promptly cause the identified information to cease to be listed as identified for the limited partnership.

4. The secretary of state shall not charge a fee for the filing of an affidavit of unauthorized use under subsection 1 or a statement of removal under subsection 3. The filing office shall not return any fee paid for filing the limited partnership filing identified in the affidavit.

5. Upon filing a statement of removal, the secretary of state shall send to the principal office address or registered agent's mailing address on record for the limited partnership, if any, a notice stating that the statement of removal has been filed and is effective immediately. The notice shall also state that the limited partnership is without a registered agent or registered agent address, as applicable.

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6. The secretary of state shall adopt rules pursuant to chapter 17A necessary or desirable to administer this section.

2026 Acts, ch 1145, §7
Referred to in §488.206, 488.210B
NEW section

488.210B Interrogatories.

1. *a.* The secretary of state may serve one or more written interrogatories regarding any matter that pertains to a limited partnership and that is within the purview of the secretary of state if the secretary of state receives credible information that a limited partnership is being used to accomplish a fraudulent, criminal, or unlawful purpose.

b. As used in paragraph *"a"*, *"credible information"* means any of the following:

(1) An affidavit of unauthorized use as provided in section 488.210A.

(2) Information provided to the secretary of state by another government agency.

(3) Information collected by the secretary of state from a credible third-party data set.

2. The secretary of state shall serve such interrogatories on the limited partnership that is the subject of the interrogatories by mail at the address of the registered agent that appears on the secretary of state's records at the time the information required by subsection 1 is received, or if the limited partnership has no registered agent, at the limited partnership's principal office address shown on the limited partnership's most recent biennial report filed with the secretary of state.

3. The interrogatories must be answered by a person with the authority to answer on behalf of the limited partnership that is the subject of the interrogatories. Each interrogatory must be answered in writing separately and in a manner that is responsive to the interrogatory. The declaration on the completed interrogatories form must be signed by a person with the authority to sign on behalf of the limited partnership.

4. To be considered responsive, the completed and signed interrogatories form must be received by the secretary of state by mail or in-person delivery within twenty-one calendar days after the form was mailed.

5. A response to any interrogatory that indicates to the secretary of state that the limited partnership violated any provision of this chapter constitutes the limited partnership's concession to such violation.

6. A failure to respond to any interrogatory within the allotted time constitutes the limited partnership's concession that the partnership violated a provision or provisions of this chapter that are the subjects of the interrogatories.

7. If the secretary of state receives a response to each interrogatory that indicates to the secretary of state that the limited partnership has not violated any provision of any chapter, the secretary of state shall take no action.

8. The secretary of state shall adopt rules pursuant to chapter 17A necessary or desirable to administer this section.

2026 Acts, ch 1145, §8
Referred to in §488.809
NEW section

488.211 through 488.300 Reserved.

ARTICLE 3
LIMITED PARTNERS

488.301 Becoming limited partner.

A person becomes a limited partner according to any of the following:

1. As provided in the partnership agreement.

2. As the result of a conversion or merger under article 11.

3. With the consent of all the partners.

2004 Acts, ch 1021, §29, 118
Referred to in §488.102

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488.302 No right or power as limited partner to bind limited partnership.

A limited partner does not have the right or the power as a limited partner to act for or bind the limited partnership.

2004 Acts, ch 1021, §30, 118

488.303 No liability as limited partner for limited partnership obligations.

An obligation of a limited partnership, whether arising in contract, tort, or otherwise, is not the obligation of a limited partner. A limited partner is not personally liable, directly or indirectly, by way of contribution or otherwise, for an obligation of the limited partnership solely by reason of being a limited partner, even if the limited partner participates in the management and control of the limited partnership.

2004 Acts, ch 1021, §31, 118

488.304 Right of limited partner and former limited partner to information.

1. On ten days' demand, made in a record received by the limited partnership, a limited partner may inspect and copy required information during regular business hours in the limited partnership's registered office. The limited partner need not have any particular purpose for seeking the information.

2. During regular business hours and at a reasonable location specified by the limited partnership, a limited partner may obtain from the limited partnership and inspect and copy true and full information regarding the state of the activities and financial condition of the limited partnership and other information regarding the activities of the limited partnership as is just and reasonable if the limited partner complies with all of the following:

a. The limited partner seeks the information for a purpose reasonably related to the partner's interest as a limited partner.

b. The limited partner makes a demand in a record received by the limited partnership, describing with reasonable particularity the information sought and the purpose for seeking the information.

c. The information sought is directly connected to the limited partner's purpose.

3. Within ten days after receiving a demand pursuant to subsection 2, the limited partnership in a record shall inform the limited partner that made the demand of all of the following:

a. What information the limited partnership will provide in response to the demand.

b. When and where the limited partnership will provide the information.

c. If the limited partnership declines to provide any demanded information, the limited partnership's reasons for declining.

4. Subject to subsection 6, a person dissociated as a limited partner may inspect and copy required information during regular business hours in the limited partnership's registered office if the person complies with all of the following:

a. The information pertains to the period during which the person was a limited partner.

b. The person seeks the information in good faith.

c. The person meets the requirements of subsection 2.

5. The limited partnership shall respond to a demand made pursuant to subsection 4 in the same manner as provided in subsection 3.

6. If a limited partner dies, section 488.704 applies.

7. The limited partnership may impose reasonable restrictions on the use of information obtained under this section. In a dispute concerning the reasonableness of a restriction under this subsection, the limited partnership has the burden of proving reasonableness.

8. A limited partnership may charge a person that makes a demand under this section reasonable costs of copying, limited to the costs of labor and material.

9. Whenever this chapter or a partnership agreement provides for a limited partner to give or withhold consent to a matter, before the consent is given or withheld, the limited partnership shall, without demand, provide the limited partner with all information material to the limited partner's decision that the limited partnership knows.

10. A limited partner or person dissociated as a limited partner may exercise the rights under this section through an attorney or other agent. Any restriction imposed under

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subsection 7 or by the partnership agreement applies both to the attorney or other agent and to the limited partner or person dissociated as a limited partner.

11. The rights stated in this section do not extend to a person as transferee, but may be exercised by the legal representative of an individual under legal disability who is a limited partner or person dissociated as a limited partner.

2004 Acts, ch 1021, §32, 118; 2016 Acts, ch 1097, §11, 12
Referred to in §488.110, 488.407, 488.704

488.305 Limited duties of limited partners.

1. A limited partner does not have any fiduciary duty to the limited partnership or to any other partner solely by reason of being a limited partner.

2. A limited partner shall discharge the duties to the partnership and the other partners under this chapter or under the partnership agreement and exercise any rights consistently with the obligation of good faith and fair dealing.

3. A limited partner does not violate a duty or obligation under this chapter or under the partnership agreement merely because the limited partner's conduct furthers the limited partner's own interest.

2004 Acts, ch 1021, §33, 118
Referred to in §488.110, 488.601, 488.602

488.306 Person erroneously believing self to be limited partner.

1. Except as otherwise provided in subsection 2, a person that makes an investment in a business enterprise and erroneously but in good faith believes that the person has become a limited partner in the enterprise is not liable for the enterprise's obligations by reason of making the investment, receiving distributions from the enterprise, or exercising any rights of or appropriate to a limited partner, if, on ascertaining the mistake, the person does either of the following:

a. Causes an appropriate certificate of limited partnership, amendment, or statement of correction to be signed and delivered to the secretary of state for filing.

b. Withdraws from future participation as an owner in the enterprise by signing and delivering to the secretary of state for filing a statement of withdrawal under this section.

2. A person that makes an investment described in subsection 1 is liable to the same extent as a general partner to any third party that enters into a transaction with the enterprise, believing in good faith that the person is a general partner, before the secretary of state files a statement of withdrawal, certificate of limited partnership, amendment, or statement of correction to show that the person is not a general partner.

3. If a person makes a diligent effort in good faith to comply with subsection 1, paragraph *"a"*, and is unable to cause the appropriate certificate of limited partnership, amendment, or statement of correction to be signed and delivered to the secretary of state for filing, the person has the right to withdraw from the enterprise pursuant to subsection 1, paragraph *"b"*, even if the withdrawal would otherwise breach an agreement with others that are or have agreed to become co-owners of the enterprise.

2004 Acts, ch 1021, §34, 118
Referred to in §9.11, 488.204

488.307 through 488.400 Reserved.

ARTICLE 4

GENERAL PARTNERS

488.401 Becoming general partner.

A person becomes a general partner according to any of the following:

1. As provided in the partnership agreement.

2. Under section 488.801, subsection 3, paragraph *"b"*, following the dissociation of a limited partnership's last general partner.

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3. As the result of a conversion or merger under article 11.
4. With the consent of all the partners.

2004 Acts, ch 1021, §35, 118
Referred to in §488.102

488.402 General partner agent of limited partnership.

1. Each general partner is an agent of the limited partnership for the purposes of its activities. An act of a general partner, including the signing of a record in the partnership's name, for apparently carrying on in the ordinary course the limited partnership's activities or activities of the kind carried on by the limited partnership binds the limited partnership, unless the general partner did not have authority to act for the limited partnership in the particular matter and the person with which the general partner was dealing knew, had received a notification, or had notice under section 488.103, subsection 4, that the general partner lacked authority.

2. An act of a general partner which is not apparently for carrying on in the ordinary course the limited partnership's activities or activities of the kind carried on by the limited partnership binds the limited partnership only if the act was authorized in the partnership agreement or by all the other partners.

2004 Acts, ch 1021, §36, 118
Referred to in §488.606, 488.804, 488.1112

488.403 Limited partnership liable for general partner's actionable conduct.

1. A limited partnership is liable for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act or omission, or other actionable conduct, of a general partner acting in the ordinary course of activities of the limited partnership or with authority of the limited partnership.

2. If, in the course of the limited partnership's activities or while acting with authority of the limited partnership, a general partner receives or causes the limited partnership to receive money or property of a person not a partner, and the money or property is misapplied by a general partner, the limited partnership is liable for the loss.

2004 Acts, ch 1021, §37, 118

488.404 General partner's liability.

1. Except as otherwise provided in subsections 2 and 3, all general partners are liable jointly and severally for all obligations of the limited partnership unless otherwise agreed by the claimant or provided by law.

2. A person that becomes a general partner of an existing limited partnership is not personally liable for an obligation of a limited partnership incurred before the person became a general partner.

3. An obligation of a limited partnership incurred while the limited partnership is a limited liability limited partnership, whether arising in contract, tort, or otherwise, is solely the obligation of the limited partnership. A general partner is not personally liable, directly or indirectly, by way of contribution or otherwise, for such an obligation solely by reason of being or acting as a general partner. This subsection applies despite anything inconsistent in the partnership agreement that existed immediately before the consent required to become a limited liability limited partnership under section 488.406, subsection 2, paragraph *"b"*.

2004 Acts, ch 1021, §38, 118
Referred to in §488.102, 488.405, 488.607, 488.806, 488.807, 488.808, 488.1111

488.405 Actions by and against partnership and partners.

1. To the extent not inconsistent with section 488.404, a general partner may be joined in an action against the limited partnership or named in a separate action.

2. A judgment against a limited partnership is not by itself a judgment against a general partner. A judgment against a limited partnership shall not be satisfied from a general partner's assets unless there is also a judgment against the general partner.

3. A judgment creditor of a general partner shall not levy execution against the assets of the general partner to satisfy a judgment based on a claim against the limited partnership,

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unless the partner is personally liable for the claim under section 488.404 and at least one of the following applies:

a. A judgment based on the same claim has been obtained against the limited partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part.

b. The limited partnership is a debtor in bankruptcy.

c. The general partner has agreed that the creditor need not exhaust limited partnership assets.

d. A court grants permission to the judgment creditor to levy execution against the assets of a general partner based on a finding that limited partnership assets subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of limited partnership assets is excessively burdensome, or that the grant of permission is an appropriate exercise of the court's equitable powers.

e. Liability is imposed on the general partner by law or contract independent of the existence of the limited partnership.

2004 Acts, ch 1021, §39, 118

488.406 Management rights of general partner.

1. Each general partner has equal rights in the management and conduct of the limited partnership's activities. Except as expressly provided in this chapter, any matter relating to the activities of the limited partnership may be exclusively decided by the general partner or, if there is more than one general partner, by a majority of the general partners.

2. The consent of each partner is necessary to do any or all of the following:

a. Amend the partnership agreement.

b. Amend the certificate of limited partnership to add or, subject to section 488.1110, delete a statement that the limited partnership is a limited liability limited partnership.

c. Sell, lease, exchange, or otherwise dispose of all, or substantially all, of the limited partnership's property, with or without the goodwill, other than in the usual and regular course of the limited partnership's activities.

3. A limited partnership shall reimburse a general partner for payments made and indemnify a general partner for liabilities incurred by the general partner in the ordinary course of the activities of the partnership or for the preservation of its activities or property.

4. A limited partnership shall reimburse a general partner for an advance to the limited partnership beyond the amount of capital the general partner agreed to contribute.

5. A payment or advance made by a general partner which gives rise to an obligation of the limited partnership under subsection 3 or 4 constitutes a loan to the limited partnership which accrues interest from the date of the payment or advance.

6. A general partner is not entitled to remuneration for services performed for the partnership.

2004 Acts, ch 1021, §40, 118

Referred to in §488.404

488.407 Right of general partner and former general partner to information.

1. A general partner, without having any particular purpose for seeking the information, may inspect and copy during regular business hours any or all of the following:

a. In the limited partnership's registered office, required information.

b. At a reasonable location specified by the limited partnership, any other records maintained by the limited partnership regarding the limited partnership's activities and financial condition.

2. Each general partner and the limited partnership shall furnish to a general partner all of the following:

a. Without demand, any information concerning the limited partnership's activities and financial condition reasonably required for the proper exercise of the general partner's rights and duties under the partnership agreement or this chapter.

b. On demand, any other information concerning the limited partnership's activities, except to the extent the demand or the information demanded is unreasonable or otherwise improper under the circumstances.

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3. Subject to subsection 5, on ten days' demand made in a record received by the limited partnership, a person dissociated as a general partner may have access to the information and records described in subsection 1 at the location specified in subsection 1 if all of the following apply:

a. The information or record pertains to the period during which the person was a general partner.

b. The person seeks the information or record in good faith.

c. The person satisfies the requirements imposed on a limited partner by section 488.304, subsection 2.

4. The limited partnership shall respond to a demand made pursuant to subsection 3 in the same manner as provided in section 488.304, subsection 3.

5. If a general partner dies, section 488.704 applies.

6. The limited partnership may impose reasonable restrictions on the use of information under this section. In any dispute concerning the reasonableness of a restriction under this subsection, the limited partnership has the burden of proving reasonableness.

7. A limited partnership may charge a person dissociated as a general partner that makes a demand under this section reasonable costs of copying, limited to the costs of labor and material.

8. A general partner or person dissociated as a general partner may exercise the rights under this section through an attorney or other agent. Any restriction imposed under subsection 6 or by the partnership agreement applies both to the attorney or other agent and to the general partner or person dissociated as a general partner.

9. The rights under this section do not extend to a person as transferee, but the rights under subsection 3 of a person dissociated as a general partner may be exercised by the legal representative of an individual who dissociated as a general partner under section 488.603, subsection 7, paragraph *"b"* or *"c"*.

2004 Acts, ch 1021, §41, 118; 2016 Acts, ch 1097, §13
Referred to in §488.110

488.408 General standards of general partner's conduct.

1. The only fiduciary duties that a general partner has to the limited partnership and the other partners are the duties of loyalty and care under subsections 2 and 3.

2. A general partner's duty of loyalty to the limited partnership and the other partners is limited to all of the following:

a. To account to the limited partnership and hold as trustee for it any property, profit, or benefit derived by the general partner in the conduct and winding up of the limited partnership's activities or derived from a use by the general partner of limited partnership property, including the appropriation of a limited partnership opportunity.

b. To refrain from dealing with the limited partnership in the conduct or winding up of the limited partnership's activities as or on behalf of a party having an interest adverse to the limited partnership.

c. To refrain from competing with the limited partnership in the conduct or winding up of the limited partnership's activities.

3. A general partner's duty of care to the limited partnership and the other partners in the conduct and winding up of the limited partnership's activities is limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law.

4. A general partner shall discharge the duties to the partnership and the other partners under this chapter or under the partnership agreement and exercise any rights consistently with the obligation of good faith and fair dealing.

5. A general partner does not violate a duty or obligation under this chapter or under the partnership agreement merely because the general partner's conduct furthers the general partner's own interest.

2004 Acts, ch 1021, §42, 118
Referred to in §488.110, 488.509, 488.603, 488.605

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488.409 through 488.500 Reserved.

ARTICLE 5

CONTRIBUTIONS AND DISTRIBUTIONS

488.501 Form of contribution.

A contribution of a partner may consist of tangible or intangible property or other benefit to the limited partnership, including money, services performed, promissory notes, other agreements to contribute cash or property, and contracts for services to be performed.

2004 Acts, ch 1021, §43, 118

488.502 Liability for contribution.

1. A partner's obligation to contribute money or other property or other benefit to, or to perform services for, a limited partnership is not excused by the partner's death, disability, or other inability to perform personally.

2. If a partner does not make a promised nonmonetary contribution, the partner is obligated at the option of the limited partnership to contribute money equal to that portion of the value, as stated in the required information, of the stated contribution which has not been made.

3. The obligation of a partner to make a contribution or return money or other property paid or distributed in violation of this chapter may be compromised only by consent of all partners. A creditor of a limited partnership which extends credit or otherwise acts in reliance on an obligation described in subsection 1, without notice of any compromise under this subsection, may enforce the original obligation.

2004 Acts, ch 1021, §44, 118

Referred to in §488.702

488.503 Sharing of distributions.

A distribution by a limited partnership must be shared among the partners on the basis of the value, as stated in the required information when the limited partnership decides to make the distribution, of the contributions the limited partnership has received from each partner.

2004 Acts, ch 1021, §45, 118

488.504 Interim distributions.

A partner does not have a right to any distribution before the dissolution and winding up of the limited partnership unless the limited partnership decides to make an interim distribution.

2004 Acts, ch 1021, §46, 118

488.505 No distribution on account of dissociation.

A person does not have a right to receive a distribution on account of dissociation.

2004 Acts, ch 1021, §47, 118

Referred to in §488.1204

488.506 Distribution in kind.

A partner does not have a right to demand or receive any distribution from a limited partnership in any form other than cash. Subject to section 488.812, subsection 2, a limited partnership may distribute an asset in kind to the extent each partner receives a percentage of the asset equal to the partner's share of distributions.

2004 Acts, ch 1021, §48, 118

488.507 Right to distribution.

When a partner or transferee becomes entitled to receive a distribution, the partner or transferee has the status of, and is entitled to all remedies available to, a creditor of the limited partnership with respect to the distribution. However, the limited partnership's obligation to

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make a distribution is subject to offset for any amount owed to the limited partnership by the partner or dissociated partner on whose account the distribution is made.

2004 Acts, ch 1021, §49, 118

488.508 Limitations on distribution.

1. A limited partnership shall not make a distribution in violation of the partnership agreement.

2. A limited partnership shall not make a distribution if after the distribution any of the following would result:

a. The limited partnership would not be able to pay its debts as they become due in the ordinary course of the limited partnership's activities.

b. The limited partnership's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the limited partnership were to be dissolved, wound up, and terminated at the time of the distribution, to satisfy the preferential rights upon dissolution, winding up, and termination of partners whose preferential rights are superior to those of persons receiving the distribution.

3. A limited partnership may base a determination that a distribution is not prohibited under subsection 2 on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.

4. Except as otherwise provided in subsection 7, the effect of a distribution under subsection 2 is measured according to either of the following:

a. In the case of distribution by purchase, redemption, or other acquisition of a transferable interest in the limited partnership, as of the date money or other property is transferred or debt incurred by the limited partnership.

b. In all other cases, as of the date of either of the following:

(1) The date the distribution is authorized, if the payment occurs within one hundred twenty days after that date.

(2) The date the payment is made, if payment occurs more than one hundred twenty days after the distribution is authorized.

5. A limited partnership's indebtedness to a partner incurred by reason of a distribution made in accordance with this section is at parity with the limited partnership's indebtedness to its general, unsecured creditors.

6. A limited partnership's indebtedness, including indebtedness issued in connection with or as part of a distribution, is not considered a liability for purposes of subsection 2 if the terms of the indebtedness provide that payment of principal and interest is made only to the extent that a distribution could then be made to partners under this section.

7. If indebtedness is issued as a distribution, each payment of principal or interest on the indebtedness is treated as a distribution, the effect of which is measured on the date the payment is made.

2004 Acts, ch 1021, §50, 118; 2004 Acts, ch 1175, §379

Referred to in §488.509

488.509 Liability for improper distributions.

1. A general partner that consents to a distribution made in violation of section 488.508 is personally liable to the limited partnership for the amount of the distribution which exceeds the amount that could have been distributed without the violation if it is established that in consenting to the distribution the general partner failed to comply with section 488.408.

2. A partner or transferee that received a distribution knowing that the distribution to that partner or transferee was made in violation of section 488.508 is personally liable to the limited partnership but only to the extent that the distribution received by the partner or transferee exceeded the amount that could have been properly paid under section 488.508.

3. A general partner against which an action is commenced under subsection 1 may do any or all of the following:

a. Implead in the action any other person that is liable under subsection 1 and compel contribution from the person.

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b. Implead in the action any person that received a distribution in violation of subsection 2 and compel contribution from the person in the amount the person received in violation of subsection 2.

4. An action under this section is barred if it is not commenced within two years after the distribution.

2004 Acts, ch 1021, §51, 118
Referred to in §488.702

488.510 through 488.600 Reserved.

ARTICLE 6
DISSOCIATION

488.601 Dissociation as limited partner.

1. A person does not have a right to dissociate as a limited partner before the termination of the limited partnership.

2. A person is dissociated from a limited partnership as a limited partner upon the occurrence of any of the following events:

a. The limited partnership's having notice of the person's express will to withdraw as a limited partner or on a later date specified by the person.

b. An event agreed to in the partnership agreement as causing the person's dissociation as a limited partner.

c. The person's expulsion as a limited partner pursuant to the partnership agreement.

d. The person's expulsion as a limited partner by the unanimous consent of the other partners if any of the following apply:

(1) It is unlawful to carry on the limited partnership's activities with the person as a limited partner.

(2) There has been a transfer of all of the person's transferable interest in the limited partnership, other than a transfer for security purposes, or a court order charging the person's interest, which has not been foreclosed.

(3) The person is a corporation and, within ninety days after the limited partnership notifies the person that it will be expelled as a limited partner because it has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no reinstatement of its charter or its right to conduct business.

(4) The person is a limited liability company or partnership that has been dissolved and whose business is being wound up.

e. On application by the limited partnership, the person's expulsion as a limited partner by judicial order because of any of the following:

(1) The person engaged in wrongful conduct that adversely and materially affected the limited partnership's activities.

(2) The person willfully or persistently committed a material breach of the partnership agreement or of the obligation of good faith and fair dealing under section 488.305, subsection 2.

(3) The person engaged in conduct relating to the limited partnership's activities which makes it not reasonably practicable to carry on the activities with the person as limited partner.

f. In the case of a person who is an individual, the person's death.

g. In the case of a person that is a trust or is acting as a limited partner by virtue of being a trustee of a trust, distribution of the trust's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor trustee.

h. In the case of a person that is an estate or is acting as a limited partner by virtue of being a personal representative of an estate, distribution of the estate's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor personal representative.

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i. Termination of a limited partner that is not an individual, partnership, limited liability company, corporation, trust, or estate.

j. The limited partnership's participation in a conversion or merger under article 11, if either of the following applies:

(1) The limited partnership is not the converted or surviving entity.

(2) The limited partnership is the converted or surviving entity but, as a result of the conversion or merger, the person ceases to be a limited partner.

2004 Acts, ch 1021, §52, 118
Referred to in §488.1204

488.602 Effect of dissociation as limited partner.

1. Upon a person's dissociation as a limited partner, all of the following apply:

a. Subject to section 488.704, the person does not have further rights as a limited partner.

b. The person's obligation of good faith and fair dealing as a limited partner under section 488.305, subsection 2, continues only as to matters arising and events occurring before the dissociation.

c. Subject to section 488.704 and article 11, any transferable interest owned by the person in the person's capacity as a limited partner immediately before dissociation is owned by the person as a mere transferee.

2. A person's dissociation as a limited partner does not of itself discharge the person from any obligation to the limited partnership or the other partners which the person incurred while a limited partner.

2004 Acts, ch 1021, §53, 118
Referred to in §488.1204

488.603 Dissociation as general partner.

A person is dissociated from a limited partnership as a general partner upon the occurrence of any of the following events:

1. The limited partnership's having notice of the person's express will to withdraw as a general partner or on a later date specified by the person.

2. An event agreed to in the partnership agreement as causing the person's dissociation as a general partner.

3. The person's expulsion as a general partner pursuant to the partnership agreement.

4. The person's expulsion as a general partner by the unanimous consent of the other partners if any of the following apply:

a. It is unlawful to carry on the limited partnership's activities with the person as a general partner.

b. There has been a transfer of all or substantially all of the person's transferable interest in the limited partnership, other than a transfer for security purposes, or a court order charging the person's interest, which has not been foreclosed.

c. The person is an entity which participates in a merger and is not the surviving entity.

5. On application by the limited partnership, the person's expulsion as a general partner by judicial determination because of any of the following:

a. The person engaged in wrongful conduct that adversely and materially affected the limited partnership activities.

b. The person willfully or persistently committed a material breach of the partnership agreement or of a duty owed to the partnership or the other partners under section 488.408.

c. The person engaged in conduct relating to the limited partnership's activities which makes it not reasonably practicable to carry on the activities of the limited partnership with the person as a general partner.

6. The person does or is one of the following:

a. Becomes a debtor in bankruptcy.

b. Executes an assignment for the benefit of creditors.

c. Seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the person or of all or substantially all of the person's property.

d. Fails, within ninety days after the appointment, to have vacated or stayed the

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appointment of a trustee, receiver, or liquidator of the general partner or of all or substantially all of the person's property obtained without the person's consent or acquiescence, or failing within ninety days after the expiration of a stay to have the appointment vacated.

e. Is a corporation that has filed articles of dissolution or the equivalent, has had its charter revoked, or has had its right to conduct business suspended by the jurisdiction of its incorporation, and all of the following apply:

(1) There is no revocation of the articles of dissolution or no reinstatement of its charter of its right to conduct business within ninety days after such filing, revocation, or suspension.

(2) The limited partnership, or any partner, notifies the partners that such filing, revocation, or suspension has occurred, and no vote to retain the general partner occurs within ninety days of such notification.

f. Is a limited liability company or partnership that has been dissolved and whose business is being wound up, and the limited partnership, or any partner, notifies the partners that such dissolution has occurred and no vote to retain the general partner occurs within ninety days of such notification.

7. In the case of a person who is an individual, any of the following:

a. The person's death.

b. The appointment of a guardian or general conservator for the person.

c. A judicial determination that the person has otherwise become incapable of performing the person's duties as a general partner under the partnership agreement.

8. In the case of a person that is a trust or is acting as a general partner by virtue of being a trustee of a trust, distribution of the trust's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor trustee.

9. In the case of a person that is an estate or is acting as a general partner by virtue of being a personal representative of an estate, distribution of the estate's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor personal representative.

10. Termination of a general partner that is not an individual, partnership, limited liability company, corporation, trust, or estate.

11. The limited partnership's participation in a conversion or merger under article 11, if either of the following applies:

a. The limited partnership is not the converted or surviving entity.

b. The limited partnership is the converted or surviving entity but, as a result of the conversion or merger, the person ceases to be a general partner.

2004 Acts, ch 1021, §54, 118
Referred to in §229.27, 488.110, 488.407, 488.604, 488.1204

488.604 Person's power to dissociate as general partner — wrongful dissociation.

1. A person has the power to dissociate as a general partner at any time, rightfully or wrongfully, by express will pursuant to section 488.603, subsection 1.

2. A person's dissociation as a general partner is wrongful only if either of the following applies:

a. The dissociation is in breach of an express provision of the partnership agreement.

b. The dissociation occurs before the termination of the limited partnership, and at least one of the following also applies:

(1) The person withdraws as a general partner by express will.

(2) The person is expelled as a general partner by judicial determination under section 488.603, subsection 5.

(3) The person is dissociated as a general partner by becoming a debtor in bankruptcy.

(4) In the case of a person that is not an individual, trust other than a business trust, or estate, the person is expelled or otherwise dissociated as a general partner because it willfully dissolved or terminated.

3. A person that wrongfully dissociates as a general partner is liable to the limited partnership and, subject to section 488.1001, to the other partners for damages caused by

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the dissociation. The liability is in addition to any other obligation of the general partner to the limited partnership or to the other partners.

2004 Acts, ch 1021, §55, 118
Referred to in §488.110

488.605 Effect of dissociation as general partner.

1. Upon a person's dissociation as a general partner, all of the following apply:

a. The person's right to participate as a general partner in the management and conduct of the partnership's activities terminates.

b. The person's duty of loyalty as a general partner under section 488.408, subsection 2, paragraph *"c"*, terminates.

c. The person's duty of loyalty as a general partner under section 488.408, subsection 2, paragraphs *"a"* and *"b"*, and duty of care under section 488.408, subsection 3, continue only with regard to matters arising and events occurring before the person's dissociation as a general partner.

d. The person may sign and deliver to the secretary of state for filing a statement of dissociation pertaining to the person and, at the request of the limited partnership, shall sign an amendment to the certificate of limited partnership which states that the person has dissociated.

e. Subject to section 488.704 and article 11, any transferable interest owned by the person immediately before dissociation in the person's capacity as a general partner is owned by the person as a mere transferee.

2. A person's dissociation as a general partner does not of itself discharge the person from any obligation to the limited partnership or the other partners which the person incurred while a general partner.

2004 Acts, ch 1021, §56, 118
Referred to in §488.204

488.606 Power to bind — liability to limited partnership before dissolution of partnership of person dissociated as general partner.

1. After a person is dissociated as a general partner and before the limited partnership is dissolved, converted under article 11, or merged out of existence under article 11, the limited partnership is bound by an act of the person only if all of the following apply:

a. The act would have bound the limited partnership under section 488.402 before the dissociation.

b. At the time the other party enters into the transaction, all of the following apply:

(1) Less than two years have passed since the dissociation.

(2) The other party does not have notice of the dissociation and reasonably believes that the person is a general partner.

2. If a limited partnership is bound under subsection 1, the person dissociated as a general partner which caused the limited partnership to be bound is liable to the following:

a. To the limited partnership for any damage caused to the limited partnership arising from the obligation incurred under subsection 1.

b. If a general partner or another person dissociated as a general partner is liable for the obligation, to the general partner or other person for any damage caused to the general partner or other person arising from the liability.

2004 Acts, ch 1021, §57, 118

488.607 Liability to other persons of person dissociated as general partner.

1. A person's dissociation as a general partner does not of itself discharge the person's liability as a general partner for an obligation of the limited partnership incurred before dissociation. Except as otherwise provided in subsections 2 and 3, the person is not liable for a limited partnership's obligation incurred after dissociation.

2. A person whose dissociation as a general partner resulted in a dissolution and winding up of the limited partnership's activities is liable to the same extent as a general partner under section 488.404 on an obligation incurred by the limited partnership under section 488.804.

3. A person that has dissociated as a general partner but whose dissociation did not result

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in a dissolution and winding up of the limited partnership's activities is liable on a transaction entered into by the limited partnership after the dissociation only if all of the following apply:

a. A general partner would be liable on the transaction.

b. At the time the other party enters into the transaction, all of the following apply:

(1) Less than two years have passed since the dissociation.

(2) The other party does not have notice of the dissociation and reasonably believes that the person is a general partner.

4. By agreement with a creditor of a limited partnership and the limited partnership, a person dissociated as a general partner may be released from liability for an obligation of the limited partnership.

5. A person dissociated as a general partner is released from liability for an obligation of the limited partnership if the limited partnership's creditor, with notice of the person's dissociation as a general partner but without the person's consent, agrees to a material alteration in the nature or time of payment of the obligation.

2004 Acts, ch 1021, §58, 118

Referred to in §488.812, 488.1111

488.608 through 488.700 Reserved.

ARTICLE 7

TRANSFERABLE INTERESTS AND RIGHTS

488.701 Partner's transferable interest.

The only interest of a partner which is transferable is the partner's transferable interest. A transferable interest is personal property.

2004 Acts, ch 1021, §59, 118

488.702 Transfer of partner's transferable interest.

1. All of the following apply to a transfer, in whole or in part, of a partner's transferable interest:

a. It is permissible.

b. It does not by itself cause the partner's dissociation or a dissolution and winding up of the limited partnership's activities.

c. It does not, as against the other partners or the limited partnership, entitle the transferee to participate in the management or conduct of the limited partnership's activities, to require access to information concerning the limited partnership's transactions except as otherwise provided in subsection 3, or to inspect or copy the required information or the limited partnership's other records.

2. A transferee has a right to receive, in accordance with the transfer, all of the following:

a. Distributions to which the transferor would otherwise be entitled.

b. Upon the dissolution and winding up of the limited partnership's activities, the net amount otherwise distributable to the transferor.

3. In a dissolution and winding up, a transferee is entitled to an account of the limited partnership's transactions only from the date of dissolution.

4. Upon transfer, the transferor retains the rights of a partner other than the interest in distributions transferred and retains all duties and obligations of a partner.

5. A limited partnership need not give effect to a transferee's rights under this section until the limited partnership has notice of the transfer.

6. A transfer of a partner's transferable interest in the limited partnership in violation of a restriction on transfer contained in the partnership agreement is ineffective as to a person having notice of the restriction at the time of transfer.

7. A transferee that becomes a partner with respect to a transferable interest is liable for the transferor's obligations under sections 488.502 and 488.509. However, the transferee is

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not obligated for liabilities unknown to the transferee at the time the transferee became a partner.

2004 Acts, ch 1021, §60, 118
Referred to in §488.704

488.703 Rights of creditor of partner or transferee.

1. On application to a court of competent jurisdiction by any judgment creditor of a partner or transferee, the court may charge the transferable interest of the judgment debtor with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of a transferee. The court may appoint a receiver of the share of the distributions due or to become due the judgment debtor in respect of the partnership and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or which the circumstances of the case may require to give effect to the charging order.

2. A charging order constitutes a lien on the judgment debtor's transferable interest. The court may order a foreclosure upon the interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee.

3. At any time before foreclosure, an interest charged may be redeemed by any of the following:

a. By the judgment debtor.

b. With property other than limited partnership property, by one or more of the other partners.

c. With limited partnership property, by the limited partnership with the consent of all partners whose interests are not so charged.

4. This chapter does not deprive any partner or transferee of the benefit of any exemption laws applicable to the partner's or transferee's transferable interest.

5. This section provides the exclusive remedy by which a judgment creditor of a partner or transferee may satisfy a judgment out of the judgment debtor's transferable interest.

2004 Acts, ch 1021, §61, 118; 2004 Acts, ch 1175, §380

488.704 Power of estate of deceased partner.

If a partner dies, the deceased partner's personal representative or other legal representative may exercise the rights of a transferee as provided in section 488.702 and, for the purposes of settling the estate, may exercise the rights of a current limited partner under section 488.304.

2004 Acts, ch 1021, §62, 118
Referred to in §229.27, 488.304, 488.407, 488.602, 488.605

488.705 through 488.800 Reserved.

ARTICLE 8

DISSOLUTION

Referred to in §488.1105, 488.1109

488.801 Nonjudicial dissolution.

Except as otherwise provided in section 488.802, a limited partnership is dissolved, and its activities must be wound up, only upon the occurrence of any of the following:

1. The happening of an event specified in the partnership agreement.

2. The consent of all general partners and of limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective.

3. After the dissociation of a person as a general partner, upon occurrence of either of the following:

a. If the limited partnership has at least one remaining general partner, the consent to dissolve the limited partnership given within ninety days after the dissociation by partners

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owning a majority of the rights to receive distributions as partners at the time the consent is to be effective.

b. If the limited partnership does not have a remaining general partner, the passage of ninety days after the dissociation, unless before the end of the period, all of the following occur:

(1) Consent to continue the activities of the limited partnership and admit at least one general partner is given by limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective.

(2) At least one person is admitted as a general partner in accordance with the consent.

4. The passage of ninety days after the dissociation of the limited partnership's last limited partner, unless before the end of the period the limited partnership admits at least one limited partner.

5. The signing and filing of a declaration of dissolution by the secretary of state under section 488.809, subsection 3.

2004 Acts, ch 1021, §63, 118
Referred to in §488.204, 488.401, 488.1204

488.802 Judicial dissolution.

On application by or for a partner, the district court for the county in which the office described in section 488.114, subsection 1, paragraph *"a"*, is located may order dissolution of a limited partnership if it is not reasonably practicable to carry on the activities of the limited partnership in conformity with the partnership agreement.

2004 Acts, ch 1021, §64, 118
Referred to in §488.110, 488.801

488.803 Winding up.

1. A limited partnership continues after dissolution only for the purpose of winding up its activities.

2. In winding up its activities, the limited partnership:

a. May amend its certificate of limited partnership to state that the limited partnership is dissolved, preserve the limited partnership business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal, or administrative, transfer the limited partnership's property, settle disputes by mediation or arbitration, file a statement of termination as provided in section 488.203, and perform other necessary acts.

b. Shall discharge the limited partnership's liabilities, settle and close the limited partnership's activities, and marshal and distribute the assets of the partnership.

3. If a dissolved limited partnership does not have a general partner, a person to wind up the dissolved limited partnership's activities may be appointed by the consent of limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective. A person appointed under this subsection:

a. Has the powers of a general partner under section 488.804.

b. Shall promptly amend the certificate of limited partnership to state all of the following:

(1) That the limited partnership does not have a general partner.

(2) The name of the person that has been appointed to wind up the limited partnership.

(3) The street and mailing address of the person.

4. On the application of any partner, the district court in the county in which the office described in section 488.114, subsection 1, paragraph *"a"*, is located may order judicial supervision of the winding up, including the appointment of a person to wind up the dissolved limited partnership's activities, if any of the following applies:

a. A limited partnership does not have a general partner and within a reasonable time following the dissolution no person has been appointed pursuant to subsection 3.

b. The applicant establishes other good cause.

2004 Acts, ch 1021, §65, 118
Referred to in §488.110, 488.202, 488.203, 488.204, 488.809

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488.804 Power of general partner and person dissociated as general partner to bind partnership after dissolution.

1. A limited partnership is bound by a general partner's act after dissolution in which any of the following applies:

a. The act is appropriate for winding up the limited partnership's activities.

b. The act would have bound the limited partnership under section 488.402 before dissolution, if, at the time the other party enters into the transaction, the other party does not have notice of the dissolution.

2. A person dissociated as a general partner binds a limited partnership through an act occurring after dissolution if both of the following apply:

a. At the time the other party enters into the transaction, all of the following apply:

(1) Less than two years have passed since the dissociation.

(2) The other party does not have notice of the dissociation and reasonably believes that the person is a general partner.

b. At least one of the following applies:

(1) The act is appropriate for winding up the limited partnership's activities.

(2) The act would have bound the limited partnership under section 488.402 before dissolution and at the time the other party enters into the transaction the other party does not have notice of the dissolution.

2004 Acts, ch 1021, §66, 118
Referred to in §488.607, 488.803, 488.805

488.805 Liability after dissolution of general partner and person dissociated as general partner to limited partnership, other general partners, and persons dissociated as general partner.

1. If a general partner having knowledge of the dissolution causes a limited partnership to incur an obligation under section 488.804, subsection 1, by an act that is not appropriate for winding up the partnership's activities, the general partner is liable for all of the following:

a. To the limited partnership for any damage caused to the limited partnership arising from the obligation.

b. If another general partner or a person dissociated as a general partner is liable for the obligation, to that other general partner or person for any damage caused to that other general partner or person arising from the liability.

2. If a person dissociated as a general partner causes a limited partnership to incur an obligation under section 488.804, subsection 2, the person is liable for all of the following:

a. To the limited partnership for any damage caused to the limited partnership arising from the obligation.

b. If a general partner or another person dissociated as a general partner is liable for the obligation, to the general partner or other person for any damage caused to the general partner or other person arising from the liability.

2004 Acts, ch 1021, §67, 118

488.806 Known claims against dissolved limited partnership.

1. A dissolved limited partnership may dispose of the known claims against it by following the procedure described in subsection 2.

2. A dissolved limited partnership may notify its known claimants of the dissolution in a record. The notice must do all of the following:

a. Specify the information required to be included in a claim.

b. Provide a mailing address to which the claim is to be sent.

c. State the deadline for receipt of the claim, which may not be less than one hundred twenty days after the date the notice is received by the claimant.

d. State that the claim will be barred if not received by the deadline.

e. Unless the limited partnership has been throughout its existence a limited liability limited partnership or elected under prior law to become a limited liability limited partnership, state that the barring of a claim against the limited partnership will also bar any

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corresponding claim against any general partner or person dissociated as a general partner which is based on section 488.404.

3. A claim against a dissolved limited partnership is barred if the requirements of subsection 2 are met and at least one of the following applies:

a. The claim is not received by the specified deadline.

b. In the case of a claim that is timely received but rejected by the dissolved limited partnership, the claimant does not commence an action to enforce the claim against the limited partnership within ninety days after the receipt of the notice of the rejection.

4. This section does not apply to a claim based on an event occurring after the effective date of dissolution or a liability that is contingent on that date.

2004 Acts, ch 1021, §68, 118
Referred to in §488.807, 488.808, 488.809

488.807 Other claims against dissolved limited partnership.

1. A dissolved limited partnership may publish notice of its dissolution and request persons having claims against the limited partnership to present them in accordance with the notice.

2. The notice must do all of the following:

a. Be published at least once in a newspaper of general circulation in the county in which the dissolved limited partnership's principal office is located or, if it has none in this state, in the county in which the limited partnership's registered office is or was last located.

b. Describe the information required to be contained in a claim and provide a mailing address to which the claim is to be sent.

c. State that a claim against the limited partnership is barred unless an action to enforce the claim is commenced within five years after publication of the notice.

d. Unless the limited partnership has been throughout its existence a limited liability limited partnership or elected under prior law to become a limited liability limited partnership, state that the barring of a claim against the limited partnership will also bar any corresponding claim against any general partner or person dissociated as a general partner which is based on section 488.404.

3. If a dissolved limited partnership publishes a notice in accordance with subsection 2, the claim of each of the following claimants is barred unless the claimant commences an action to enforce the claim against the dissolved limited partnership within five years after the publication date of the notice:

a. A claimant that did not receive notice in a record under section 488.806.

b. A claimant whose claim was timely sent to the dissolved limited partnership but not acted on.

c. A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

4. A claim not barred under this section may be enforced:

a. Against the dissolved limited partnership, to the extent of its undistributed assets.

b. If the assets have been distributed in liquidation, against a partner or transferee to the extent of that person's proportionate share of the claim or the limited partnership's assets distributed to the partner or transferee in liquidation, whichever is less, but a person's total liability for all claims under this paragraph does not exceed the total amount of assets distributed to the person as part of the winding up of the dissolved limited partnership.

c. Against any person liable on the claim under section 488.404.

2004 Acts, ch 1021, §69, 118; 2016 Acts, ch 1097, §14
Referred to in §488.807A, 488.808, 488.809

488.807A Court proceedings.

1. A dissolved limited partnership that has published a notice under section 488.807 may file an application with the district court of the county in which the office described in section 488.114 is located for a determination of the amount and form of security to be provided for the payment of claims that are contingent or have not been made known to the dissolved limited partnership or that are based on an event occurring after the effective date

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of dissolution but that based on the facts known to the dissolved limited partnership, are reasonably estimated to arise after the effective date of dissolution. Provision need not be made for any claim that is or is reasonably anticipated to be barred under section 488.807.

2. Within ten days after the filing of the application, notice of the proceeding shall be given by the dissolved limited partnership to each claimant holding a contingent claim whose contingent claim is shown on the records of the dissolved limited partnership.

3. The court may appoint a guardian ad litem to represent all claimants whose identities are unknown in any proceeding brought under this section. The reasonable fees and expenses of such guardian, including all reasonable expert witness fees, shall be paid by the dissolved limited partnership.

4. Provision by the dissolved limited partnership for security in the amount and form ordered by the court under subsection 1 shall satisfy the dissolved limited partnership's obligations with respect to claims that are contingent, have not been made known to the dissolved limited partnership or are based on an event occurring after the effective date of dissolution, and such claims shall not be enforced against a partner who received assets in liquidation.

2004 Acts, ch 1021, §70, 118

488.808 Liability of general partner and person dissociated as general partner when claim against limited partnership barred.

If a claim against a dissolved limited partnership is barred under section 488.806 or 488.807, any corresponding claim under section 488.404 is also barred.

2004 Acts, ch 1021, §71, 118

488.809 Administrative dissolution.

1. Except as provided in subsection 6, the secretary of state may dissolve a limited partnership administratively if the limited partnership does not, within sixty days after the due date, do any of the following:

a. Pay any fee, tax, or penalty under this chapter or other law due the secretary of state.

b. Deliver its biennial report to the secretary of state.

2. Except as provided in subsection 6, if the secretary of state determines that a ground exists for administratively dissolving a limited partnership, the secretary of state shall file a record of the determination and serve the limited partnership with a copy of the filed record.

3. Except as provided in subsection 6, if within sixty days after service of the copy the limited partnership does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist, the secretary of state shall administratively dissolve the limited partnership by preparing, signing, and filing a declaration of dissolution that states the grounds for dissolution. The secretary of state shall serve the limited partnership with a copy of the filed declaration.

4. A limited partnership administratively dissolved continues its existence but may carry on only activities necessary to wind up its activities and liquidate its assets under sections 488.803 and 488.812 and to notify claimants under sections 488.806 and 488.807.

5. The administrative dissolution of a limited partnership does not terminate the authority of its registered agent for service of process.

6. If the limited partnership concedes that the limited partnership has violated a provision or provisions of this chapter that are the subjects of interrogatories served on the limited partnership pursuant to section 488.210B, the secretary of state may immediately dissolve the limited partnership administratively by preparing, signing, and filing a declaration of dissolution that states the grounds for the dissolution. The secretary of state shall serve the limited partnership with a copy of the filed declaration.

2004 Acts, ch 1021, §72, 118; 2004 Acts, ch 1175, §381; 2016 Acts, ch 1097, §15; 2026 Acts, ch 1145, §9, 10

Referred to in §488.801
Subsections 1 – 3 amended
NEW subsection 6

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488.810 Reinstatement following administrative dissolution.

1. A limited partnership that has been administratively dissolved may apply to the secretary of state for reinstatement at any time after the effective date of dissolution. The application must be delivered to the secretary of state for filing and state all of the following:

a. The name of the limited partnership and the effective date of its administrative dissolution.

b. That the grounds for dissolution either did not exist or have been eliminated.

c. If the application is received more than five years after the effective date of the dissolution, that the limited partnership's name satisfies the requirements of section 488.108.

2. If the secretary of state determines that an application contains the information required by subsection 1 and that the information is correct, the secretary of state shall prepare a declaration of reinstatement that states this determination, sign, and file the declaration of reinstatement, and deliver a copy to the limited partnership.

3. When reinstatement becomes effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the limited partnership may resume its activities as if the administrative dissolution had never occurred.

4. A limited partnership shall not relinquish the right to retain its name if the reinstatement is effective within five years of the effective date of the limited partnership's dissolution.

2004 Acts, ch 1021, §73, 118; 2006 Acts, ch 1089, §2 – 5

Referred to in §9.11, 488.108, 490.401, 504.401, 504.403

488.811 Appeal from denial of reinstatement.

1. If the secretary of state denies a limited partnership's application for reinstatement following administrative dissolution, the secretary of state shall prepare, sign, and file a notice that explains the reason or reasons for denial and serve the limited partnership with a copy of the notice.

2. Within thirty days after service of the notice of denial, the limited partnership may appeal from the denial of reinstatement by petitioning the district court to set aside the dissolution. The petition must be served on the secretary of state and contain a copy of the secretary of state's declaration of dissolution, the limited partnership's application for reinstatement, and the secretary of state's notice of denial.

3. The court may summarily order the secretary of state to reinstate the dissolved limited partnership or may take other action the court considers appropriate.

2004 Acts, ch 1021, §74, 118

488.812 Disposition of assets — when contributions required.

1. In winding up a limited partnership's activities, the assets of the limited partnership, including the contributions required by this section, must be applied to satisfy the limited partnership's obligations to creditors, including, to the extent permitted by law, partners that are creditors.

2. Any surplus remaining after the limited partnership complies with subsection 1 must be paid in cash as a distribution.

3. If a limited partnership's assets are insufficient to satisfy all of its obligations under subsection 1, with respect to each unsatisfied obligation incurred when the limited partnership was not a limited liability limited partnership, the following rules apply:

a. Each person that was a general partner when the obligation was incurred and that has not been released from the obligation under section 488.607 shall contribute to the limited partnership for the purpose of enabling the limited partnership to satisfy the obligation. The contribution due from each of those persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those persons when the obligation was incurred.

b. If a person does not contribute the full amount required under paragraph "*a*" with respect to an unsatisfied obligation of the limited partnership, the other persons required to contribute by paragraph "*a*" on account of the obligation shall contribute the additional amount necessary to discharge the obligation. The additional contribution due from each of

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those other persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those other persons when the obligation was incurred.

c. If a person does not make the additional contribution required by paragraph *"b"*, further additional contributions are determined and due in the same manner as provided in that paragraph.

4. A person that makes an additional contribution under subsection 3, paragraph *"b"* or *"c"*, may recover from any person whose failure to contribute under subsection 3, paragraph *"b"* or *"c"*, necessitated the additional contribution. A person shall not recover under this subsection more than the amount additionally contributed. A person's liability under this subsection shall not exceed the amount the person failed to contribute.

5. The estate of a deceased individual is liable for the person's obligations under this section.

6. An assignee for the benefit of creditors of a limited partnership or a partner, or a person appointed by a court to represent creditors of a limited partnership or a partner, may enforce a person's obligation to contribute under subsection 3.

2004 Acts, ch 1021, §75, 118
Referred to in §488.506, 488.809

488.813 through 488.900 Reserved.

ARTICLE 9
FOREIGN LIMITED PARTNERSHIPS

488.901 Governing law.

1. The laws of the state or other jurisdiction under which a foreign limited partnership is organized govern relations among the partners of the foreign limited partnership and between the partners and the foreign limited partnership and the liability of partners as partners for an obligation of the foreign limited partnership.

2. A foreign limited partnership shall not be denied a certificate of authority by reason of any difference between the laws of the jurisdiction under which the foreign limited partnership is organized and the laws of this state.

3. A certificate of authority does not authorize a foreign limited partnership to engage in any business or exercise any power that a limited partnership shall not engage in or exercise in this state.

2004 Acts, ch 1021, §76, 118

488.902 Application for certificate of authority.

1. A foreign limited partnership may apply for a certificate of authority to transact business in this state by delivering an application to the secretary of state for filing. The application must state all of the following:

a. The name of the foreign limited partnership and, if the name does not comply with section 488.108, an alternate name adopted pursuant to section 488.905, subsection 1.

b. The name of the state or other jurisdiction under whose law the foreign limited partnership is organized.

c. The street and mailing address of the foreign limited partnership's principal office and, if the laws of the jurisdiction under which the foreign limited partnership is organized require the foreign limited partnership to maintain an office in that jurisdiction, the street and mailing address of the required office.

d. The name and street and mailing address of the foreign limited partnership's initial registered agent for service of process in this state.

e. The name and street and mailing address of each of the foreign limited partnership's general partners.

f. Whether the foreign limited partnership is a foreign limited liability limited partnership.

2. A foreign limited partnership shall deliver with the completed application a certificate of existence or a record of similar import signed by the secretary of state or other official

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having custody of the foreign limited partnership's publicly filed records in the state or other jurisdiction under whose law the foreign limited partnership is organized.

2004 Acts, ch 1021, §77, 118; 2016 Acts, ch 1097, §16

488.903 Activities not constituting transacting business.

1. Activities of a foreign limited partnership which do not constitute transacting business in this state within the meaning of this article include all of the following:

a. Maintaining, defending, and settling an action or proceeding.

b. Holding meetings of its partners or carrying on any other activity concerning its internal affairs.

c. Maintaining accounts in financial institutions.

d. Maintaining offices or agencies for the transfer, exchange, and registration of the foreign limited partnership's own securities or maintaining trustees or depositories with respect to those securities.

e. Selling through independent contractors.

f. Soliciting or obtaining orders, whether by mail or electronic means or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts.

g. Creating or acquiring indebtedness, mortgages, or security interests in real or personal property.

h. Securing or collecting debts or enforcing mortgages or other security interests in property securing the debts, and holding, protecting, and maintaining property so acquired.

i. Owning, without more, real or personal property.

j. Conducting an isolated transaction that is completed within thirty days and is not one in the course of similar transactions of a like manner.

k. Transacting business in interstate commerce.

2. For purposes of this article, the ownership in this state of income-producing real or tangible personal property, other than property excluded under subsection 1, constitutes transacting business in this state.

3. This section does not apply in determining the contacts or activities that may subject a foreign limited partnership to service of process, taxation, or regulation under any other law of this state.

2004 Acts, ch 1021, §78, 118

488.904 Approval of application for certificate of authority — notification.

Unless the secretary of state determines that an application for a certificate of authority does not comply with the filing requirements of this chapter, the secretary of state, upon receiving payment of all filing fees, shall file the application, notify the applicant that the application has been approved, and provide a receipt for the payment of fees. Such notification shall serve as certificate of authority to transact business in this state.

2004 Acts, ch 1021, §79, 118

Referred to in §9.11

488.905 Noncomplying name of foreign limited partnership.

1. A foreign limited partnership whose name does not comply with section 488.108 shall not obtain a certificate of authority until it adopts, for the purpose of transacting business in this state, an alternate name that complies with section 488.108. A foreign limited partnership that adopts an alternate name under this subsection and then obtains a certificate of authority with the name need not also comply with chapter 547. After obtaining a certificate of authority with an alternate name, a foreign limited partnership shall transact business in this state under the name unless the foreign limited partnership is authorized under chapter 547 to transact business in this state under another name.

2. If a foreign limited partnership authorized to transact business in this state changes its name to one that does not comply with section 488.108, it shall not thereafter transact

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business in this state until it complies with subsection 1 and obtains an amended certificate of authority.

2004 Acts, ch 1021, §80, 118
Referred to in §488.108, 488.209, 488.210, 488.902

488.906 Revocation of certificate of authority.

1. A certificate of authority of a foreign limited partnership to transact business in this state may be revoked by the secretary of state in the manner provided in subsections 2 and 3 if the foreign limited partnership does not do any of the following:

a. Pay, within sixty days after the due date, any fee, tax or penalty under this chapter or other law due the secretary of state.

b. Deliver, within sixty days after the due date, its biennial report required under section 488.210.

c. Appoint and maintain a registered agent for service of process as required by section 488.114, subsection 2.

d. Deliver for filing a statement of a change under section 488.115 within thirty days after a change has occurred in the name or address of the registered agent for service of process.

2. In order to revoke a certificate of authority, the secretary of state must prepare, sign, and file a notice of revocation and send a copy to the foreign limited partnership's registered agent for service of process in this state, or if the foreign limited partnership does not appoint and maintain a proper agent in this state, to the foreign limited partnership's registered office. The notice must state all of the following:

a. The revocation's effective date, which must be at least sixty days after the date the secretary of state sends the copy.

b. The foreign limited partnership's failures to comply with subsection 1 which are the reason for the revocation.

3. The authority of the foreign limited partnership to transact business in this state ceases on the effective date of the notice of revocation unless before that date the foreign limited partnership cures each failure to comply with subsection 1 stated in the notice. If the foreign limited partnership cures the failures, the secretary of state shall so indicate on the filed notice.

2004 Acts, ch 1021, §81, 118; 2004 Acts, ch 1175, §382; 2016 Acts, ch 1097, §17, 18
Referred to in §9.11

488.907 Cancellation of certificate of authority — effect of failure to have certificate.

1. In order to cancel its certificate of authority to transact business in this state, a foreign limited partnership must deliver to the secretary of state for filing a notice of cancellation. The certificate is canceled when the notice becomes effective under section 488.206.

2. A foreign limited partnership transacting business in this state shall not maintain an action or proceeding in this state unless it has a certificate of authority to transact business in this state.

3. The failure of a foreign limited partnership to have a certificate of authority to transact business in this state does not impair the validity of a contract or act of the foreign limited partnership or prevent the foreign limited partnership from defending an action or proceeding in this state.

4. A partner of a foreign limited partnership is not liable for the obligations of the foreign limited partnership solely by reason of the foreign limited partnership's having transacted business in this state without a certificate of authority.

5. If a foreign limited partnership transacts business in this state without a certificate of authority or cancels its certificate of authority, it appoints the secretary of state as its agent for service of process for rights of action arising out of the transaction of business in this state.

2004 Acts, ch 1021, §82, 118
Referred to in §9.11

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488.908 Action by attorney general.
The attorney general may maintain an action to restrain a foreign limited partnership from transacting business in this state in violation of this article.
2004 Acts, ch 1021, §83, 118

488.909 through 488.1000 Reserved.

ARTICLE 10
ACTIONS BY PARTNERS

Referred to in §488.110

488.1001 Direct action by partner.
1. Subject to subsection 2, a partner may maintain a direct action against the limited partnership or another partner for legal or equitable relief, with or without an accounting as to the partnership's activities, to enforce the rights and otherwise protect the interests of the partner, including rights and interests under the partnership agreement or this chapter or arising independently of the partnership relationship.
2. A partner commencing a direct action under this section is required to plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited partnership.
3. The accrual of, and any time limitation on, a right of action for a remedy under this section is governed by other law. A right to an accounting upon a dissolution and winding up does not revive a claim barred by law.
2004 Acts, ch 1021, §84, 118
Referred to in §488.604

488.1002 Derivative action.
A partner may maintain a derivative action to enforce a right of a limited partnership, but a partner shall not commence such a proceeding until both of the following have occurred:
1. A written demand has been made upon the general partner or partners, requesting that they cause the limited partnership to take suitable action.
2. Ninety days have expired from the date the demand was made, unless the partner has earlier been notified that the demand has been rejected by the general partner or partners or unless irreparable injury to the limited partnership would result by waiting for the expiration of the ninety-day period.
2004 Acts, ch 1021, §85, 118

488.1003 Proper plaintiff.
A derivative action may be maintained only by a person that is a partner at the time the action is commenced and where one of the following also applies:
1. The person was a partner when the conduct giving rise to the action occurred.
2. The person's status as a partner devolved upon the person by operation of law or pursuant to the terms of the partnership agreement from a person that was a partner at the time of the conduct.
2004 Acts, ch 1021, §86, 118; 2005 Acts, ch 19, §71

488.1004 Pleading.
In a derivative action, the petition must state with particularity the date and content of plaintiff's demand and either the general partners' response to the demand or how the limited partnership would be irreparably harmed by waiting for such a response for ninety days.
2004 Acts, ch 1021, §87, 118

488.1005 Proceeds and expenses.
1. Except as otherwise provided in subsection 2:
a. Any proceeds or other benefits of a derivative action, whether by judgment,

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compromise, or settlement, belong to the limited partnership and not to the derivative plaintiff.

b. If the derivative plaintiff receives any proceeds, the derivative plaintiff shall immediately remit them to the limited partnership.

2. If a derivative action is successful in whole or in part, the court may award the plaintiff reasonable expenses, including reasonable attorney fees, from the recovery of the limited partnership.

3. If the court finds that the derivative proceeding was commenced or maintained without reasonable cause or for an improper purpose, it may order the plaintiff to pay any defendant's reasonable expenses, including reasonable attorney fees, incurred in defending the action.

2004 Acts, ch 1021, §88, 118

488.1006 through 488.1100 Reserved.

ARTICLE 11

CONVERSION AND MERGER

Referred to in §488.102, 488.103, 488.201, 488.202, 488.301, 488.401, 488.601, 488.602, 488.603, 488.605, 488.606

488.1101 Definitions.

For purposes of this article, unless the context otherwise requires:

1. *"Constituent limited partnership"* means a constituent organization that is a limited partnership.

2. *"Constituent organization"* means an organization that is party to a merger.

3. *"Converted organization"* means the organization into which a converting organization converts pursuant to sections 488.1102 through 488.1105.

4. *"Converting limited partnership"* means a converting organization that is a limited partnership.

5. *"Converting organization"* means an organization that converts into another organization pursuant to section 488.1102.

6. *"General partner"* means a general partner of a limited partnership.

7. *"Governing statute"* of an organization means the statute that governs the organization's internal affairs.

8. *"Organization"* means a general partnership, including a limited liability partnership; limited partnership, including a limited liability limited partnership; limited liability company; business trust; corporation; or any other person having a governing statute. The term includes domestic and foreign organizations whether or not organized for profit.

9. *"Organizational documents"* means all of the following:

a. For a domestic or foreign general partnership, its partnership agreement.

b. For a limited partnership or foreign limited partnership, its certificate of limited partnership and partnership agreement.

c. For a domestic or foreign limited liability company, its certificate of organization and operating agreement, or comparable records as provided in its governing statute.

d. For a business trust, its agreement of trust and declaration of trust.

e. For a domestic or foreign corporation for profit, its articles of incorporation, bylaws, and other agreements among its shareholders which are authorized by its governing statute, or comparable records as provided in its governing statute.

f. For any other organization, the basic records that create the organization and determine its internal governance and the relations among the persons that own it, have an interest in it, or are members of it.

10. *"Personal liability"* means personal liability for a debt, liability, or other obligation of an organization which is imposed on a person that co-owns, has an interest in, or is a member of the organization according to either of the following:

a. By the organization's governing statute solely by reason of the person co-owning, having an interest in, or being a member of the organization.

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b. By the organization's organizational documents under a provision of the organization's governing statute authorizing those documents to make one or more specified persons liable for all or specified debts, liabilities, and other obligations of the organization solely by reason of the person or persons co-owning, having an interest in, or being a member of the organization.

11. "*Surviving organization*" means an organization into which one or more other organizations are merged. A surviving organization may preexist the merger or be created by the merger.

2004 Acts, ch 1021, §89, 118; 2026 Acts, ch 1097, §5
Subsection 9, paragraph c amended

488.1102 Conversion.

1. An organization other than a limited partnership may convert to a limited partnership, and a limited partnership may convert to another organization pursuant to this section and sections 488.1103 through 488.1105 and a plan of conversion, if all of the following apply:

a. The other organization's governing statute authorizes the conversion.

b. The conversion is not prohibited by the law of the jurisdiction that enacted the governing statute.

c. The other organization complies with its governing statute in effecting the conversion.

2. A plan of conversion must be in a record and must include all of the following:

a. The name and form of the organization before conversion.

b. The name and form of the organization after conversion.

c. The terms and conditions of the conversion, including the manner and basis for converting interests in the converting organization into any combination of money, interests in the converted organization, and other consideration.

d. The organizational documents of the converted organization.

2004 Acts, ch 1021, §90, 118
Referred to in §488.1101

488.1103 Action on plan of conversion by converting limited partnership.

1. Subject to section 488.1110, a plan of conversion must be consented to by all the partners of a converting limited partnership.

2. Subject to section 488.1110 and any contractual rights, after a conversion is approved, and at any time before a filing is made under section 488.1104, a converting limited partnership may amend the plan or abandon the planned conversion according to any or all of the following:

a. As provided in the plan.

b. Except as prohibited by the plan, by the same consent as was required to approve the plan.

2004 Acts, ch 1021, §91, 118
Referred to in §488.1101, 488.1102

488.1104 Filings required for conversion — effective date.

1. After a plan of conversion is approved:

a. A converting limited partnership shall deliver to the secretary of state for filing articles of conversion, which must include all of the following:

(1) A statement that the limited partnership has been converted into another organization.

(2) The name and form of the organization and the jurisdiction of its governing statute.

(3) The date the conversion is effective under the governing statute of the converted organization.

(4) A statement that the conversion was approved as required by this chapter.

(5) A statement that the conversion was approved as required by the governing statute of the converted organization.

(6) If the converted organization is a foreign organization not authorized to transact business in this state, the street and mailing address of an office which the secretary of state may use for the purposes of section 488.1105, subsection 3.

b. If the converting organization is not a converting limited partnership, the converting

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organization shall deliver to the secretary of state for filing a certificate of limited partnership, which must include, in addition to the information required by section 488.201, all of the following:

(1) A statement that the limited partnership was converted from another organization.

(2) The name and form of the organization and the jurisdiction of its governing statute.

(3) A statement that the conversion was approved in a manner that complied with the organization's governing statute.

2. A conversion becomes effective according to the following:

a. If the converted organization is a limited partnership, when the certificate of limited partnership takes effect.

b. If the converted organization is not a limited partnership, as provided by the governing statute of the converted organization.

2004 Acts, ch 1021, §92, 118
Referred to in §9.11, 488.1101, 488.1102, 488.1103

488.1105 Effect of conversion.

1. An organization that has been converted pursuant to this article is for all purposes the same entity that existed before the conversion.

2. When a conversion takes effect, all of the following apply:

a. All property owned by the converting organization remains vested in the converted organization.

b. All debts, liabilities, and other obligations of the converting organization continue as obligations of the converted organization.

c. An action or proceeding pending by or against the converting organization may be continued as if the conversion had not occurred.

d. Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of the converting organization remain vested in the converted organization.

e. Except as otherwise provided in the plan of conversion, the terms and conditions of the plan of conversion take effect.

f. Except as otherwise agreed, the conversion does not dissolve a converting limited partnership for the purposes of article 8.

3. A converted organization that is a foreign organization consents to the jurisdiction of the courts of this state to enforce any obligation owed by the converting limited partnership, if before the conversion the converting limited partnership was subject to suit in this state on the obligation. A converted organization that is a foreign organization and not authorized to transact business in this state appoints the secretary of state as its agent for service of process for purposes of enforcing an obligation under this subsection. Service on the secretary of state under this subsection is made in the same manner and with the same consequences as in section 488.117, subsections 3 and 4.

2004 Acts, ch 1021, §93, 118
Referred to in §488.1101, 488.1102, 488.1104

488.1106 Mergers.

1. A limited partnership may merge with one or more other constituent organizations pursuant to this section and sections 488.1107 through 488.1109 and a plan of merger, if all of the following apply:

a. The governing statute of each of the other organizations authorizes the merger.

b. The merger is not prohibited by the law of a jurisdiction that enacted any of those governing statutes.

c. Each of the other organizations complies with its governing statute in effecting the merger.

2. A plan of merger must be in a record and must include all of the following:

a. The name and form of each constituent organization.

b. The name and form of the surviving organization and, if the surviving organization is to be created by the merger, a statement to that effect.

c. The terms and conditions of the merger, including the manner and basis for converting

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the interests in each constituent organization into any combination of money, interests in the surviving organization, and other consideration.

d. If the surviving organization is to be created by the merger, the surviving organization's organizational documents.

e. If the surviving organization is not to be created by the merger, any amendments to be made by the merger to the surviving organization's organizational documents.

2004 Acts, ch 1021, §94, 118; 2004 Acts, ch 1175, §383

488.1107 Action on plan of merger by constituent limited partnership.

1. Subject to section 488.1110, a plan of merger must be consented to by all the partners of a constituent limited partnership.

2. Subject to section 488.1110 and any contractual rights, after a merger is approved, and at any time before a filing is made under section 488.1108, a constituent limited partnership may amend the plan or abandon the planned merger according to any or all of the following:

a. As provided in the plan.

b. Except as prohibited by the plan, with the same consent as was required to approve the plan.

2004 Acts, ch 1021, §95, 118
Referred to in §488.1106

488.1108 Filings required for merger — effective date.

1. After each constituent organization has approved a merger, articles of merger must be signed on behalf of all of the following:

a. Each preexisting constituent limited partnership, by each general partner listed in the certificate of limited partnership.

b. Each other preexisting constituent organization, by an authorized representative.

2. The articles of merger must include all of the following:

a. The name and form of each constituent organization and the jurisdiction of its governing statute.

b. The name and form of the surviving organization, the jurisdiction of its governing statute, and, if the surviving organization is created by the merger, a statement to that effect.

c. The date the merger is effective under the governing statute of the surviving organization.

d. If the surviving organization is to be created by the merger, one of the following:

(1) If it will be a limited partnership, the limited partnership's certificate of limited partnership.

(2) If it will be an organization other than a limited partnership, the organizational document that creates the organization.

e. If the surviving organization preexists the merger, any amendments provided for in the plan of merger for the organizational document that created the organization.

f. A statement as to each constituent organization that the merger was approved as required by the organization's governing statute.

g. If the surviving organization is a foreign organization not authorized to transact business in this state, the street and mailing address of an office which the secretary of state may use for the purposes of section 488.1109, subsection 2.

h. Any additional information required by the governing statute of any constituent organization.

3. Each constituent limited partnership shall deliver the articles of merger for filing in the office of the secretary of state.

4. A merger becomes effective under this article according to one of the following:

a. If the surviving organization is a limited partnership, upon the later of the following:

(1) Compliance with subsection 3.

(2) Subject to section 488.206, subsection 3, as specified in the articles of merger.

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b. If the surviving organization is not a limited partnership, as provided by the governing statute of the surviving organization.

2004 Acts, ch 1021, §96, 118
Referred to in §9.11, 488.204, 488.1106, 488.1107

488.1109 Effect of merger.

1. When a merger becomes effective, all of the following apply:

a. The surviving organization continues or comes into existence.

b. Each constituent organization that merges into the surviving organization ceases to exist as a separate entity.

c. All property owned by each constituent organization that ceases to exist vests in the surviving organization.

d. All debts, liabilities, and other obligations of each constituent organization that ceases to exist continue as obligations of the surviving organization.

e. An action or proceeding pending by or against any constituent organization that ceases to exist may be continued as if the merger had not occurred.

f. Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of each constituent organization that ceases to exist vest in the surviving organization.

g. Except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger take effect.

h. Except as otherwise agreed, if a constituent limited partnership ceases to exist, the merger does not dissolve the limited partnership for the purposes of article 8.

i. If the surviving organization is created by the merger, one of the following applies:

(1) If it is a limited partnership, the certificate of limited partnership becomes effective.

(2) If it is an organization other than a limited partnership, the organizational document that creates the organization becomes effective.

j. If the surviving organization preexists the merger, any amendments provided for in the articles of merger for the organizational document that created the organization become effective.

2. A surviving organization that is a foreign organization consents to the jurisdiction of the courts of this state to enforce any obligation owed by a constituent organization, if before the merger the constituent organization was subject to suit in this state on the obligation. A surviving organization that is a foreign organization and not authorized to transact business in this state appoints the secretary of state as its agent for service of process for the purposes of enforcing an obligation under this subsection. Service on the secretary of state under this subsection is made in the same manner and with the same consequences as in section 488.117, subsections 3 and 4.

2004 Acts, ch 1021, §97, 118
Referred to in §488.1106, 488.1108

488.1110 Restrictions on approval of conversions and mergers and on relinquishing limited liability limited partnership status.

1. If a partner of a converting or constituent limited partnership will have personal liability with respect to a converted or surviving organization, approval and amendment of a plan of conversion or merger are ineffective without the consent of the partner, unless all of the following apply:

a. The limited partnership's partnership agreement provides for the approval of the conversion or merger with the consent of fewer than all the partners.

b. The partner has consented to the provision of the partnership agreement.

2. An amendment to a certificate of limited partnership which deletes a statement that the limited partnership is a limited liability limited partnership is ineffective without the consent of each general partner, unless all of the following apply:

a. The limited partnership's partnership agreement provides for the amendment with the consent of less than all the general partners.

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b. Each general partner that does not consent to the amendment has consented to the provision of the partnership agreement.

3. A partner does not give the consent required by subsection 1 or 2 merely by consenting to a provision of the partnership agreement which permits the partnership agreement to be amended with the consent of fewer than all the partners.

2004 Acts, ch 1021, §98, 118

Referred to in §488.110, 488.406, 488.1103, 488.1107

488.1111 Liability of general partner after conversion or merger.

1. A conversion or merger under this article does not discharge any liability under sections 488.404 and 488.607 of a person that was a general partner in or dissociated as a general partner from a converting or constituent limited partnership, but all of the following apply:

a. The provisions of this chapter pertaining to the collection or discharge of the liability continue to apply to the liability.

b. For the purposes of applying those provisions, the converted or surviving organization is deemed to be the converting or constituent limited partnership.

c. If a person is required to pay any amount under this subsection, all of the following apply:

(1) The person has a right of contribution from each other person that was liable as a general partner under section 488.404 when the obligation was incurred and has not been released from the obligation under section 488.607.

(2) The contribution due from each of those persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those persons when the obligation was incurred.

2. In addition to any other liability provided by law, both of the following apply:

a. A person that immediately before a conversion or merger became effective was a general partner in a converting or constituent limited partnership that was not a limited liability limited partnership is personally liable for each obligation of the converted or surviving organization arising from a transaction with a third party after the conversion or merger becomes effective, if, at the time the third party enters into the transaction, all of the following apply to the third party:

(1) The third party does not have notice of the conversion or merger.

(2) The third party reasonably believes all of the following:

(a) The converted or surviving business is the converting or constituent limited partnership.

(b) The converting or constituent limited partnership is not a limited liability limited partnership.

(c) The person is a general partner in the converting or constituent limited partnership.

b. A person that was dissociated as a general partner from a converting or constituent limited partnership before the conversion or merger became effective is personally liable for each obligation of the converted or surviving organization arising from a transaction with a third party after the conversion or merger becomes effective, if all of the following apply:

(1) Immediately before the conversion or merger became effective the converting or surviving limited partnership was not a limited liability limited partnership.

(2) At the time the third party enters into the transaction less than two years have passed since the person dissociated as a general partner and all of the following apply to the third party:

(a) The third party does not have notice of the dissociation.

(b) The third party does not have notice of the conversion or merger.

(c) The third party reasonably believes that the converted or surviving organization is the converting or constituent limited partnership, the converting or constituent limited partnership is not a limited liability limited partnership, and the person is a general partner in the converting or constituent limited partnership.

2004 Acts, ch 1021, §99, 118

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488.1112 Power of general partners and persons dissociated as general partners to bind organization after conversion or merger.

1. An act of a person that immediately before a conversion or merger became effective was a general partner in a converting or constituent limited partnership binds the converted or surviving organization after the conversion or merger becomes effective, if all of the following apply:

a. Before the conversion or merger became effective, the act would have bound the converting or constituent limited partnership under section 488.402.

b. At the time the third party enters into the transaction, all of the following apply to the third party:

(1) The third party does not have notice of the conversion or merger.

(2) The third party reasonably believes that the converted or surviving business is the converting or constituent limited partnership and that the person is a general partner in the converting or constituent limited partnership.

2. An act of a person that before a conversion or merger became effective was dissociated as a general partner from a converting or constituent limited partnership binds the converted or surviving organization after the conversion or merger becomes effective, if all of the following apply:

a. Before the conversion or merger became effective, the act would have bound the converting or constituent limited partnership under section 488.402 if the person had been a general partner.

b. At the time the third party enters into the transaction, less than two years have passed since the person dissociated as a general partner and all of the following apply to the third party:

(1) The third party does not have notice of the dissociation.

(2) The third party does not have notice of the conversion or merger.

(3) The third party reasonably believes that the converted or surviving organization is the converting or constituent limited partnership and that the person is a general partner in the converting or constituent limited partnership.

3. If a person having knowledge of the conversion or merger causes a converted or surviving organization to incur an obligation under subsection 1 or 2, the person is liable to either or both of the following:

a. To the converted or surviving organization for any damage caused to the organization arising from the obligation.

b. If another person is liable for the obligation, to that other person for any damage caused to that other person arising from the liability.

2004 Acts, ch 1021, §100, 118

488.1113 Article not exclusive.

This article does not preclude an entity from being converted or merged under other law.

2004 Acts, ch 1021, §101, 118

488.1114 through 488.1200 Reserved.

ARTICLE 12
MISCELLANEOUS PROVISIONS

488.1201 Uniformity of application and construction.

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

2004 Acts, ch 1021, §102, 118

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488.1202 Severability.

If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

2004 Acts, ch 1021, §103, 118

488.1203 Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, or supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §7001 et seq., but this chapter does not modify, limit, or supersede section 101(c) of that Act or authorize electronic delivery of any of the notices described in section 103(b) of that Act.

2004 Acts, ch 1021, §104, 118

488.1204 Application to existing relationships.

1. Before January 1, 2006, this chapter governs only the following:

a. A limited partnership formed on or after January 1, 2005.

b. Except as otherwise provided in subsections 3 and 4, a limited partnership formed before January 1, 2005, that elects, in the manner provided in its partnership agreement or by law for amending the partnership agreement, to be subject to this chapter.

2. Except as otherwise provided in subsection 3, on and after January 1, 2006, this chapter governs all limited partnerships.

3. With respect to a limited partnership formed before January 1, 2005, the following rules apply except as the partners otherwise elect in the manner provided in the partnership agreement or by law for amending the partnership agreement:

a. Section 488.104, subsection 3, does not apply and the limited partnership has whatever duration it had under the law applicable immediately before January 1, 2005.

b. The limited partnership is not required to amend its certificate of limited partnership to comply with section 488.201, subsection 1, paragraph *"d"*.

c. Sections 488.505, 488.601, and 488.602 do not apply, and a limited partner has the same right and power to dissociate from the limited partnership, with the same consequences, as existed immediately before January 1, 2005.

d. Section 488.603, subsection 4, does not apply.

e. Section 488.603, subsection 5, does not apply, and a court has the same power to expel a general partner as the court had immediately before January 1, 2005.

f. Section 488.801, subsection 3, does not apply and the connection between a person's dissociation as a general partner and the dissolution of the limited partnership is the same as existed immediately before January 1, 2005.

g. If a limited partnership elected under prior law to become a limited liability limited partnership by filing a statement of qualification with the secretary of state, the statement of qualification is deemed to be an amendment to the certificate of limited partnership in compliance with section 488.201, subsection 1, paragraph *"d"*, and the limited liability limited partnership automatically is a limited liability limited partnership under this chapter.

4. With respect to a limited partnership that elects pursuant to subsection 1, paragraph *"b"*, to be subject to this chapter, after the election takes effect, the provisions of this chapter relating to the liability of the limited partnership's general partners to third parties apply according to the following:

a. Before January 1, 2006, to all of the following:

(1) A third party that had not done business with the limited partnership in the year before the election took effect.

(2) A third party that had done business with the limited partnership in the year before the election took effect only if the third party knows or has received a notification of the election.

b. On and after January 1, 2006, to all third parties, but those provisions remain inapplicable to any obligation incurred while those provisions were inapplicable under paragraph *"a"*, subparagraph (2).

c. Notwithstanding the foregoing provisions of this subsection, if a preexisting limited

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liability limited partnership elects to be subject to this chapter prior to January 1, 2006, this chapter's provisions relating to the liability of general partners to third parties apply immediately to all third parties, regardless of whether a third party has previously done business with the limited liability limited partnership.

2004 Acts, ch 1021, §105, 118
Referred to in §488.102

488.1205 Savings clause.

This chapter does not affect an action commenced, proceeding brought, or right accrued before January 1, 2005.

2004 Acts, ch 1021, §106, 118; 2018 Acts, ch 1026, §153

488.1206 Fees. Transferred to §488.117A; 2019 Acts, ch 24, §104.

488.1207 Effective date. Repealed by 2017 Acts, ch 29, §164.

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BUSINESS AND PROFESSIONAL CORPORATIONS AND COMPANIES

Referred to in §491.39

CHAPTER 489

UNIFORM LIMITED LIABILITY COMPANY ACT

Referred to in §9.11, 9H.4, 10.1, 10B.4, 10B.7, 148C.1, 169.4A, 476C.1, 486A.901, 488.108, 490.401, 504.401, 504.403, 547.1, 558.72, 602.6803

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SUBCHAPTER I

GENERAL PROVISIONS

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1. This chapter may be cited as the "*Uniform Limited Liability Company Act*".

2. In addition, subchapter XIV of this chapter may be cited as provided in section 489.14101.

2008 Acts, ch 1162, §1, 155; 2019 Acts, ch 26, §44, 53; 2020 Acts, ch 1063, §384; 2023 Acts, ch 152, §1, 161

489.102 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Certificate of organization*" means the certificate required by section 489.201. The term includes the certificate as amended or restated.

2. "*Contribution*", except in the phrase "*right of contribution*", means property or a benefit described in section 489.402 which is provided by a person to a limited liability company to become a member or in the person's capacity as a member.

3. "*Debtor in bankruptcy*" means a person that is the subject of any of the following:

a. An order for relief under Tit. 11 of the United States Code or a comparable order under a successor statute of general application.

b. A comparable order under federal, state, or foreign law governing insolvency.

4. "*Deliver*" or "*delivery*" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and if authorized in accordance with section 489.120, by electronic transmission.

5. "*Distribution*" means a transfer of money or other property from a limited liability company to a person on account of a transferable interest or in the person's capacity as a member.

a. "*Distribution*" includes all of the following:

(1) A redemption or other purchase by a limited liability company of a transferable interest.

(2) A transfer to a member in return for the member's relinquishment of any right to participate as a member in the management or conduct of the limited liability company's activities and affairs or to have access to records or other information concerning the company's activities and affairs.

b. "*Distribution*" does not include amounts constituting reasonable compensation for present or past service or payments made in the ordinary course of business under a bona fide retirement plan or other bona fide benefits program.

6. "*Domestic cooperative*" means an entity organized on a cooperative basis under chapter 497, 498, or 499, a cooperative organized under chapter 499A, or a cooperative organized under chapter 501 or 501A.

7. "*Electronic*" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

8. "*Electronic transmission*" or "*electronically transmitted*" means any form or process of communication not directly involving the physical transfer of paper or another tangible medium that is all of the following:

a. Suitable for the retention, retrieval, and reproduction of information by the recipient.

b. Retrievable in paper form by the recipient through an automated process used in conventional commercial practice.

9. "*Filing entity*" means an unincorporated entity, other than a limited liability partnership, that is of a type that is created by filing a public organic record or is required to file a public organic record that evidences its creation.

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10. *"Foreign limited liability company"* means an unincorporated entity formed under the law of a jurisdiction other than this state which would be a limited liability company if formed under the law of this state.

11. *"Jurisdiction"*, used to refer to a political entity, means the United States, a state, a foreign country, or a political subdivision of a foreign country.

12. *"Jurisdiction of formation"* means the jurisdiction whose law governs the internal affairs of an entity.

13. *"Limited liability company"*, except in the phrase *"foreign limited liability company"* and in subchapter X, means an entity formed under this chapter or which becomes subject to this chapter under subchapter X or section 489.1207.

14. *"Manager"* means a person that under the operating agreement of a manager-managed limited liability company is responsible, alone or in concert with others, for performing the management functions stated in section 489.407, subsection 3.

15. *"Manager-managed limited liability company"* means a limited liability company that qualifies under section 489.407, subsection 1.

16. *"Member"* means a person for whom all of the following are true:

a. The person has become a member of a limited liability company under section 489.401 or was a member in a limited liability company when the company became subject to this chapter under section 489.1207.

b. The person is not dissociated under section 489.602.

17. *"Member-managed limited liability company"* means a limited liability company that is not a manager-managed limited liability company.

18. *"Nonfiling entity"* means an unincorporated entity that is of a type that is not created by filing a public organic record.

19. *"Operating agreement"* means the agreement, whether or not referred to as an operating agreement and whether oral, implied, in a record, or in any combination thereof, of all the members of a limited liability company, including a sole member, concerning the matters described in section 489.105, subsection 1. The term includes the agreement as amended or restated.

20. *"Organizer"* means a person that acts under section 489.201 to form a limited liability company.

21. *a. "Person"* means an individual, business corporation, nonprofit corporation, partnership, limited partnership, limited liability company, domestic cooperative, unincorporated nonprofit association, statutory trust, business trust, common-law business trust, estate, trust, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

b. "Person" includes a protected series, however denominated, of an entity if the protected series is established under law that limits, or limits if conditions specified under law are satisfied, the ability of a creditor of the entity or of any other protected series of the entity to satisfy a claim from assets of the protected series.

22. *"Principal office"* means the principal executive office of a limited liability company or foreign limited liability company, whether or not the office is located in this state.

23. *"Property"* means all property, whether real, personal, or mixed or tangible or intangible, or any right or interest therein.

24. *"Record"*, used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

25. *"Registered agent"* means an agent of a limited liability company or foreign limited liability company which is authorized to receive service of any process, notice, or demand required or permitted by law to be served on the company.

26. *"Registered foreign limited liability company"* means a foreign limited liability company that is registered to do business in this state pursuant to a statement of registration filed by the secretary of state.

27. *"Sign"* means, with present intent to authenticate or adopt a record, to do any of the following:

a. Execute or adopt a tangible symbol.

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b. Attach to or logically associate with the record an electronic symbol, sound, or process.

28. *"State"* means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

29. *"Transfer"* includes any of the following:

a. An assignment.

b. A conveyance.

c. A sale.

d. A lease.

e. An encumbrance, including a mortgage or security interest.

f. A gift.

g. A transfer by operation of law.

30. *a. "Transferable interest"* means the right, as initially owned by a person in the person's capacity as a member, to receive distributions from a limited liability company, whether or not the person remains a member or continues to own any part of the right.

b. "Transferable interest" applies to any fraction of the interest, by whomever owned.

31. *a. "Transferee"* means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a member.

b. "Transferee" includes a person that owns a transferable interest under section 489.603, subsection 1, paragraph *"c"*.

2008 Acts, ch 1162, §2, 155; 2010 Acts, ch 1100, §1; 2022 Acts, ch 1038, §1; 2023 Acts, ch 152, §2, 161; 2024 Acts, ch 1125, §1, 31; 2025 Acts, ch 30, §84, 85

Referred to in §9H.1, 10B.1, 10D.1, 203.1, 489.405, 489.1207, 501A.102

489.103 Knowledge — notice.

1. A person knows a fact if the person has or is any of the following:

a. Has actual knowledge of it.

b. Is deemed to know it under subsection 4, paragraph *"a"*, or law other than this chapter.

2. A person has notice of a fact if the person has or is any of the following:

a. Has reason to know the fact from all the facts known to the person at the time in question.

b. Is deemed to have notice of the fact under subsection 4, paragraph *"b"*.

3. Subject to section 489.210, subsection 6, a person notifies another person of a fact by taking steps reasonably required to inform the other person in ordinary course, whether or not those steps cause the other person to know the fact.

4. A person not a member is deemed all of the following:

a. To know of a limitation on authority to transfer real property as provided in section 489.302, subsection 7.

b. To have notice of all of the following:

(1) The limited liability company's dissolution, ninety days after a statement of dissolution under section 489.702, subsection 2, paragraph *"b"*, subparagraph (1), becomes effective.

(2) The limited liability company's termination, ninety days after a statement of termination under section 489.702, subsection 2, paragraph *"b"*, subparagraph (6), becomes effective.

(3) The limited liability company's participation in a merger, interest exchange, conversion, or domestication, ninety days after the statement of merger, interest exchange, conversion, or domestication under subchapter X becomes effective.

2008 Acts, ch 1162, §3, 155; 2023 Acts, ch 152, §3, 161; 2024 Acts, ch 1125, §2, 31; 2025 Acts, ch 30, §86

Referred to in §489.209, 489.302, 489.14502

489.104 Governing law.

The law of this state governs all of the following:

1. The internal affairs of a limited liability company.

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2. The liability of a member as member and a manager as manager for a debt, obligation, or other liability of a limited liability company.

2008 Acts, ch 1162, §6, 155
C2009, §489.106
2023 Acts, ch 152, §6, 143, 161
C2024, §489.104
Referred to in §489.105
Former §489.104 transferred to §489.108; 2023 Acts, ch 152, §143, 161

489.105 Operating agreement — scope, function, and limitations.

1. Except as otherwise provided in subsections 3 and 4, the operating agreement governs all of the following:

a. Relations among the members as members and between the members and the limited liability company.

b. The rights and duties under this chapter of a person in the capacity of manager.

c. The activities and affairs of the company and the conduct of those activities and affairs.

d. The means and conditions for amending the operating agreement.

2. To the extent the operating agreement does not provide for a matter described in subsection 1, this chapter governs the matter.

3. An operating agreement shall not do any of the following:

a. Vary the law applicable under section 489.104.

b. Vary a limited liability company's capacity under section 489.109 to sue and be sued in its own name.

c. Vary any requirement, procedure, or other provision of this chapter pertaining to any of the following:

(1) Registered agents.

(2) The secretary of state, including provisions pertaining to records authorized or required to be delivered to the secretary of state for filing under this chapter.

d. Vary the provisions of section 489.204.

e. Alter or eliminate the duty of loyalty or the duty of care, except as otherwise provided in subsection 4.

f. Eliminate the contractual obligation of good faith and fair dealing under section 489.409, subsection 4, but the operating agreement may prescribe the standards, if not manifestly unreasonable, by which the performance of the obligation is to be measured.

g. Relieve or exonerate a person from liability for conduct except as provided in subsection 6.

h. Unreasonably restrict the duties and rights under section 489.410, but the operating agreement may impose reasonable restrictions on the availability and use of information obtained under that section and may define appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on use.

i. Vary the causes of dissolution specified in section 489.701, subsection 1, paragraph *"d"*.

j. Vary the requirement to wind up the limited liability company's activities and affairs as specified in section 489.702, subsection 1; subsection 2, paragraph *"a"*; and subsection 5.

k. Unreasonably restrict the right of a member to maintain an action under subchapter VIII.

l. Vary the provisions of section 489.805, but the operating agreement may provide that the limited liability company shall not have a special litigation committee.

m. Vary the right of a member to approve a merger, interest exchange, conversion, or domestication under section 489.1023, subsection 1, paragraph *"b"*; section 489.1033, subsection 1, paragraph *"b"*; section 489.1043, subsection 1, paragraph *"b"*; or section 489.1053, subsection 1, paragraph *"b"*.

n. Vary the required contents of a plan of merger under section 489.1022, subsection 1; plan of interest exchange under section 489.1032, subsection 1; plan of conversion under section 489.1042, subsection 1; or plan of domestication under section 489.1052, subsection 1.

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o. Except as otherwise provided in sections 489.106 and 489.107, subsection 2, restrict the rights under this chapter of a person other than a member or manager.

4. Subject to subsection 3, paragraph *"g"*, without limiting other terms that may be included in an operating agreement, all the following rules apply:

a. The operating agreement may do all of the following:

(1) Specify the method by which a specific act or transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one or more disinterested and independent persons after full disclosure of all material facts.

(2) Alter the prohibition in section 489.405, subsection 1, paragraph *"b"*, so that the prohibition requires only that the limited liability company's total assets not be less than the sum of its total liabilities.

b. To the extent the operating agreement of a member-managed limited liability company expressly relieves a member of a responsibility that the member otherwise would have under this chapter and imposes the responsibility on one or more other members, the agreement also may eliminate or limit any fiduciary duty of the member relieved of the responsibility which would have pertained to the responsibility.

c. If not manifestly unreasonable, the operating agreement may do all of the following:

(1) Alter or eliminate the aspects of the duty of loyalty stated in section 489.409, subsections 2 and 9.

(2) Identify specific types or categories of activities that do not violate the duty of loyalty.

(3) Alter the duty of care, but may not authorize conduct involving bad faith, willful or intentional misconduct, or knowing violation of law.

(4) Alter or eliminate any other fiduciary duty.

5. The court shall decide as a matter of law whether a term of an operating agreement is manifestly unreasonable under subsection 3, paragraph *"f"*, or subsection 4, paragraph *"c"*. All of the following shall apply:

a. The court shall make its determination as of the time the challenged term became part of the operating agreement and by considering only circumstances existing at that time.

b. The court may invalidate the term only if, in light of the purposes, activities, and affairs of the limited liability company, it is readily apparent that any of the following apply:

(1) The objective of the term is unreasonable.

(2) The term is an unreasonable means to achieve the term's objective.

6. An operating agreement may alter or eliminate the indemnification for a member or manager provided by section 489.408, subsection 1, and may eliminate or limit a member's or manager's liability to the limited liability company and members for money damages, except for any of the following:

a. A breach of the duty of loyalty.

b. A financial benefit received by the member or manager to which the member or manager is not entitled.

c. A breach of a duty under section 489.406.

d. Intentional infliction of harm on the company or a member.

e. An intentional violation of criminal law.

2008 Acts, ch 1162, §10, 155
C2009, §489.110
2013 Acts, ch 30, §114, 115; 2023 Acts, ch 152, §9, 143, 161
C2024, §489.105
Referred to in §489.102, 489.107, 489.201, 489.408, 489.14108
Former §489.105 transferred to §489.109; 2023 Acts, ch 152, §143, 161

489.106 Operating agreement — effect on limited liability company and persons becoming members — preformation agreement.

1. A limited liability company is bound by and may enforce the operating agreement, whether or not the company has itself manifested assent to the operating agreement.

2. A person that becomes a member of a limited liability company is deemed to assent to the operating agreement.

3. Two or more persons intending to become the initial members of a limited liability

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company may make an agreement providing that upon the formation of the company the agreement will become the operating agreement. One person intending to become the initial member of a company may assent to terms providing that upon the formation of the company the terms will become the operating agreement.

4. An operating agreement in a signed record that excludes modification or rescission except by a signed record cannot be otherwise modified or rescinded.

2008 Acts, ch 1162, §11, 155
C2009, §489.111
2017 Acts, ch 54, §76; 2023 Acts, ch 152, §10, 143, 161
C2024, §489.106
Referred to in §489.105
Former §489.106 transferred to §489.104; 2023 Acts, ch 152, §143, 161

489.107 Operating agreement — effect on third parties and relationship to records effective on behalf of limited liability company.

1. An operating agreement may specify that its amendment requires the approval of a person that is not a party to the operating agreement or the satisfaction of a condition. An amendment is ineffective if its adoption does not include the required approval or satisfy the specified condition.

2. The obligations of a limited liability company and its members to a person in the person's capacity as a transferee or a person dissociated as a member are governed by the operating agreement. Subject only to a court order issued under section 489.503, subsection 2, paragraph *"b"*, to effectuate a charging order, an amendment to the operating agreement made after a person becomes a transferee or is dissociated as a member is or is not effective as follows:

a. Is effective with regard to any debt, obligation, or other liability of the limited liability company or its members to the person in the person's capacity as a transferee or person dissociated as a member.

b. Is not effective to the extent the amendment imposes a new debt, obligation, or other liability on the transferee or person dissociated as a member.

3. If a record delivered by a limited liability company to the secretary of state for filing becomes effective and contains a provision that would be ineffective under section 489.105, subsection 3 or subsection 4, paragraph *"c"*, if contained in the operating agreement, the provision is ineffective in the record.

4. Subject to subsection 3, if a record delivered by a limited liability company to the secretary of state for filing becomes effective and conflicts with a provision of the operating agreement, all of the following rules apply:

a. The operating agreement prevails as to members, persons dissociated as members, transferees, and managers.

b. The record prevails as to other persons to the extent they reasonably rely on the record.

2008 Acts, ch 1162, §12, 155
C2009, §489.112
2023 Acts, ch 152, §11, 143, 161
C2024, §489.107
Referred to in §489.105, 489.1207
Former §489.107 transferred to §489.111; 2023 Acts, ch 152, §143, 161

489.108 Nature, purpose, and duration of limited liability company.

1. A limited liability company is an entity distinct from its member or members.

2. A limited liability company may have any lawful purpose, regardless of whether for profit.

3. A limited liability company has perpetual duration.

2008 Acts, ch 1162, §4, 155
C2009, §489.104
2023 Acts, ch 152, §4, 143, 161
C2024, §489.108
Former §489.108 transferred to §489.112; 2023 Acts, ch 152, §143, 161

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489.109 Powers.

1. Except as otherwise provided in subsection 2, a limited liability company has the capacity to sue and be sued in its own name and the power to do all things necessary or convenient to carry on its activities and affairs.

2. Until a limited liability company has or has had at least one member, the limited liability company lacks the capacity to do any act or carry on any activity except all of the following:

a. Delivering to the secretary of state for filing a statement of change under section 489.116, an amendment to the certificate under section 489.202, a statement of correction under section 489.209, a biennial report under section 489.212, a statement of withdrawal or a statement of rescission under section 489.703, or a statement of termination under section 489.702, subsection 2, paragraph *"b"*, subparagraph (6).

b. Admitting a member under section 489.401.

c. Dissolving under section 489.701.

3. A limited liability company that has or has had at least one member may ratify an act or activity that occurred when the company lacked capacity under subsection 2.

2008 Acts, ch 1162, §5, 155
C2009, §489.105
2019 Acts, ch 26, §55; 2023 Acts, ch 152, §5, 143, 161
C2024, §489.109
2024 Acts, ch 1125, §3, 31
Referred to in §489.105
Former §489.109 transferred to §489.113; 2023 Acts, ch 152, §143, 161

489.110 Operating agreement — scope, function, and limitations. Transferred to §489.105; 2023 Acts, ch 152, §143, 161.

489.111 Supplemental principles of law.

Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.

2008 Acts, ch 1162, §7, 155
C2009, §489.107
2023 Acts, ch 152, §143
C2024, §489.111
Former §489.111 transferred to §489.106; 2023 Acts, ch 152, §143, 161

489.112 Permitted names.

1. The name of a limited liability company must contain the phrase "limited liability company" or "limited company" or the abbreviation "L. L. C.", "LLC", "L. C.", or "LC". "Limited" may be abbreviated as "Ltd.", and "company" may be abbreviated as "Co.".

2. Except as otherwise provided in subsection 3, the name of a limited liability company, and the name under which a foreign limited liability company may register to do business in this state, must be distinguishable on the records of the secretary of state from any of the following:

a. The name of an existing person whose formation required the filing of a record by the secretary of state and which is not at the time administratively dissolved, or if such person has been administratively dissolved, within five years of the effective date of dissolution.

b. The name of a limited liability partnership whose statement of qualification is in effect.

c. The name under which a person is registered to do business in this state by the filing of a record by the secretary of state.

d. The name reserved under section 489.113 or other law of this state providing for the reservation of a name by the filing of a record by the secretary of state.

e. The name registered under section 489.114 or other law of this state providing for the registration of a name by the filing of a record by the secretary of state.

f. The name registered with the secretary of state as a fictitious name.

3. If a person consents in a record to the use of its name and submits an undertaking in a form satisfactory to the secretary of state to change its name to a name that is distinguishable on the records of the secretary of state from any name in any category of names in subsection

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2, the name of the consenting person may be used by the person to which the consent was given.

4. In determining whether a name is the same as or not distinguishable on the records of the secretary of state from the name of another person, words, phrases, or abbreviations indicating a type of person, such as "corporation", "corp.", "incorporated", "Inc.", "professional corporation", "P.C.", "PC", "professional association", "P.A.", "PA", "Limited", "Ltd.", "limited partnership", "L.P.", "LP", "limited liability partnership", "L.L.P.", "LLP", "registered limited liability partnership", "R.L.L.P.", "RLLP", "limited liability limited partnership", "L.L.L.P.", "LLLP", "registered limited liability limited partnership", "R.L.L.L.P.", "RLLLP", "limited liability company", "L.L.C.", "LLC", "cooperative", "coop", or "CP" shall not be taken into account.

5. The name of a limited liability company or foreign limited liability company shall not contain words that may be used only with approval by another state department or state agency unless the company obtains the approval of such other state department or agency and delivers to the secretary of state for filing a record certifying such approval.

6. A limited liability company or foreign limited liability company may use a name that is not distinguishable from a name described in subsection 2, paragraphs "*a*" through "*f*", if the company delivers to the secretary of state a certified copy of a final judgment of a court of competent jurisdiction establishing the right of the company to use the name in this state.

7. A limited liability company may use the name, including the fictitious name, of another entity that is used in this state if the other entity is formed under the law of this state or is authorized to transact business in this state and the proposed user limited liability company meets any of the following conditions:

a. Has merged with the other entity.

b. Has been formed by reorganization of the other entity.

c. Has acquired all or substantially all of the assets, including the name, of the other entity.

8. This subchapter does not control the use of fictitious names. However, if a limited liability company uses a fictitious name in this state, it shall deliver to the secretary of state for filing a certified copy of the resolution of its members if it is member-managed or its managers if it is manager-managed, adopting the fictitious name.

2008 Acts, ch 1162, §8, 155
C2009, §489.108
2009 Acts, ch 133, §160; 2023 Acts, ch 152, §7, 143, 161
C2024, §489.112
Referred to in §488.108, 489.113, 489.114, 489.201, 489.710, 489.903, 489.906, 489.910, 489.14202, 489.14703, 490.401, 504.401, 504.403
Former §489.112 transferred to §489.107; 2023 Acts, ch 152, §143, 161

489.113 Reservation of name.

1. A person may reserve the exclusive use of a name that complies with section 489.112 by delivering an application to the secretary of state for filing. The application must state the name and address of the applicant and the name to be reserved. If the secretary of state finds that the name is available, the secretary of state shall reserve the name for the applicant's exclusive use for one hundred twenty days.

2. The owner of a reserved name may transfer the reservation to another person by delivering to the secretary of state a signed notice in a record of the transfer which states the name and address of the person to which the reservation is being transferred.

2008 Acts, ch 1162, §9, 155
C2009, §489.109
2023 Acts, ch 152, §8, 143, 161
C2024, §489.113
Referred to in §488.108, 489.112, 490.401, 504.401, 504.403, 524.310
Former §489.113 repealed effective January 1, 2024, by 2023 Acts, ch 152, §142, 161

489.114 Registration of name.

1. A foreign limited liability company not registered to do business in this state under subchapter IX may register its name, or an alternate name adopted pursuant to section

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489.906, if the name is distinguishable on the records of the secretary of state from the names that are not available under section 489.112.

2. To register its name or an alternate name adopted pursuant to section 489.906, a foreign limited liability company must deliver to the secretary of state for filing an application stating the company's name, the jurisdiction and date of its formation, and any alternate name adopted pursuant to section 489.906. If the secretary of state finds that the name applied for is available, the secretary of state shall register the name for the applicant's exclusive use.

3. The registration of a name under this section is effective for one year after the date of registration.

4. A foreign limited liability company whose name registration is effective may renew the registration for successive one-year periods by delivering, not earlier than three months before the expiration of the registration, to the secretary of state for filing a renewal application that complies with this section. When filed, the renewal application renews the registration for a succeeding one-year period.

5. A foreign limited liability company whose name registration is effective may register as a foreign limited liability company under the registered name or consent in a signed record to the use of that name by another person that is not an individual.

2023 Acts, ch 152, §13, 143, 161
Referred to in §488.108, 489.112, 490.401, 504.401, 504.403, 524.310
Former §489.114 transferred to §489.116; 2023 Acts, ch 152, §143, 161

489.115 Registered agent.

1. Each limited liability company and each registered foreign limited liability company shall designate and maintain a registered agent in this state. The designation of a registered agent is an affirmation of fact by the limited liability company or registered foreign limited liability company that the agent has consented to serve.

2. A registered agent for a limited liability company or registered foreign limited liability company must have a place of business in this state.

3. The only duties under this chapter of a registered agent that has complied with this chapter are as follows:

a. To forward to the limited liability company or registered foreign limited liability company at the address most recently supplied to the agent by the limited liability company or registered foreign limited liability company any process, notice, or demand pertaining to the company or foreign company which is served on or received by the agent.

b. If the registered agent resigns, to provide the notice required by section 489.117, subsection 3, to the limited liability company or registered foreign limited liability company at the address most recently supplied to the agent by the limited liability company or registered foreign limited liability company.

c. To keep current the information with respect to the agent in the certificate of organization or foreign registration statement.

2023 Acts, ch 152, §15, 143, 161
Former §489.115 transferred to §489.117; 2023 Acts, ch 152, §143, 161

489.116 Change of registered agent or address for registered agent by limited liability company.

1. A limited liability company or registered foreign limited liability company may change its registered agent or the address of its registered agent by delivering to the secretary of state for filing a statement of change that states all of the following:

a. The name of the limited liability company or foreign limited liability company.

b. The information that is to be in effect as a result of the filing of the statement of change.

2. The members or managers of a limited liability company need not approve the delivery to the secretary of state for filing of any of the following:

a. A statement of change under this section.

b. A similar filing changing the registered agent or address of the registered agent, if any, of the limited liability company in any other jurisdiction.

3. A statement of change under this section designating a new registered agent is an

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affirmation of fact by the limited liability company or registered foreign limited liability company that the agent has consented to serve.

4. As an alternative to using the procedure in this section, a limited liability company may amend its certificate of organization.

5. Subject to section 489.205, subsection 3, a statement of change is effective when filed by the secretary of state.

2008 Acts, ch 1162, §14, 155
C2009, §489.114
2010 Acts, ch 1100, §3; 2023 Acts, ch 152, §12, 143, 161
C2024, §489.116
2024 Acts, ch 1125, §4, 31
Referred to in §489.109, 489.202, 489.205, 489.212
Former §489.116 transferred to §489.119; 2023 Acts, ch 152, §143, 161

489.117 Resignation of registered agent.

1. A registered agent may resign as an agent for a limited liability company or registered foreign limited liability company by delivering to the secretary of state for filing a statement of resignation that states all of the following:

a. The name of the limited liability company or foreign limited liability company.

b. The name of the agent.

c. That the agent resigns from serving as registered agent for the limited liability company or foreign limited liability company.

d. The address of the limited liability company or foreign limited liability company to which the agent will send the notice required by subsection 3.

2. A statement of resignation takes effect on the earlier of the following:

a. The thirty-first day after the day on which it is filed with the secretary of state.

b. The designation of a new registered agent for the limited liability company or registered foreign limited liability company.

3. A registered agent promptly shall furnish to the limited liability company or registered foreign limited liability company notice in a record of the date on which a statement of resignation was filed.

4. When a statement of resignation takes effect, the registered agent ceases to have responsibility under this chapter for any matter thereafter tendered to it as agent for the limited liability company or registered foreign limited liability company. The resignation does not affect any contractual rights the company or foreign company has against the agent or that the agent has against the company or foreign company.

5. A registered agent may resign with respect to a limited liability company or registered foreign limited liability company whether or not the company or foreign company is in good standing.

2008 Acts, ch 1162, §15, 155
C2009, §489.115
2010 Acts, ch 1100, §4; 2020 Acts, ch 1058, §3; 2023 Acts, ch 152, §14, 143, 161
C2024, §489.117
Referred to in §489.115, 489.207
Former §489.117 transferred to §489.122; 2023 Acts, ch 152, §143, 161

489.118 Change of name or address by registered agent.

1. If a registered agent changes its name or address, the agent may deliver to the secretary of state for filing a statement of change that states all of the following:

a. The name of the limited liability company or registered foreign limited liability company represented by the registered agent.

b. The name of the agent as currently shown in the records of the secretary of state for the limited liability company or registered foreign limited liability company.

c. If the name of the agent has changed, its new name.

d. If the address of the agent has changed, its new address.

2. A registered agent promptly shall furnish notice to the represented limited liability

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company or registered foreign limited liability company of the filing by the secretary of state of the statement of change and the changes made by the statement.

2023 Acts, ch 152, §18, 161

489.119 Service of process, notice, or demand.

1. A limited liability company or registered foreign limited liability company may be served with any process, notice, or demand required or permitted by law by serving its registered agent.

2. If a limited liability company or registered foreign limited liability company ceases to have a registered agent, or if its registered agent cannot with reasonable diligence be served, the limited liability company or registered foreign limited liability company may be served by registered or certified mail, return receipt requested, or by similar commercial delivery service, addressed to the limited liability company or registered foreign limited liability company at its principal office. The address of the principal office must be as shown on the limited liability company's or registered foreign limited liability company's most recent biennial report filed with the secretary of state pursuant to section 489.212. Service is effected under this subsection on the earliest of any of the following:

a. The date the limited liability company or registered foreign limited liability company receives the mail or delivery by the commercial delivery service.

b. The date shown on the return receipt, if signed by the limited liability company or registered foreign limited liability company.

c. Five days after its deposit with the United States postal service or with the commercial delivery service, if correctly addressed and with sufficient postage or payment.

3. If process, notice, or demand cannot be served on a limited liability company or registered foreign limited liability company pursuant to subsection 1 or 2, service may be made by handing a copy to the individual in charge of any regular place of business or activity of the limited liability company or registered foreign company if the individual served is not a plaintiff in the action.

4. Service of process, notice, or demand on a registered agent must be in a written record.

5. Service of process, notice, or demand may be made by other means under law other than this chapter, including as provided in sections 617.3 through 617.6 unless specifically provided for by another provision of law.

2008 Acts, ch 1162, §16, 155
C2009, §489.116
2010 Acts, ch 1100, §5; 2010 Acts, ch 1193, §56; 2023 Acts, ch 152, §16, 143, 161
C2024, §489.119
2024 Acts, ch 1125, §5, 31
Referred to in §489.210, 489.709, 489.710, 489.711, 489.907, 489.909, 489.911, 489.1026, 489.1046, 489.1056

489.120 Delivery of record.

1. Except as otherwise provided in this chapter, permissible means of delivery of a record include delivery by hand, mail, conventional commercial practice, and electronic transmission.

2. Delivery to the secretary of state is effective only when a record is received by the secretary of state.

2023 Acts, ch 152, §19, 161
Referred to in §489.102

489.121 Reservation of power to amend or repeal.

The general assembly has power to amend or repeal all or part of this chapter at any time, and all limited liability companies and foreign limited liability companies subject to this chapter are governed by the amendment or repeal.

2023 Acts, ch 152, §20, 161

489.122 Fees.

1. The secretary of state shall collect the following fees when documents described in this subsection are delivered to the secretary's office for filing:

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a. Statement of rescission ..... No fee
b. Statement of withdrawal under section 489.208, subsection 1..... No fee
c. Certificate of organization ..... $ 50
d. Application for use of indistinguishable name ..... $ 10
e. Application for reserved name ..... $ 10
f. Notice of transfer of reserved name ..... $ 10
g. Statement of change of registered agent or address of the registered agent or both ..... No fee
h. Registered agent's statement of change for each affected limited liability company ..... No fee
i. Registered agent's statement of resignation ..... No fee
j. Amendment to certificate of organization ..... $ 50
k. Restatement of certificate of organization with amendment of certificate ..... $ 50
l. Statement of merger or interest exchange ..... $ 50
m. Statement of domestication ..... $ 50
n. Statement of conversion ..... $ 50
o. Statement of dissolution ..... $ 5
p. Declaration of administrative dissolution ..... No fee
q. Application for reinstatement following administrative dissolution ..... $ 5
r. Certificate of reinstatement ..... No fee
s. Application for certificate of registration $100
t. Application for amended certificate of registration $100
u. Statement of withdrawal under section 489.907 or section 489.909, subsection 1 ..... $ 10
v. Certificate of revocation of authority to transact business ..... No fee
w. Statement of correction ..... $ 5
x. Application for certificate of existence or registration ..... $ 5
y. Any other document required or permitted to be filed by this chapter ..... $ 5

2. The secretary of state shall collect a fee of five dollars each time process is served on the secretary under this chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

3. The secretary of state shall collect the following fees for copying and certifying the copy of any filed document relating to a limited liability company or foreign limited liability company as follows:

a. One dollar a page for copying.
b. Five dollars for the certificate.

4. The secretary of state may impose, assess, and collect a filing fee as a condition to accepting a biennial report as provided in section 489.212.

2008 Acts, ch 1162, §17, 155
C2009, §489.117

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2010 Acts, ch 1100, §6, 7; 2019 Acts, ch 26, §56; 2023 Acts, ch 152, §17, 143, 161
C2024, §489.122
2024 Acts, ch 1125, §6 – 8, 31
Referred to in §9.11, 489.212, 524.303
See annual Iowa Acts for provisions relating to the authority to refund fees

489.122A Secretary of state — extra services — surcharge.

Upon the request of a filer of a document under this chapter, the secretary of state shall provide an extra filing service and assess a surcharge as provided in chapter 9, subchapter II.

2021 Acts, ch 165, §256
C2022, §489.205A
2023 Acts, ch 152, §143, 161
C2024, §489.122A
Referred to in §9.11

489.123 through 489.200 Reserved.

SUBCHAPTER II

FORMATION — CERTIFICATE OF ORGANIZATION AND OTHER FILINGS

489.201 Formation of limited liability company — certificate of organization.

1. One or more persons may act as organizers to form a limited liability company by delivering to the secretary of state for filing a certificate of organization.

2. A certificate of organization must state all of the following:

a. The name of the limited liability company, which must comply with section 489.112.

b. The street and mailing addresses of the limited liability company's principal office.

c. The name and street and mailing addresses in this state of the limited liability company's registered agent.

3. A certificate of organization may contain statements as to matters other than those required by subsection 2, but shall not vary or otherwise affect the provisions specified in section 489.105, subsections 3 and 4, in a manner inconsistent with that section. However, a statement in a certificate of organization is not effective as a statement of authority.

4. A limited liability company is formed when the certificate of organization becomes effective.

2008 Acts, ch 1162, §18, 155; 2010 Acts, ch 1100, §8; 2023 Acts, ch 152, §21, 161
Referred to in §489.102

489.202 Amendment or restatement of certificate of organization.

1. A certificate of organization may be amended or restated at any time.

2. To amend its certificate of organization, a limited liability company must deliver to the secretary of state for filing an amendment stating all of the following:

a. The name of the limited liability company.

b. The date of filing of its initial certificate.

c. The text of the amendment.

3. To restate its certificate of organization, a limited liability company must deliver to the secretary of state for filing a restatement, designated as such in its heading, and setting forth all of the following:

a. The name of the limited liability company.

b. The text of the restated certificate of organization.

c. A statement that the restated certificate consolidates all amendments into a single document.

d. If a new amendment is included in the restated certificate of organization, the statements required under subsection 2 with respect to the new amendment if not otherwise provided.

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4. If a member of a member-managed limited liability company, or a manager of a manager-managed limited liability company, knows that any information in a filed certificate of organization was inaccurate when the certificate of organization was filed or has become inaccurate due to changed circumstances, the member or manager shall promptly do any of the following:

a. Cause the certificate of organization to be amended.

b. If appropriate, deliver to the secretary of state for filing a statement of change under section 489.116 or a statement of correction under section 489.209.

2008 Acts, ch 1162, §19, 155; 2023 Acts, ch 152, §22, 161
Referred to in §489.109, 489.205

489.203 Signing of records to be delivered for filing to secretary of state.

1. A record delivered to the secretary of state for filing pursuant to this chapter must be signed as follows:

a. Except as otherwise provided in paragraphs *"b"* and *"c"*, a record signed by a limited liability company must be signed by a person authorized by the company.

b. A limited liability company's initial certificate of organization must be signed by at least one person acting as an organizer.

c. A record delivered on behalf of a dissolved limited liability company that has no member must be signed by the person winding up the company's activities and affairs under section 489.702, subsection 3, or a person appointed under section 489.702, subsection 4, to wind up the activities and affairs.

d. A statement of denial by a person under section 489.303 must be signed by that person.

e. Any other record delivered on behalf of a person to the secretary of state for filing must be signed by that person.

2. A record delivered for filing under this chapter may be signed by an agent. Whenever this chapter requires a particular individual to sign a record and the individual is deceased or incompetent, the record may be signed by a legal representative of the individual.

3. A person that signs a record as an agent or legal representative affirms as a fact that the person is authorized to sign the record.

2008 Acts, ch 1162, §20, 155; 2023 Acts, ch 152, §23, 161
Referred to in §489.212

489.204 Signing and filing pursuant to judicial order.

1. If a person required by this chapter to sign a record or deliver a record to the secretary of state for filing under this chapter does not do so, any other person that is aggrieved may petition the district court to order one or more of the following:

a. The person to sign the record.

b. The person to deliver the record to the secretary of state for filing.

c. The secretary of state to file the record unsigned.

2. If a petitioner under subsection 1 is not the limited liability company or foreign limited liability company to which the record pertains, the petitioner shall make the limited liability company or foreign limited liability company a party to the action.

3. A record filed under subsection 1, paragraph *"c"*, is effective without being signed.

2008 Acts, ch 1162, §21, 155; 2023 Acts, ch 152, §24, 161
Referred to in §489.105, 489.205

489.205 Liability for inaccurate information in filed records.

1. If a record delivered to the secretary of state for filing under this chapter and filed by the secretary of state contains inaccurate information, a person that suffers loss by reliance on the information may recover damages for the loss from all of the following:

a. A person that signed the record, or caused another to sign it on the person's behalf, and knew the information to be inaccurate at the time the record was signed.

b. Subject to subsection 2, a member of a member-managed limited liability company or a manager of a manager-managed limited liability company if all of the following apply:

(1) The record was delivered for filing on behalf of the limited liability company.

(2) The member or manager knew or had notice of the inaccuracy for a reasonably

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sufficient time before the information was relied upon so that, before the reliance, the member or manager reasonably could have done any of the following:

(a) Effected an amendment under section 489.202.

(b) Filed a petition under section 489.204.

(c) Delivered to the secretary of state for filing a statement of change under section 489.116 or a statement of correction under section 489.209.

2. To the extent the operating agreement of a member-managed limited liability company expressly relieves a member of responsibility for maintaining the accuracy of information contained in records delivered on behalf of the limited liability company to the secretary of state for filing under this chapter and imposes that responsibility on one or more other members, the liability stated in subsection 1, paragraph *"b"*, applies to those other members and not to the member that the operating agreement relieves of the responsibility.

3. A person commits a serious misdemeanor if that person signs a record the person knows is false in any material respect with intent that the record be delivered to the secretary of state for filing.

2023 Acts, ch 152, §25, 161
Referred to in §489.116
Former §489.205 stricken effective January 1, 2024, by 2023 Acts, ch 152, §25, 161

489.205A Secretary of state — extra services — surcharge. Transferred to §489.122A; 2023 Acts, ch 152, §143, 161.

489.206 Filing requirements.

1. To be filed by the secretary of state pursuant to this chapter, a record must be captioned to describe the record's purpose, must be received by the secretary of state, must comply with this chapter, and must satisfy all of the following:

a. The filing of the record must be required or permitted by this chapter.

b. The record must be physically delivered in written form unless and to the extent the secretary of state permits electronic delivery of records.

c. The words in the record must be in English, and numbers must be in Arabic or Roman numerals, but the name of an entity need not be in English if written in English letters or Arabic or Roman numerals.

d. The record must be signed by a person authorized or required under this chapter to sign the record.

e. The record must state the name and capacity, if any, of each individual who signed it, either on behalf of the individual or the person authorized or required to sign the record, but need not contain a seal, attestation, acknowledgment, or verification.

2. If law other than this chapter prohibits the disclosure by the secretary of state of information contained in a record delivered to the secretary of state for filing, the secretary of state shall file the record if the record otherwise complies with this chapter but may redact the information.

3. When a record is delivered to the secretary of state for filing, any fee required under this chapter and any fee, tax, interest, or penalty required to be paid under this chapter or law other than this chapter must be paid in a manner permitted by the secretary of state or by that law.

4. The secretary of state may require that a record delivered in written form be accompanied by an identical or conformed copy.

5. The secretary of state may provide forms for filings required or permitted to be made by this chapter, but, except as otherwise provided in subsection 6, their use is not required.

6. The secretary of state may prescribe, and furnish on request and require any of the following forms:

a. A cover sheet for a filing.

b. An application for a certificate of existence or certificate of registration.

c. A foreign corporation's registration statement.

d. A foreign corporation's statement of withdrawal.

e. A foreign corporation's transfer of registration statement.

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f. The biennial report required by section 489.212.

7. Upon request and payment of the requisite fee, the secretary of state shall send the requester a certified copy of a requested record.

2023 Acts, ch 152, §27, 143, 161; 2024 Acts, ch 1125, §9, 31
Referred to in §489.302
Former §489.206 transferred to §489.209; 2023 Acts, ch 152, §143, 161

489.207 Effective date and time.

Except as otherwise provided in section 489.117 and section 489.208 and subject to section 489.209, subsection 4, a record filed under this chapter is effective as follows:

1. On the date and at the time of its filing by the secretary of state, as provided in section 489.210, subsection 2.

2. On the date of filing and at the time specified in the record as its effective time, if later than the time under subsection 1.

3. At a specified delayed effective date and time, which may not be more than ninety days after the date of filing.

4. If a delayed effective date is specified, but no time is specified, at 12:01 a.m. on the date specified, which shall not be more than ninety days after the date of filing.

2023 Acts, ch 152, §28, 161
Referred to in §489.212, 489.910, 489.14201
Former §489.207 stricken effective January 1, 2024, by 2023 Acts, ch 152, §28, 161

489.208 Withdrawal of filed record before effectiveness.

1. Except as otherwise provided in sections 489.1024, 489.1034, 489.1044, and 489.1054, a record delivered to the secretary of state for filing may be withdrawn before it takes effect by delivering to the secretary of state for filing a statement of withdrawal.

2. A statement of withdrawal must comply with all of the following:

a. Be signed by each person that signed the record being withdrawn, except as otherwise agreed by those persons.

b. Identify the record to be withdrawn.

c. If signed by fewer than all the persons that signed the record being withdrawn, state that the record is withdrawn in accordance with the agreement of all the persons that signed the record.

3. On filing by the secretary of state of a statement of withdrawal, the action or transaction evidenced by the original record does not take effect.

2023 Acts, ch 152, §30, 143, 161
Referred to in §489.122, 489.207, 489.703
Former §489.208 transferred to §489.211; 2023 Acts, ch 152, §143, 161

489.209 Correcting filed record.

1. A person on whose behalf a filed record was delivered to the secretary of state for filing may correct the record if any of the following apply:

a. The record at the time of filing was inaccurate.

b. The record was defectively signed.

c. The electronic transmission of the record to the secretary of state was defective.

2. To correct a filed record, a person on whose behalf the record was delivered to the secretary of state must deliver to the secretary of state for filing a statement of correction.

3. A statement of correction shall comply with all of the following:

a. It must not state a delayed effective date.

b. It must be signed by the person correcting the filed record.

c. It must describe the record to be corrected including its filing date or attach a copy of the record as filed.

d. It must specify the inaccuracy or defect to be corrected.

e. It must correct the inaccuracy or defect.

4. A statement of correction is effective as of the effective date of the filed record that it corrects except for purposes of section 489.103, subsection 4, and as to persons relying on

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the uncorrected filed record and adversely affected by the correction. For those purposes and as to those persons, the statement of correction is effective when filed.

2008 Acts, ch 1162, §23, 155
C2009, §489.206
2023 Acts, ch 152, §26, 143, 161
C2024, §489.209
Referred to in §9.14, 489.109, 489.202, 489.205, 489.207
Former §489.209 transferred to §489.211A; 2023 Acts, ch 152, §143, 161

489.210 Duty of secretary of state to file — review of refusal to file — delivery of record by secretary of state.

1. Except as provided in subsection 7, the secretary of state shall file a record delivered to the secretary of state for filing which satisfies this chapter. The duty of the secretary of state under this section is ministerial.

2. When the secretary of state files a record, the secretary of state shall record it as filed on the date and at the time of its delivery. After filing a record, the secretary of state shall deliver to the person that submitted the record a copy of the record with an acknowledgment of the date and time of filing and, in the case of a statement of denial, also to the limited liability company to which the statement pertains.

3. If the secretary of state refuses to file a record, the secretary of state shall, not later than fifteen business days after the record is delivered, do all of the following:

a. Return the record or notify the person that submitted the record of the refusal.

b. Provide a brief explanation in a record of the reason for the refusal.

4. If the secretary of state refuses to file a record, the person that submitted the record may petition the district court of Polk county to compel filing of the record. The record and the explanation of the secretary of state of the refusal to file must be attached to the petition. The court may decide the matter in a summary proceeding. If the court orders the record to be filed, the court may order it filed with an effective date that is the date on which it was submitted to the secretary of state for filing.

5. The filing of or refusal to file a record does not do any of the following:

a. Affect the validity or invalidity of the record in whole or in part.

b. Create a presumption that the information contained in the record is correct or incorrect.

6. Except as otherwise provided by section 489.119 or by law other than this chapter, the secretary of state may deliver any record to a person by delivering it by any of the following:

a. In person to the person that submitted it.

b. To the address of the person's registered agent.

c. To the principal office of the person.

d. To another address the person provides to the secretary of state for delivery.

7. *a.* The secretary of state may require a record to be delivered by mail or in person if the secretary of state receives credible information that the record is being submitted for filing fraudulently or may be used to accomplish a fraudulent, criminal, or unlawful purpose.

b. As used in paragraph *"a"*, *"credible information"* means any of the following:

(1) An affidavit of unauthorized use as provided in section 489.212A.

(2) Information provided to the secretary of state by another government agency.

(3) Information collected by the secretary of state from a credible third-party data set.

2023 Acts, ch 152, §32, 161; 2026 Acts, ch 1145, §11, 12
Referred to in §9.11, 489.103, 489.207
Subsection 1 amended
NEW subsection 7

489.211 Certificate of existence or registration.

1. On request of any person, the secretary of state shall issue a certificate of existence for a limited liability company or a certificate of registration for a registered foreign limited liability company.

2. A certificate of existence or certificate of registration under subsection 1 must state all of the following:

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a. The limited liability company's name or the registered foreign limited liability company's name used in this state.

b. In the case of a limited liability company, all of the following:

(1) That a certificate of organization has been filed and has taken effect.

(2) The date the certificate became effective.

(3) The period of the limited liability company's duration if the records of the secretary of state reflect that its period of duration is less than perpetual.

(4) That all of the following apply:

(a) No statement of dissolution, statement of administrative dissolution, or statement of termination has been filed.

(b) The records of the secretary of state do not otherwise reflect that the limited liability company has been dissolved or terminated.

(c) A proceeding is not pending under section 489.708.

c. In the case of a registered foreign limited liability company, that it is registered to do business in this state.

d. That all fees, taxes, interest, and penalties owed to this state by the limited liability company or foreign limited liability company and collected through the secretary of state have been paid, if all of the following apply:

(1) Payment is reflected in the records of the secretary of state.

(2) Nonpayment affects the good standing or registration of the limited liability company or foreign limited liability company.

e. That the most recent biennial report required by section 489.212 has been delivered to the secretary of state for filing.

f. Other facts reflected in the records of the secretary of state pertaining to the limited liability company or foreign limited liability company which the person requesting the certificate reasonably requests.

3. Subject to any qualification stated in the certificate, a certificate issued by the secretary of state under subsection 1 may be relied on as conclusive evidence of the facts stated in the certificate.

2008 Acts, ch 1162, §25, 155
C2009, §489.208
2010 Acts, ch 1100, §9; 2016 Acts, ch 1097, §19; 2023 Acts, ch 152, §29, 143, 161
C2024, §489.211
2024 Acts, ch 1125, §10, 31

489.211A Biennial report for secretary of state. Transferred to §489.212; 2024 Acts, ch 1125, §30.

489.212 Biennial report for secretary of state.

1. A limited liability company or a foreign limited liability company registered to do business in this state shall deliver to the secretary of state for filing a biennial report that states all of the following:

a. The name of the company.

b. The name of the registered agent and street address of the registered agent, and the consent of any new registered agent.

c. The street address of its principal office.

d. In the case of a foreign limited liability company, the state or other jurisdiction under whose law the foreign company is formed and any alternate name adopted under section 489.906, subsection 1.

2. Information in a biennial report under this section must be current as of the date the report is delivered to the secretary of state for filing. The report shall be executed on behalf of the limited liability company or foreign limited liability company and signed as provided in section 489.203.

3. The first biennial report in this state must be delivered to the secretary of state between January 1 and April 1 of the first odd-numbered year following the calendar year in which a limited liability company was formed or a foreign limited liability company was registered to

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do business. A subsequent biennial report must be delivered to the secretary of state between January 1 and April 1 of each following odd-numbered calendar year. A filing fee for the biennial report shall be determined by the secretary of state pursuant to section 489.122. Each biennial report shall contain information related to the two-year period immediately preceding the calendar year in which the report is filed.

4. If a biennial report does not contain the information required in this section, the secretary of state shall promptly notify the reporting limited liability company or foreign limited liability company in writing and return the report to it for correction.

5. The secretary of state may provide for the change of registered agent or address of the registered agent on the form prescribed by the secretary of state for the biennial report, provided that the form contains the information required in section 489.116. If the secretary of state determines that a biennial report does not contain the information required in this section but otherwise meets the requirements of section 489.116 for the purpose of changing the registered office or registered agent, the secretary of state shall file the statement of change for the registered agent or address of the registered agent, effective as provided in section 489.207, subsection 3, before returning the biennial report to the limited liability company as provided in this section. A statement of change of registered agent or address of the registered agent accomplished pursuant to this subsection shall be executed by a person authorized to execute the biennial report.

2008 Acts, ch 1162, §26, 155
C2009, §489.209
2010 Acts, ch 1100, §10; 2023 Acts, ch 152, §31, 143, 161
C2024, §489.211A
2024 Acts, ch 1125, §11, 12, 30, 31
C2025, §489.212
Referred to in §489.109, 489.119, 489.122, 489.206, 489.211, 489.708, 489.14205, 489.14206

489.212A Statement of removal — removal of information not authorized to be provided.

1. *a.* A person whose name, street address, mailing address, or email address has, without that person's authorization, been provided to the secretary of state as that of the registered agent or of the principal office in a limited liability company or foreign limited liability company filing may deliver to the secretary of state a notarized, sworn affidavit of unauthorized use that does all of the following:

(1) Identifies the limited liability company or foreign limited liability company registration by name and business number.

(2) Indicates the affiant's mailing address.

(3) States that neither the affiant nor any agent of the affiant has authorized the filing identifying the affiant as the registered agent, providing the affiant's street address or mailing address as an address of the registered agent or principal office, or providing the affiant's email address as that of the registered agent.

b. The affiant shall specify in the affidavit of unauthorized use the information that was not authorized to be provided.

c. The secretary of state may reject an affidavit of unauthorized use that is incomplete or that the secretary of state believes was delivered to the secretary of state with the intent to harass or defraud the limited liability company or foreign limited liability company or the individual named as affiant.

d. The office of the secretary of state shall adopt an affidavit of unauthorized use form in accordance with this section.

2. The secretary of state shall conduct an administrative review to determine whether the filing was authorized to identify the stated information as applicable.

3. If the secretary of state concludes that the filing was not authorized to provide the information identified in the affidavit, the secretary of state shall promptly file a statement of removal with respect to the identified information, and shall promptly cause the identified information to cease to be listed as identified for the limited liability company or foreign limited liability company.

4. The secretary of state shall not charge a fee for the filing of an affidavit of unauthorized

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use under subsection 1 or a statement of removal under subsection 3. The filing office shall not return any fee paid for filing the limited liability company or foreign limited liability company filing identified in the affidavit.

5. Upon filing a statement of removal, the secretary of state shall send to the principal office address or registered agent's mailing address on record for the limited liability company or foreign limited liability company, if any, a notice stating that the statement of removal has been filed and is effective immediately. The notice shall also state that the company is without a registered agent or registered agent address, as applicable.

6. The secretary of state shall adopt rules pursuant to chapter 17A necessary or desirable to administer this section.

2026 Acts, ch 1145, §13
Referred to in §489.210
NEW section

489.212B Interrogatories.

1. *a.* The secretary of state may serve one or more written interrogatories regarding any matter that pertains to a limited liability company or foreign limited liability company and that is within the purview of the secretary of state if the secretary of state receives credible information that a company is being used to accomplish a fraudulent, criminal, or unlawful purpose.

b. As used in paragraph *"a"*, *"credible information"* means any of the following:

(1) An affidavit of unauthorized use as provided in section 488.212A.

(2) Information provided to the secretary of state by another government agency.

(3) Information collected by the secretary of state from a credible third-party data set.

2. The secretary of state shall serve such interrogatories on the limited liability company or foreign limited liability company that is the subject of the interrogatories by mail at the address of the registered agent that appears on the secretary of state's records at the time the information required by subsection 1 is received, or if the company has no registered agent, at the company's principal office address shown on the company's most recent biennial report filed with the secretary of state.

3. The interrogatories must be answered by a person with the authority to answer on behalf of the limited liability company or foreign limited liability company that is the subject of the interrogatories. Each interrogatory must be answered in writing separately and in a manner that is responsive to the interrogatory. The declaration on the completed interrogatories form must be signed by a person with the authority to sign on behalf of the company.

4. To be considered responsive, the completed and signed interrogatories form must be received by the secretary of state by mail or in-person delivery within twenty-one calendar days after the form was mailed.

5. A response to any interrogatory that indicates to the secretary of state that the limited liability company or foreign limited liability company violated any provision of this chapter constitutes the company's concession to such violation.

6. A failure to respond to any interrogatory within the allotted time constitutes the limited liability company's or foreign limited liability company's concession that the company violated a provision or provisions of this chapter that are the subjects of the interrogatories.

7. If the secretary of state receives a response to each interrogatory that indicates to the secretary of state that the limited liability company or foreign limited liability company has not violated any provision of this chapter, the secretary of state shall take no action.

8. The secretary of state shall adopt rules pursuant to chapter 17A necessary or desirable to administer this section.

2026 Acts, ch 1145, §14
Referred to in §489.708, 489.709
NEW section

489.213 through 489.300 Reserved.

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SUBCHAPTER III

RELATIONS OF MEMBERS AND
MANAGERS TO PERSONS
DEALING WITH
LIMITED LIABILITY COMPANY

489.301 No agency power of member as member.

1. A member is not an agent of a limited liability company solely by reason of being a member.

2. A person's status as a member does not prevent or restrict law other than this chapter from imposing liability on a limited liability company because of the person's conduct.

2008 Acts, ch 1162, §27, 155

489.302 Statement of limited liability company authority.

1. A limited liability company may deliver to the secretary of state for filing a statement of authority. All of the following apply to the statement:

a. It must include the name of the limited liability company and the name and street and mailing addresses of its registered agent.

b. With respect to any position that exists in or with respect to the limited liability company, it may state the authority, or limitations on the authority, of all persons holding the position to do any of the following:

(1) Sign an instrument transferring real property held in the name of the limited liability company.

(2) Enter into other transactions on behalf of, or otherwise act for or bind, the limited liability company.

c. It may state the authority, or limitations on the authority, of a specific person to do any of the following:

(1) Sign an instrument transferring real property held in the name of the limited liability company.

(2) Enter into other transactions on behalf of, or otherwise act for or bind, the limited liability company.

2. To amend or cancel a statement of authority filed by the secretary of state, a limited liability company must deliver to the secretary of state for filing an amendment or cancellation stating all of the following:

a. The name of the limited liability company.

b. The name and street and mailing addresses of the limited liability company's registered agent.

c. The date the statement being affected became effective.

d. The contents of the amendment or a declaration that the statement is canceled.

3. A statement of authority affects only the power of a person to bind a limited liability company to persons that are not members.

4. Subject to subsection 3 and section 489.103, subsection 4, and except as otherwise provided in subsections 6, 7, and 8, a limitation on the authority of a person or a position contained in an effective statement of authority is not by itself evidence of any person's knowledge or notice of the limitation.

5. Subject to subsection 3, a grant of authority not pertaining to a transfer of real property and contained in an effective statement of authority is conclusive in favor of a person that gives value in reliance on the grant, except to the extent that when the person gives value, any of the following applies:

a. The person has knowledge to the contrary.

b. The statement has been canceled or restrictively amended under subsection 2.

c. A limitation on the grant is contained in another statement of authority that became effective after the statement containing the grant became effective.

6. Subject to subsection 3, an effective statement of authority that grants authority to transfer real property held in the name of the limited liability company, a certified copy

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of which statement is recorded in the office for recording transfers of the real property, is conclusive in favor of a person that gives value in reliance on the grant without knowledge to the contrary, except to the extent that when the person gives value, any of the following applies:

a. The statement has been canceled or restrictively amended under subsection 2 and a certified copy of the cancellation or restrictive amendment has been recorded in the office for recording transfers of the real property.

b. A limitation on the grant is contained in another statement of authority that became effective after the statement containing the grant became effective, and a certified copy of the later-effective statement is recorded in the office for recording transfers of the real property.

7. Subject to subsection 3, if a certified copy of an effective statement containing a limitation on the authority to transfer real property held in the name of a limited liability company is recorded in the office for recording transfers of that real property, all persons are deemed to know of the limitation.

8. Subject to subsection 9, an effective statement of dissolution or a statement of termination is a cancellation of any filed statement of authority for the purposes of subsection 6 and is a limitation on authority for the purposes of subsection 7.

9. After a statement of dissolution becomes effective, a limited liability company may deliver to the secretary of state for filing and, if appropriate, the secretary of state may record a statement of authority that is designated as a post-dissolution statement of authority. The statement operates as provided in subsections 6 and 7.

10. A statement of authority filed by the secretary of state under section 489.206, subsection 1, is effective until amended or canceled as provided in subsection 2, unless an earlier cancellation date is specified in the statement.

11. An effective statement of denial operates as a restrictive amendment under this section and may be recorded by certified copy for purposes of subsection 6, paragraph *"a"*.

2008 Acts, ch 1162, §28, 155; 2009 Acts, ch 41, §144, 145; 2010 Acts, ch 1100, §11, 12; 2013 Acts, ch 108, §2; 2023 Acts, ch 152, §33, 161; 2024 Acts, ch 1125, §13, 31

Referred to in §489.103, 489.407A

489.303 Statement of denial.

A person named in a filed statement of authority granting that person authority may deliver to the secretary of state for filing a statement of denial that does all of the following:

1. Provides the name of the limited liability company and the caption of the statement of authority to which the statement of denial pertains.

2. Denies the grant of authority.

3. Certifies to the secretary of state that the person denying authority has sent a copy of the statement of denial to the limited liability company, including the date on which the copy was sent.

2008 Acts, ch 1162, §29, 155; 2010 Acts, ch 1100, §13

Referred to in §489.203

489.304 Liability of members and managers.

1. A debt, obligation, or other liability of a limited liability company is solely the debt, obligation, or other liability of the company. A member or manager is not personally liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of the company solely by reason of being or acting as a member or manager. This subsection applies regardless of the dissolution of the company.

2. The failure of a limited liability company to observe formalities relating to the exercise of its powers or management of its activities and affairs is not a ground for imposing liability on a member or manager for a debt, obligation, or other liability of the company.

2008 Acts, ch 1162, §30, 155; 2023 Acts, ch 152, §34, 161

Referred to in §421.26, 422.16, 489.702

489.305 through 489.400 Reserved.

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SUBCHAPTER IV

RELATIONS OF MEMBERS TO
EACH OTHER AND TO
LIMITED LIABILITY COMPANY

489.401 Becoming member.

1. If a limited liability company is to have only one member upon formation, the person becomes a member as agreed by that person and the organizer of the company. That person and the organizer may be, but need not be, different persons. If different, the organizer acts on behalf of the initial member.

2. If a limited liability company is to have more than one member upon formation, those persons become members as agreed by the persons before the formation of the company. The organizer acts on behalf of the persons in forming the company and may be, but need not be, one of the persons.

3. After formation of a limited liability company, a person becomes a member according to any of the following:

a. As provided in the operating agreement.

b. As the result of a transaction effective under subchapter X.

c. With the affirmative vote or consent of all the members.

d. As provided in section 489.701, subsection 1, paragraph *"c"*.

4. A person may become a member without any of the following:

a. Acquiring a transferable interest.

b. Making or being obligated to make a contribution to the limited liability company.

2008 Acts, ch 1162, §31, 155; 2009 Acts, ch 41, §146; 2023 Acts, ch 152, §35, 161
Referred to in §489.102, 489.109

489.402 Form of contribution.

A contribution may consist of property transferred to, services performed for, or another benefit provided to the limited liability company or an agreement to transfer property to, perform services for, or provide another benefit to the company.

2008 Acts, ch 1162, §32, 155; 2023 Acts, ch 152, §36, 161
Referred to in §489.102

489.403 Liability for contributions.

1. A person's obligation to make a contribution to a limited liability company is not excused by the person's death, disability, termination, or other inability to perform personally.

2. If a person does not fulfill an obligation to make a contribution other than money, the person is obligated at the option of the limited liability company to contribute money equal to the value of the part of the contribution which has not been made.

3. The obligation of a person to make a contribution may be compromised only by the affirmative vote or consent of all the members. If a creditor of a limited liability company extends credit or otherwise acts in reliance on an obligation described in subsection 1 without knowledge or notice of a compromise under this subsection, the creditor may enforce the obligation.

4. An operating agreement may provide that the interest of any member who fails to make a contribution that the member is obligated to make is subject to specified penalties for, or specified consequences of, such failure. The penalty or consequence may take the form of reducing or eliminating the defaulting member's proportionate interest in a limited liability company, subordinating the member's interest to that of a nondefaulting member, a forced sale of the member's interest, forfeiture of the member's interest, the lending by other members of the amount necessary to meet the member's commitment, a fixing of the value of the member's interest by appraisal or by formula and redemption, or sale of the member's interest at such value or other penalty or consequence.

2008 Acts, ch 1162, §33, 155; 2023 Acts, ch 152, §37, 161
Referred to in §489.502

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489.404 Sharing of and right to distributions before dissolution.

1. Any distribution made by a limited liability company before its dissolution and winding up must be in equal shares among members and persons dissociated as members, except to the extent necessary to comply with a transfer effective under section 489.502 and any charging order in effect under section 489.503.

2. A person has a right to a distribution before the dissolution and winding up of a limited liability company only if the limited liability company decides to make an interim distribution. A person's dissociation does not entitle the person to a distribution.

3. A person does not have a right to demand or receive a distribution from a limited liability company in any form other than money. Except as otherwise provided in section 489.707, subsection 4, a limited liability company may distribute an asset in kind only if each part of the asset is fungible with each other part and each person receives a percentage of the asset equal in value to the person's share of distributions.

4. If a member or transferee becomes entitled to receive a distribution, the member or transferee has the status of, and is entitled to all remedies available to, a creditor of the limited liability company with respect to the distribution. However, the company's obligation to make a distribution is subject to offset for any amount owed to the company by the member or a person dissociated as a member on whose account the distribution is made.

2008 Acts, ch 1162, §34, 155; 2023 Acts, ch 152, §38, 161

489.405 Limitations on distribution.

1. A limited liability company shall not make a distribution, including a distribution under section 489.707, if after the distribution any of the following applies:

a. The limited liability company would not be able to pay its debts as they become due in the ordinary course of the company's activities and affairs.

b. The limited liability company's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the company were to be dissolved and wound up at the time of the distribution, to satisfy the preferential rights upon dissolution and winding up of members and transferees whose preferential rights are superior to the rights of persons receiving the distribution.

2. A limited liability company may base a determination that a distribution is not prohibited under subsection 1 on any of the following:

a. Financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances.

b. A fair valuation or other method that is reasonable under the circumstances.

3. Except as otherwise provided in subsection 5, the effect of a distribution under subsection 1 is measured as follows:

a. In the case of a distribution as defined in section 489.102, subsection 5, paragraph "*a*", as of the earlier of any of the following:

(1) The date money or other property is transferred or debt is incurred by the limited liability company.

(2) The date the person entitled to the distribution ceases to own the interest or right being acquired by the limited liability company in return for the distribution.

b. In the case of any other distribution of indebtedness, as of the date the indebtedness is distributed.

c. In all other cases any of the following:

(1) The date the distribution is authorized, if the payment occurs not later than one hundred twenty days after that date.

(2) The date the payment is made, if the payment occurs more than one hundred twenty days after the distribution is authorized.

4. A limited liability company's indebtedness to a member or transferee incurred by reason of a distribution made in accordance with this section is at parity with the company's indebtedness to its general, unsecured creditors, except to the extent subordinated by agreement.

5. A limited liability company's indebtedness, including indebtedness issued as a distribution, is not a liability for purposes of subsection 1 if the terms of the indebtedness

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provide that payment of principal and interest is made only if and to the extent that payment of a distribution could then be made under this section. If the indebtedness is issued as a distribution, each payment of principal or interest is treated as a distribution, the effect of which is measured on the date the payment is made.

6. In measuring the effect of a distribution under section 489.707, the liabilities of a dissolved limited liability company do not include any claim that has been disposed of under section 489.704, 489.705, or 489.706.

2008 Acts, ch 1162, §35, 155; 2023 Acts, ch 152, §39, 161
Referred to in §489.105, 489.406, 489.408

489.406 Liability for improper distributions.

1. Except as otherwise provided in subsection 2, if a member of a member-managed limited liability company or a manager of a manager-managed limited liability company consents to a distribution made in violation of section 489.405 and in consenting to the distribution fails to comply with section 489.409, the member or manager is personally liable to the company for the amount of the distribution which exceeds the amount that could have been distributed without the violation of section 489.405.

2. To the extent the operating agreement of a member-managed limited liability company expressly relieves a member of the authority and responsibility to consent to distributions and imposes that authority and responsibility on one or more other members, the liability stated in subsection 1 applies to the other members and not the member that the operating agreement relieves of the authority and responsibility.

3. A person that receives a distribution knowing that the distribution violated section 489.405 is personally liable to the limited liability company but only to the extent that the distribution received by the person exceeded the amount that could have been properly paid under section 489.405.

4. A person against which an action is commenced because the person is liable under subsection 1 may do all of the following:

a. Implead any other person that is liable under subsection 1 and seek to enforce a right of contribution from the person.

b. Implead any person that received a distribution in violation of subsection 3 and seek to enforce a right of contribution from the person in the amount the person received in violation of subsection 3.

5. An action under this section is barred unless commenced not later than two years after the distribution.

2008 Acts, ch 1162, §36, 155; 2023 Acts, ch 152, §40, 161
Referred to in §489.105, 489.502

489.407 Management of limited liability company.

1. A limited liability company is a member-managed limited liability company unless the operating agreement does any of the following:

a. Expressly provides that any of the following apply:

(1) The limited liability company is or will be "manager-managed".

(2) The limited liability company is or will be "managed by managers".

(3) Management of the limited liability company is or will be "vested in managers".

b. Includes words of similar import.

2. In a member-managed limited liability company, all of the following rules apply:

a. Except as expressly provided in this chapter, the management and conduct of the limited liability company are vested in the members.

b. Each member has equal rights in the management and conduct of the limited liability company's activities and affairs.

c. A difference arising among members as to a matter in the ordinary course of the activities and affairs of the limited liability company may be decided by a majority of the members.

d. The affirmative vote or consent of all the members is required to do any of the following:

(1) Sell, lease, exchange, or otherwise dispose of all, or substantially all, of the limited

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liability company's property, with or without good will, outside the ordinary course of the company's activities.

(2) Undertake an act outside the ordinary course of the activities and affairs of the limited liability company.

(3) Approve a merger, interest exchange, conversion, or domestication under subchapter X.

(4) Amend the operating agreement.

3. In a manager-managed limited liability company, all of the following rules apply:

a. Except as expressly provided in this chapter, any matter relating to the activities and affairs of the limited liability company is decided exclusively by the manager, or, if there is more than one manager, by a majority of the managers.

b. Each manager has equal rights in the management and conduct of the activities and affairs of the limited liability company.

c. The affirmative vote or consent of all members is required to do any of the following:

(1) Sell, lease, exchange, or otherwise dispose of all, or substantially all, of the limited liability company's property, with or without goodwill, outside the ordinary course of the company's activities.

(2) Undertake any other act outside the ordinary course of the limited liability company's activities and affairs.

(3) Approve a merger, interest exchange, conversion, or domestication under subchapter X.

(4) Amend the operating agreement.

d. A manager may be chosen at any time by the affirmative vote or consent of a majority of the members and remains a manager until a successor has been chosen, unless the manager at an earlier time resigns, is removed, or dies, or, in the case of a manager that is not an individual, terminates. A manager may be removed at any time by the affirmative vote or consent of a majority of the members without notice or cause.

e. A person need not be a member to be a manager, but the dissociation of a member that is also a manager removes the person as a manager. If a person that is both a manager and a member ceases to be a manager, that cessation does not by itself dissociate the person as a member.

f. A person's ceasing to be a manager does not discharge any debt, obligation, or other liability to the limited liability company or members which the person incurred while a manager.

4. An action requiring the vote or consent of members under this chapter may be taken without a meeting, and a member may appoint a proxy or other agent to vote, consent, or otherwise act for the member by signing an appointing record, personally or by the member's agent.

5. The dissolution of a limited liability company does not affect the applicability of this section. However, a person that wrongfully causes dissolution of the company loses the right to participate in management as a member and a manager.

6. A limited liability company shall reimburse a member for an advance to the company beyond the amount of capital the member agreed to contribute.

7. A payment or advance made by a member which gives rise to a limited liability company obligation under subsection 6 or section 489.408, subsection 1, constitutes a loan to the company which accrues interest from the date of the payment or advance.

8. A member is not entitled to remuneration for services performed for a member-managed limited liability company, except for reasonable compensation for services rendered in winding up the activities of the company.

2008 Acts, ch 1162, §37, 155; 2019 Acts, ch 26, §54; 2023 Acts, ch 152, §41, 161

Referred to in §489.102, 489.408, 489.702

489.407A Real estate interest transferred by limited liability company or foreign limited liability company.

1. A transfer of an interest in real estate situated in this state held by a limited liability

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company or a registered foreign limited liability company authorized to do business in this state is subject to the provisions of this section.

2. *a.* In a member-managed limited liability company, a transfer of an interest in real estate held by the company may be undertaken by any of the following:

(1) As provided in the operating agreement, or if the operating agreement does not so provide, only with the consent of all members.

(2) As provided in a statement of authority filed by the limited liability company with the secretary of state and the recorder of the county where the real estate is situated pursuant to section 489.302.

b. A requirement of paragraph *"a"* is applicable to every transfer of an interest in real estate situated in this state held by a member-managed limited liability company, whether or not the transfer is in the ordinary course of the company's business.

3. *a.* In a manager-managed limited liability company, a transfer of an interest in real estate held by the company may be undertaken by any of the following:

(1) As provided in the operating agreement, or if the operating agreement does not so provide, only with the consent of a majority of all managers.

(2) As provided in a statement of authority filed by the limited liability company with the secretary of state and the recorder of the county where the real estate is situated pursuant to section 489.302.

b. A requirement in paragraph *"a"* is applicable to every transfer of an interest in real estate situated in this state held by a manager-managed limited liability company, whether or not the transfer is in the ordinary course of the company's business.

2013 Acts, ch 108, §4; 2023 Acts, ch 152, §42, 161

489.408 Reimbursement, indemnification, advancement, and insurance.

1. A limited liability company shall reimburse a member of a member-managed limited liability company or the manager of a manager-managed limited liability company for any payment made by the member or manager in the course of the member's or manager's activities on behalf of the company, if the member or manager complied with sections 489.405, 489.407, and 489.409 in making the payment.

2. A limited liability company shall indemnify and hold harmless a person with respect to any claim or demand against the person and any debt, obligation, or other liability incurred by the person by reason of the person's former or present capacity as a member or manager, if the claim, demand, debt, obligation, or other liability does not arise from the person's breach of section 489.405, 489.407, or 489.409.

3. In the ordinary course of its activities and affairs, a limited liability company may advance reasonable expenses, including attorney's fees and costs, incurred by a person in connection with a claim or demand against the person by reason of the person's former or present capacity as a member or manager, if the person promises to repay the company if the person ultimately is determined not to be entitled to be indemnified under subsection 2.

4. A limited liability company may purchase and maintain insurance on behalf of a member or manager against liability asserted against or incurred by the member or manager in that capacity or arising from that status even if, under section 489.105, subsection 3, paragraph *"g"*, the operating agreement could not eliminate or limit the person's liability to the company for the conduct giving rise to the liability.

2008 Acts, ch 1162, §38, 155; 2023 Acts, ch 152, §43, 161

Referred to in §489.105, 489.407

489.409 Standards of conduct for members and managers.

1. A member of a member-managed limited liability company owes to the company and, subject to section 489.801, subsection 2, the other members the fiduciary duties of loyalty and care stated in subsections 2 and 3.

2. The fiduciary duty of loyalty of a member in a member-managed limited liability company includes all of the following duties:

a. To account to the limited liability company and to hold as trustee for it any property, profit, or benefit derived by the member regarding any of the following:

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(1) In the conduct or winding up of the limited liability company's activities and affairs.
(2) From a use by the member of the limited liability company's property.
(3) From the appropriation of a limited liability company opportunity.

b. To refrain from dealing with the limited liability company in the conduct or winding up of the company's activities and affairs as or on behalf of a person having an interest adverse to the company.

c. To refrain from competing with the limited liability company in the conduct of the company's activities and affairs before the dissolution of the company.

3. The duty of care of a member of a member-managed limited liability company in the conduct or winding up of the company's activities and affairs is to refrain from engaging in grossly negligent or reckless conduct, willful or intentional misconduct, or knowing violation of law.

4. A member shall discharge the duties and obligations under this chapter or under the operating agreement and exercise any rights consistently with the contractual obligation of good faith and fair dealing.

5. A member does not violate a duty or obligation under this chapter or under the operating agreement solely because the member's conduct furthers the member's own interest.

6. All the members of a member-managed limited liability company or a manager-managed limited liability company may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty.

7. It is a defense to a claim under subsection 2, paragraph "*b*", and any comparable claim in equity or at common law that the transaction was fair to the limited liability company.

8. If, as permitted by subsection 6 or subsection 9, paragraph "*f*", or the operating agreement, a member enters into a transaction with the limited liability company which otherwise would be prohibited by subsection 2, paragraph "*b*", the member's rights and obligations arising from the transaction are the same as those of a person that is not a member.

9. In a manager-managed limited liability company, all of the following rules apply:

a. Subsections 1, 2, 3, and 7 apply to the manager or managers and not the members.

b. The duty stated under subsection 2, paragraph "*c*", continues until winding up is completed.

c. Subsection 4 applies to managers and members.

d. Subsection 5 applies only to members.

e. The power to ratify under subsection 6 may be exercised only by the members.

f. Subject to subsection 4, a member does not have any duty to the limited liability company or to any other member solely by reason of being a member.

2008 Acts, ch 1162, §39, 155; 2023 Acts, ch 152, §44, 161
Referred to in §489.105, 489.406, 489.408, 489.602, 489.603

489.410 Rights to information of member, manager, and person dissociated as member.

1. In a member-managed limited liability company, all of the following rules apply:

a. On reasonable notice, a member may inspect and copy during regular business hours, at a reasonable location specified by the limited liability company, any record maintained by the company regarding the company's activities, affairs, financial condition, and other circumstances, to the extent the information is material to the member's rights and duties under the operating agreement or this chapter.

b. The limited liability company shall furnish to each member all of the following:

(1) Without demand, any information concerning the limited liability company's activities, affairs, financial condition, and other circumstances which the company knows and is material to the proper exercise of the member's rights and duties under the operating agreement or this chapter, except to the extent the company can establish that it reasonably believes the member already knows the information.

(2) On demand, any other information concerning the limited liability company's activities, affairs, financial condition, and other circumstances, except to the extent the

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demand for the information demanded is unreasonable or otherwise improper under the circumstances.

c. The duty to furnish information under paragraph *"b"* also applies to each member to the extent the member knows any of the information described in paragraph *"b"*.

2. In a manager-managed limited liability company, all of the following rules apply:

a. The informational rights stated in subsection 1 and the duty stated in subsection 1, paragraph *"c"*, apply to the managers and not the members.

b. During regular business hours and at a reasonable location specified by the limited liability company, a member may inspect and copy information regarding the activities, affairs, financial condition, and other circumstances of the company as is just and reasonable if all of the following apply:

(1) The member seeks the information for a purpose reasonably related to the member's interest as a member.

(2) The member makes a demand in a record received by the limited liability company, describing with reasonable particularity the information sought and the purpose for seeking the information.

(3) The information sought is directly connected to the member's purpose.

c. Not later than ten days after receiving a demand pursuant to paragraph *"b"*, subparagraph (2), the limited liability company shall inform in a record the member that made the demand that includes all of the following:

(1) What information the limited liability company will provide in response to the demand and when and where the company will provide the information.

(2) The limited liability company's reasons for declining, if the company declines to provide any demanded information.

d. Whenever this chapter or an operating agreement provides for a member to vote on or give or withhold consent to a matter, before the vote is cast or consent is given or withheld, the limited liability company shall, without demand, provide the member with all information that is known to the company and is material to the member's decision.

3. Subject to subsection 8, on ten days' demand made in a record received by a limited liability company, a person dissociated as a member may have access to the information to which the person was entitled while a member if all of the following apply:

a. The information pertains to the period during which the person was a member.

b. The person seeks the information in good faith.

c. The person satisfies the requirements imposed on a member by subsection 2, paragraph *"b"*.

4. A limited liability company shall respond to a demand made pursuant to subsection 3 in the manner provided in subsection 2, paragraph *"c"*.

5. A limited liability company may charge a person that makes a demand under this section the reasonable costs of copying, limited to the costs of labor and material.

6. A member or person dissociated as a member may exercise the rights under this section through an agent or, in the case of an individual under legal disability, a legal representative. Any restriction or condition imposed by the operating agreement or under subsection 8 applies both to the agent or legal representative and to the member or person dissociated as a member.

7. Subject to section 489.504, the rights under this section do not extend to a person as transferee.

8. In addition to any restriction or condition stated in its operating agreement, a limited liability company, as a matter within the ordinary course of its activities and affairs, may impose reasonable restrictions and conditions on access to and use of information to be furnished under this section, including designating information confidential and imposing nondisclosure and safeguarding obligations on the recipient. In a dispute concerning the reasonableness of a restriction under this subsection, the company has the burden of proving reasonableness.

2008 Acts, ch 1162, §40, 155; 2023 Acts, ch 152, §45, 161

Referred to in §489.105, 489.504, 489.805, 489.14305

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489.411 through 489.500 Reserved.

SUBCHAPTER V

TRANSFERABLE INTERESTS AND
RIGHTS OF TRANSFEREES
AND CREDITORS

489.501 Nature of transferable interest.

A transferable interest is personal property.

2008 Acts, ch 1162, §41, 155

489.502 Transfer of transferable interest.

1. Subject to section 489.503, subsection 6, for a transfer, in whole or in part, all of the following applies to a transferable interest:

a. It is permissible.

b. It does not by itself cause a person's dissociation as a member or a dissolution and winding up of the limited liability company's activities and affairs.

c. Subject to section 489.504, it does not entitle the transferee to do any of the following:

(1) Participate in the management or conduct of the limited liability company's activities and affairs.

(2) Except as otherwise provided in subsection 3, have access to records or other information concerning the limited liability company's activities and affairs.

2. A transferee has the right to receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled.

3. In a dissolution and winding up of a limited liability company, a transferee is entitled to an account of the company's transactions only from the date of dissolution.

4. A transferable interest may be evidenced by a certificate of the interest issued by a limited liability company in a record, and, subject to this section, the interest represented by the certificate may be transferred by a transfer of the certificate.

5. A limited liability company need not give effect to a transferee's rights under this section until the company knows or has notice of the transfer.

6. A transfer of a transferable interest in violation of a restriction on transfer contained in the operating agreement is ineffective if the intended transferee has knowledge or notice of the restriction at the time of transfer.

7. Except as otherwise provided in section 489.602, subsection 5, paragraph *"b"*, if a member transfers a transferable interest, the transferor retains the rights of a member other than the transferable interest transferred and retains all duties and obligations of a member.

8. If a member transfers a transferable interest to a person that becomes a member with respect to the transferred interest, the transferee is liable for the member's obligations under sections 489.403 and 489.406 known to the transferee when the transferee becomes a member.

2008 Acts, ch 1162, §42, 155; 2023 Acts, ch 152, §46, 161

Referred to in §489.404, 489.503, 489.504

489.503 Charging order.

1. On application by a judgment creditor of a member or transferee, a court may enter a charging order against the transferable interest of the judgment debtor for the unsatisfied amount of the judgment. Except as otherwise provided in subsection 6, a charging order constitutes a lien on a judgment debtor's transferable interest and requires the limited liability company to pay over to the person to which the charging order was issued any distribution that otherwise would be paid to the judgment debtor.

2. To the extent necessary to effectuate the collection of distributions pursuant to a charging order in effect under subsection 1, the court may do all of the following:

a. Appoint a receiver of the distributions subject to the charging order, with the power to make all inquiries the judgment debtor might have made.

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b. Make all other orders necessary to give effect to the charging order.

3. Upon a showing that distributions under a charging order will not pay the judgment debt within a reasonable time, the court may foreclose the lien and order the sale of the transferable interest. Except as otherwise provided in subsection 6, the purchaser at the foreclosure sale obtains only the transferable interest, does not thereby become a member, and is subject to section 489.502.

4. At any time before foreclosure under subsection 3, the member or transferee whose transferable interest is subject to a charging order under subsection 1 may extinguish the charging order by satisfying the judgment and filing a certified copy of the satisfaction with the court that issued the charging order.

5. At any time before foreclosure under subsection 3, a limited liability company or one or more members whose transferable interests are not subject to the charging order may pay to the judgment creditor the full amount due under the judgment and thereby succeed to the rights of the judgment creditor, including the charging order.

6. If a court orders foreclosure of a charging order lien against the sole member of a limited liability company all of the following apply:

a. The court shall confirm the sale.

b. The purchaser at the sale obtains the member's entire interest, not only the member's transferable interest.

c. The purchaser thereby becomes a member.

d. The person whose interest was subject to the foreclosed charging order is dissociated as a member.

7. This chapter does not deprive any member or transferee of the benefit of any exemption law applicable to the transferable interest of the member or transferee.

8. This section provides the exclusive remedy by which a person seeking in the capacity of judgment creditor to enforce a judgment against a member or transferee may satisfy the judgment from the judgment debtor's transferable interest.

2008 Acts, ch 1162, §43, 155; 2023 Acts, ch 152, §47, 161
Referred to in §489.107, 489.404, 489.502, 489.602, 489.707, 489.14403

489.504 Power of personal representative of deceased member.

If a member dies, the deceased member's legal representative may exercise all of the following:

1. The rights of a transferee provided in section 489.502, subsection 3.

2. For the purposes of settling the estate, the rights the deceased member had under section 489.410.

2008 Acts, ch 1162, §44, 155; 2023 Acts, ch 152, §48, 161
Referred to in §489.410, 489.502, 489.603, 489.14305

489.505 through 489.600 Reserved.

SUBCHAPTER VI

DISSOCIATION

Referred to in §489.14107

489.601 Power to dissociate as a member — wrongful dissociation.

1. A person has the power to dissociate as a member at any time, rightfully or wrongfully, by withdrawing as a member by express will under section 489.602, subsection 1.

2. A person's dissociation as a member is wrongful only if any of the following applies to the dissociation:

a. It is in breach of an express provision of the operating agreement.

b. It occurs before the completion of the winding up of the limited liability company and any of the following applies:

(1) The person withdraws as a member by express will.

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(2) The person is expelled as a member by judicial order under section 489.602, subsection 6.

(3) The person is dissociated under section 489.602, subsection 8.

(4) In the case of a person that is not a trust other than a business trust, an estate, or an individual, the person is expelled or otherwise dissociated as a member because it willfully dissolved or terminated.

3. A person that wrongfully dissociates as a member is liable to the limited liability company and, subject to section 489.801, to the other members for damages caused by the dissociation. The liability is in addition to any debt, obligation, or other liability of the member to the company or the other members.

2008 Acts, ch 1162, §45, 155; 2023 Acts, ch 152, §49, 161

489.602 Events causing dissociation.

A person is dissociated as a member when any of the following applies:

1. The limited liability company knows or has notice of the person's express will to withdraw as a member, but, if the person specified a withdrawal date later than the date the limited liability company knew or had notice, on that later date.

2. An event stated in the operating agreement as causing the person's dissociation occurs.

3. The person's entire interest is transferred in a foreclosure sale under section 489.503, subsection 6.

4. The person is expelled as a member pursuant to the operating agreement.

5. The person is expelled as a member by the affirmative vote or consent of all the other members if any of the following apply:

a. It is unlawful to carry on the limited liability company's activities and affairs with the person as a member.

b. There has been a transfer of all the person's transferable interest in the limited liability company, other than any of the following:

(1) A transfer for security purposes.

(2) A charging order in effect under section 489.503 which has not been foreclosed.

c. The person is an entity and all of the following apply:

(1) The limited liability company notifies the person that it will be expelled as a member because the person has filed a statement of dissolution or the equivalent, the person has been administratively dissolved, the person's charter or the equivalent has been revoked, or the person's right to conduct business has been suspended by the person's jurisdiction of formation.

(2) Not later than ninety days after the notification, the statement of dissolution or the equivalent has not been withdrawn, rescinded, or revoked, the person has not been reinstated, or the person's charter or the equivalent or right to conduct business has not been reinstated.

d. The person is an unincorporated entity that has been dissolved and whose activities and affairs are being wound up.

6. On application by the limited liability company or a member in a direct action under section 489.801, the person is expelled as a member by judicial order because any of the following apply:

a. The person has engaged or is engaging in wrongful conduct that has affected adversely and materially, or will affect adversely and materially, the company's activities and affairs.

b. The person has committed willfully or persistently, or is committing willfully or persistently, a material breach of the operating agreement or a duty or obligation under section 489.409.

c. The person has engaged or is engaging in conduct relating to the limited liability company's activities and affairs which makes it not reasonably practicable to carry on the activities and affairs with the person as a member.

7. In the case of an individual any of the following apply:

a. The individual dies.

b. In a member-managed limited liability company any of the following apply:

(1) A guardian or general conservator for the individual is appointed.

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(2) A court orders that the individual has otherwise become incapable of performing the individual's duties as a member under this chapter or the operating agreement.

8. In a member-managed limited liability company, any of the following apply:

a. The person becomes a debtor in bankruptcy.

b. The person signs an assignment for the benefit of creditors.

c. The person seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the person or of all or substantially all the person's property.

9. In the case of a person that is a testamentary or inter vivos trust or is acting as a member by virtue of being a trustee of such a trust, the trust's entire transferable interest in the limited liability company is distributed.

10. In the case of a person that is an estate or is acting as a member by virtue of being a personal representative of an estate, the estate's entire transferable interest in the limited liability company is distributed.

11. In the case of a person that is not an individual, the existence of the person terminates.

12. The limited liability company participates in a merger under subchapter X and any of the following apply:

a. The limited liability company is not the surviving entity.

b. Otherwise as a result of the merger, the person ceases to be a member.

13. The limited liability company participates in an interest exchange under subchapter X and, as a result of the interest exchange, the person ceases to be a member.

14. The limited liability company participates in a conversion under subchapter X.

15. The limited liability company participates in a domestication under subchapter X and, as a result of the domestication, the person ceases to be a member.

16. The limited liability company dissolves and completes winding up.

2008 Acts, ch 1162, §46, 155; 2023 Acts, ch 152, §50, 161
Referred to in §489.102, 489.502, 489.601

489.603 Effect of dissociation.

1. If a person is dissociated as a member, all of the following apply:

a. The person's right to participate as a member in the management and conduct of the limited liability company's activities and affairs terminates.

b. The person's duties and obligations under section 489.409 as a member end with regard to matters arising and events occurring after the person's dissociation.

c. Subject to section 489.504 and subchapter X, any transferable interest owned by the person in the person's capacity as a member immediately before dissociation is owned by the person solely as a transferee.

2. A person's dissociation as a member of a limited liability company does not of itself discharge the person from any debt, obligation, or other liability to the company or the other members which the person incurred while a member.

2008 Acts, ch 1162, §47, 155; 2023 Acts, ch 152, §51, 161
Referred to in §489.102

489.604 Member's power to dissociate under certain circumstances.

1. If the certificate of organization or an operating agreement does not specify the time or the events upon the happening of which a member may dissociate from a limited liability company, a member may dissociate from the company in the event any amendment to the certificate of organization or operating agreement that is adopted over the member's written dissent adversely affects the rights or preferences of the dissenting member's transferable interest in any of the ways described in paragraphs "*a*" through "*f*". A dissociation in the event of such dissent and adverse effect is deemed to have occurred as of the effective date of the amendment, if the member gives notice to the company not more than sixty days after the date of the amendment. In valuing the member's distribution pursuant to this subsection, any depreciation in anticipation of the amendment shall be excluded. An amendment that does any of the following is subject to this section:

a. Alters or abolishes a member's right to receive a distribution.

b. Alters or abolishes a member's right to voluntarily dissociate.

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c. Alters or abolishes a member's right to vote on any matter, except as the rights may be altered or abolished through the acceptance of contributions or the making of contribution agreements.

d. Alters or abolishes a member's preemptive right to make contributions.

e. Establishes or changes the conditions for or consequences of expulsion.

f. Waives the application of this section to the limited liability company.

2. A member dissociating from a limited liability company under this section is not liable for damages for the breach of any agreement not to withdraw.

3. This section applies to a limited liability company whose original articles of organization or certificate of organization is filed with the secretary of state on or after July 1, 1997.

4. This section applies to a limited liability company whose original articles of organization are filed with the secretary of state and effective on or prior to June 30, 1997, if such company's operating agreement provides that it is subject to this section.

5. The operating agreement of a limited liability company may waive the applicability of this section to the company and its members.

2008 Acts, ch 1162, §48, 155; 2023 Acts, ch 152, §52, 161

489.605 through 489.700 Reserved.

SUBCHAPTER VII

DISSOLUTION AND WINDING UP

Referred to in §489.14107

489.701 Events causing dissolution.

1. A limited liability company is dissolved, and its activities and affairs must be wound up, upon the occurrence of any of the following:

a. An event or circumstance that the operating agreement states causes dissolution.

b. The affirmative vote or consent of all the members.

c. After the limited liability company has at least one member, that member and any other member dissociate, and ninety consecutive days pass during which the company has no members, unless before the end of the period all of the following apply:

(1) Consent to admit at least one specified person as a member is given by transferees owning the rights to receive a majority of distributions as transferees at the time the consent is to be effective.

(2) At least one person becomes a member in accordance with the consent.

d. On application by a member, the entry by the district court of an order dissolving the limited liability company on the grounds that any of the following applies:

(1) The conduct of all or substantially all the limited liability company's activities and affairs is unlawful.

(2) It is not reasonably practicable to carry on the limited liability company's activities and affairs in conformity with the certificate of organization and the operating agreement.

(3) The managers or those members in control of the limited liability company conduct themselves according to any of the following:

(a) Have acted, are acting, or will act in a manner that is illegal or fraudulent.

(b) Have acted or are acting in a manner that is oppressive and was, is, or will be directly harmful to the applicant.

e. The signing and filing of a statement of administrative dissolution by the secretary of state under section 489.708.

2. In a proceeding brought under subsection 1, paragraph *"d"*, subparagraph (3), the district court may order a remedy other than dissolution.

2008 Acts, ch 1162, §49, 155; 2023 Acts, ch 152, §53, 161

Referred to in §489.105, 489.109, 489.401, 489.702, 489.703

489.701A Rescinding dissolution. Transferred to §489.703; 2023 Acts, ch 152, §143, 161.

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489.702 Winding up.

1. A dissolved limited liability company shall wind up its activities and affairs, and except as otherwise provided in section 489.703, the company continues after dissolution only for the purpose of winding up.

2. In winding up its activities and affairs, all of the following apply to a limited liability company:

a. It shall discharge the limited liability company's debts, obligations, and other liabilities, settle and close the company's activities and affairs, and marshal and distribute the assets of the company.

b. It may do all of the following:

(1) Deliver to the secretary of state for filing a statement of dissolution stating the name of the limited liability company and that the company is dissolved.

(2) Preserve the limited liability company activities, affairs, and property as a going concern for a reasonable time.

(3) Prosecute and defend actions and proceedings, whether civil, criminal, or administrative.

(4) Transfer the limited liability company's property.

(5) Settle disputes by mediation or arbitration.

(6) Deliver to the secretary of state for filing a statement of termination stating the name of the limited liability company and that the company is terminated.

(7) Perform other acts necessary or appropriate to the winding up.

3. If a dissolved limited liability company has no members, the legal representative of the last person to have been a member may wind up the activities and affairs of the company. If the person does so, the person has the powers of a sole manager under section 489.407, subsection 3, and is deemed to be a manager for the purposes of section 489.304, subsection 1.

4. If the legal representative under subsection 3 declines or fails to wind up the limited liability company's activities and affairs, a person may be appointed to do so by the consent of transferees owning a majority of the rights to receive distributions as transferees at the time the consent is to be effective. All of the following apply to a person appointed under this subsection:

a. The person has the powers of a sole manager under section 489.407, subsection 3, and is deemed to be a manager for the purposes of section 489.304, subsection 1.

b. The person shall deliver promptly to the secretary of state for filing an amendment to the limited liability company's certificate of organization stating all of the following:

(1) That the limited liability company has no members.

(2) The name and street and mailing addresses of the person.

(3) That the person has been appointed pursuant to this subsection to wind up the limited liability company's activities and affairs.

5. The district court may order judicial supervision of the winding up of a dissolved limited liability company, including the appointment of a person to wind up the company's activities and affairs pursuant to any of the following:

a. On application of a member, if the applicant establishes good cause.

b. On the application of a transferee, if all of the following apply:

(1) The limited liability company does not have any members.

(2) The legal representative of the last person to have been a member declines or fails to wind up the limited liability company's activities and affairs.

(3) Within a reasonable time following the dissolution a person has not been appointed pursuant to subsection 3.

c. In connection with a proceeding under section 489.701, subsection 1, paragraph *"d"*.

2008 Acts, ch 1162, §50, 155; 2009 Acts, ch 133, §161; 2023 Acts, ch 152, §55, 161

Referred to in §489.103, 489.105, 489.109, 489.203, 489.709, 489.14502

489.703 Rescinding dissolution.

1. A limited liability company may rescind its dissolution, unless a statement of termination applicable to the company has become effective, the district court has entered

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an order under section 489.701, subsection 1, paragraph *"d"*, dissolving the company, or the secretary of state has dissolved the company under section 489.708.

2. Rescinding dissolution under this section requires all of the following:

a. The affirmative vote or consent of each member.

b. If the limited liability company has delivered to the secretary of state for filing a statement of dissolution and any of the following apply:

(1) If the statement has not become effective, delivery to the secretary of state for filing of a statement of withdrawal under section 489.208 applicable to the statement of dissolution.

(2) If the statement of dissolution has become effective, delivery to the secretary of state for filing of a statement of rescission stating the name of the limited liability company and that dissolution has been rescinded under this section.

3. If a limited liability company rescinds its dissolution all of the following apply:

a. The limited liability company resumes carrying on its activities and affairs as if dissolution had never occurred.

b. Subject to paragraph *"c"*, any liability incurred by the limited liability company after the dissolution and before the rescission has become effective shall be determined as if dissolution had never occurred.

c. The rights of a third party arising out of conduct in reliance on the dissolution before the third party knew or had notice of the rescission must not be adversely affected.

2019 Acts, ch 26, §57
C2020, §489.701A
2020 Acts, ch 1063, §266, 267; 2023 Acts, ch 152, §54, 143, 161
C2024, §489.703
Referred to in §489.109, 489.702
Former §489.703 transferred to §489.704; 2023 Acts, ch 152, §143, 161

489.704 Known claims against dissolved limited liability company.

1. Except as otherwise provided in subsection 4, a dissolved limited liability company may give notice of a known claim under subsection 2, which has the effect provided in subsection 3.

2. A dissolved limited liability company may in a record notify its known claimants of the dissolution. The notice must do all of the following:

a. Specify the information required to be included in a claim.

b. State that a claim must be in writing and provide a mailing address to which the claim is to be sent.

c. State the deadline for receipt of a claim, which may not be less than one hundred twenty days after the date the notice is received by the claimant.

d. State that the claim will be barred if not received by the deadline.

3. A claim against a dissolved limited liability company is barred if the requirements of subsection 2 are met and any of the following applies:

a. The claim is not received by the specified deadline.

b. If the claim is timely received but rejected by the limited liability company, all of the following must apply:

(1) The limited liability company causes the claimant to receive a notice in a record stating that the claim is rejected and will be barred unless the claimant commences an action against the company to enforce the claim not later than ninety days after the claimant receives the notice.

(2) The claimant does not commence the required action not later than the ninety days after the claimant receives the notice.

4. This section does not apply to a claim based on an event occurring after the date of dissolution or a liability that on that date is contingent.

2008 Acts, ch 1162, §51, 155
C2009, §489.703
2023 Acts, ch 152, §56, 143, 161
C2024, §489.704
Referred to in §489.405, 489.705, 489.709, 489.14502
Former §489.704 transferred to §489.705; 2023 Acts, ch 152, §143, 161

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489.705 Other claims against dissolved limited liability company.

1. A dissolved limited liability company may publish notice of its dissolution and request persons having claims against the company to present them in accordance with the notice.

2. The notice under subsection 1 must meet all of the following requirements:

a. Comply with any of the following:

(1) Publication of the notice one time in a newspaper of general circulation in the county in this state in which the dissolved limited liability company's principal office is located or, if the principal office is not located in this state, in the county in which the office of the company's registered agent is or was last located.

(2) Publication by posting the notice conspicuously for at least thirty days on the dissolved limited liability company's internet site.

b. Describe the information required to be contained in a claim, state that the claim must be in writing, and provide a mailing address to which the claim is to be sent.

c. State that a claim against the limited liability company is barred unless an action to enforce the claim is commenced not later than three years after publication of the notice.

3. If a dissolved limited liability company publishes a notice in accordance with subsection 2, the claim of each of the following claimants is barred unless the claimant commences an action to enforce the claim against the company not later than three years after the publication date of the notice:

a. A claimant that did not receive notice in a record under section 489.704.

b. A claimant whose claim was timely sent to the limited liability company but not acted on.

c. A claimant whose claim is contingent at, or based on an event occurring after, the date of dissolution.

4. A claim not barred under this section or section 489.704 may be enforced as follows:

a. Against a dissolved limited liability company, to the extent of its undistributed assets.

b. Except as otherwise provided in section 489.706, if assets of the limited liability company have been distributed after dissolution, against a member or transferee to the extent of that person's proportionate share of the claim or of the company's assets distributed to the member or transferee after dissolution, whichever is less, but a person's total liability for all claims under this paragraph does not exceed the total amount of assets distributed to the person after dissolution.

2008 Acts, ch 1162, §52, 155
C2009, §489.704
2023 Acts, ch 152, §57, 143, 161
C2024, §489.705
Referred to in §489.405, 489.706, 489.709, 489.1207, 489.14502
Former §489.705 transferred to §489.708; 2023 Acts, ch 152, §143, 161

489.706 Court proceedings.

1. A dissolved limited liability company that has published a notice under section 489.705 may file an application with the district court in the county where the company's principal office is located or, if the principal office is not located in this state, where the office of its registered agent is or was last located, for a determination of the amount and form of security to be provided for payment of claims that are reasonably expected to arise after the date of dissolution based on facts known to the company and any of the following apply:

a. At the time of application any of the following apply:

(1) The facts are contingent.

(2) The facts have not been made known to the limited liability company.

b. The facts are based on an event occurring after the date of dissolution.

2. Security is not required for any claim that is or is reasonably anticipated to be barred under section 489.705.

3. Not later than ten days after the filing of an application under subsection 1, the dissolved limited liability company shall give notice of the proceeding to each claimant holding a contingent claim known to the company.

4. In a proceeding under this section, the court may appoint a guardian ad litem to

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represent all claimants whose identities are unknown. The reasonable fees and expenses of the guardian, including all reasonable expert witness fees, must be paid by the dissolved limited liability company.

5. A dissolved limited liability company that provides security in the amount and form ordered by the court under subsection 1 satisfies the company's obligations with respect to claims that are contingent, have not been made known to the company, or are based on an event occurring after the date of dissolution, and such claims may not be enforced against a member or transferee on account of assets received in liquidation.

2023 Acts, ch 152, §60, 143, 161
Referred to in §489.405, 489.705
Former §489.706 transferred to §489.710; 2023 Acts, ch 152, §143, 161

489.707 Disposition of assets in winding up.

1. In winding up its activities and affairs, a limited liability company shall apply its assets to discharge the company's obligations to creditors, including members that are creditors.

2. After a limited liability company complies with subsection 1, any surplus must be distributed in the following order, subject to any charging order in effect under section 489.503:

a. To each person owning a transferable interest that reflects contributions made and not previously returned, an amount equal to the value of the unreturned contributions.

b. Among persons owning transferable interests in proportion to their respective rights to share in distributions immediately before the dissolution of the limited liability company.

3. If a limited liability company does not have sufficient surplus to comply with subsection 2, paragraph *"a"*, any surplus must be distributed among the owners of transferable interests in proportion to the value of the respective unreturned contributions.

4. All distributions made under subsections 2 and 3 must be paid in money.

2008 Acts, ch 1162, §56, 155
C2009, §489.708
2023 Acts, ch 152, §62, 143, 161
C2024, §489.707
Referred to in §489.404, 489.405
Former §489.707 transferred to §489.711; 2023 Acts, ch 152, §143, 161

489.708 Grounds for administrative dissolution.

The secretary of state may commence a proceeding under section 489.709 to dissolve a limited liability company administratively, if any of the following apply:

1. The limited liability company does not pay within sixty days after they are due any fees, taxes, interest, or penalties imposed by this chapter or other laws of this state.

2. The limited liability company does not deliver its biennial report required by section 489.212 to the secretary of state within sixty days after it is due.

3. The limited liability company is without a registered agent or the registered agent does not have a place of business in this state for sixty days or more.

4. The secretary of state has not been notified within sixty days that the limited liability company's registered agent or place of business of the registered agent has been changed, or that its registered agent has resigned, or that the address of the registered agent has been discontinued.

5. The limited liability company's period of duration stated in its certificate of organization expires.

6. The limited liability company or foreign limited liability company concedes that the company has violated a provision or provisions of this chapter that are the subjects of the interrogatories served on the company pursuant to section 489.212B.

2008 Acts, ch 1162, §53, 155
C2009, §489.705
2010 Acts, ch 1100, §14; 2023 Acts, ch 152, §58, 143, 161

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C2024, §489.708
2024 Acts, ch 1125, §14, 31; 2026 Acts, ch 1145, §15
Referred to in §489.211, 489.701, 489.703, 489.709
Former §489.708 transferred to §489.707; 2023 Acts, ch 152, §143, 161
NEW subsection 6

489.709 Procedure for and effect of administrative dissolution.

1. If the secretary of state determines that one or more grounds exist under section 489.708, subsections 1 through 5, for dissolving a limited liability company, the secretary of state shall serve the company with written notice of such determination under section 489.119.

2. Except as specified in subsection 5, if the limited liability company does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty days after service of the notice under section 489.119, the secretary of state shall administratively dissolve the company by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the company under section 489.119.

3. A limited liability company administratively dissolved continues its existence but shall not carry on any business except that necessary to wind up and liquidate its business and affairs under section 489.702 and notify claimants under sections 489.704 and 489.705.

4. The administrative dissolution of a limited liability company does not terminate the authority of its registered agent.

5. If the limited liability company or foreign limited liability company concedes that the company has violated a provision or provisions of this chapter that are the subjects of the interrogatories served on the company pursuant to section 489.212B, the secretary of state may immediately administratively dissolve the company by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the company under section 489.119.

2023 Acts, ch 152, §63, 161; 2026 Acts, ch 1145, §16, 17
Referred to in §489.708, 489.710
Subsections 1 and 2 amended
NEW subsection 5

489.710 Reinstatement following administrative dissolution.

1. A limited liability company administratively dissolved under section 489.709 may apply to the secretary of state for reinstatement at any time after the effective date of dissolution. The application must meet all of the following requirements:

a. State the name of the limited liability company at its date of dissolution and the effective date of its administrative dissolution.

b. State that the ground or grounds for dissolution either did not exist or have been eliminated.

c. If the application is received more than five years after the effective date of the dissolution, state a name that satisfies the requirements of section 489.112.

2. *a.* If the secretary of state determines that the application contains the information required by subsection 1, and that the information is correct, the secretary of state shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites the secretary of state's determination and the effective date of reinstatement, file the certificate of reinstatement, and deliver a copy to the limited liability company under section 489.119.

b. If the limited liability company's name in subsection 1, paragraph "*c*", is different from the name in subsection 1, paragraph "*a*", the certificate of reinstatement shall constitute an amendment to the company's certificate of organization insofar as it pertains to its name. A company shall not relinquish the right to retain its name if the reinstatement is effective within five years of the effective date of the company's dissolution.

3. When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution as if the administrative dissolution had never occurred.

2008 Acts, ch 1162, §54, 155
C2009, §489.706

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2010 Acts, ch 1040, §1; 2020 Acts, ch 1118, §24; 2023 Acts, ch 152, §59, 143, 161
C2024, §489.710
2024 Acts, ch 1048, §1; 2024 Acts, ch 1125, §15, 31
Referred to in §488.108, 489.14503, 490.401, 504.401, 504.403, 524.310

489.711 Appeal from denial of reinstatement.

1. If the secretary of state denies a limited liability company's application for reinstatement following administrative dissolution, the secretary of state shall serve the company under section 489.119 with a written notice that explains the reason or reasons for denial.

2. The limited liability company may appeal the denial of reinstatement to the district court of the county where the company's principal office or, if none in this state, where its registered agent is located within thirty days after service of the notice of denial is effected. The company appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the secretary of state's certificate of dissolution, the company's application for reinstatement, and the secretary of state's notice of denial.

3. The court may summarily order the secretary of state to reinstate the dissolved limited liability company or may take other action the court considers appropriate.

4. The court's final decision may be appealed as in other civil proceedings.

2008 Acts, ch 1162, §55, 155
C2009, §489.707
2023 Acts, ch 152, §61, 143, 161
C2024, §489.711
2024 Acts, ch 1125, §16, 31

489.712 through 489.800 Reserved.

SUBCHAPTER VIII

ACTIONS BY MEMBERS

Referred to in §489.105, 489.14107

489.801 Direct action by member.

1. Subject to subsection 2, a member may maintain a direct action against another member, a manager, or the limited liability company to enforce the member's rights and otherwise protect the member's interests, including rights and interests under the operating agreement or this chapter or arising independently of the membership relationship.

2. A member maintaining a direct action under this section must plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited liability company.

2008 Acts, ch 1162, §66, 155
C2009, §489.901
2023 Acts, ch 152, §143, 161
C2024, §489.801
Referred to in §489.409, 489.601, 489.602
Former §489.801 transferred to §489.901; 2023 Acts, ch 152, §143, 161

489.802 Derivative action.

A member may maintain a derivative action to enforce a right of a limited liability company, if the member first makes a demand on the other members in a member-managed limited liability company, or the managers of a manager-managed limited liability company, requesting that they cause the company to bring an action to enforce the right, and the managers or other members do not bring the action within ninety days from the date the demand was made unless the member has earlier been notified that the demand has been

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rejected by the company or unless irreparable injury to the company would result by waiting for the expiration of the ninety-day period.

2008 Acts, ch 1162, §67, 155
C2009, §489.902
2023 Acts, ch 152, §67, 143, 161
C2024, §489.802
Referred to in §489.803, 489.804
Former §489.802 repealed effective January 1, 2024, by 2023 Acts, ch 152, §142, 161

489.803 Proper plaintiff.

1. Except as otherwise provided in subsection 2, a derivative action under section 489.802 may be maintained only by a person that is a member at the time the action is commenced and remains a member while the action continues.

2. If the sole plaintiff in a derivative action dies while the action is pending, the court may permit another member of the limited liability company to be substituted as plaintiff.

2008 Acts, ch 1162, §68, 155
C2009, §489.903
2023 Acts, ch 152, §143, 161
C2024, §489.803
Former §489.803 repealed effective January 1, 2024, by 2023 Acts, ch 152, §142, 161

489.804 Pleading.

In a derivative action under section 489.802, the complaint must state with particularity the date and content of the plaintiff's demand and the response to the demand by the managers or other members.

2008 Acts, ch 1162, §69, 155
C2009, §489.904
2023 Acts, ch 152, §68, 143, 161
C2024, §489.804
2024 Acts, ch 1125, §17, 31
Former §489.804 repealed effective January 1, 2024, by 2023 Acts, ch 152, §142, 161

489.805 Special litigation committee.

1. If a limited liability company is named as or made a party in a derivative proceeding, the company may appoint a special litigation committee to investigate the claims asserted in the proceeding and determine whether pursuing the action is in the best interests of the company. If the company appoints a special litigation committee, on motion by the committee made in the name of the company, except for good cause shown, the court shall stay discovery for the time reasonably necessary to permit the committee to make its investigation. This subsection does not prevent the court from doing any of the following:

a. Enforcing a person's right to information under section 489.410.

b. Granting extraordinary relief in the form of a temporary restraining order or preliminary injunction.

2. A special litigation committee must be composed of one or more disinterested and independent individuals, who may be members.

3. A special litigation committee may be appointed as follows:

a. In a member-managed limited liability company, any of the following:

(1) By the affirmative vote or consent of a majority of the members not named as parties in the proceeding.

(2) If all members are named as parties in the proceeding, by a majority of the members named as defendants.

b. In a manager-managed limited liability company, any of the following:

(1) By a majority of the managers not named as parties in the proceeding.

(2) If all managers are named as parties in the proceeding, by a majority of the managers named as defendants.

4. After appropriate investigation, a special litigation committee may determine that it is

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in the best interests of the limited liability company that the proceeding comply with any of the following:

a. Continue under the control of the plaintiff.

b. Continue under the control of the committee.

c. Be settled on terms approved by the committee.

d. Be dismissed.

5. After making a determination under subsection 4, a special litigation committee shall file with the court a statement of its determination and its report supporting its determination and shall serve each party with a copy of the determination and report. The court shall determine whether the members of the committee were disinterested and independent and whether the committee conducted its investigation and made its recommendation in good faith, independently, and with reasonable care, with the committee having the burden of proof. If the court finds that the members of the committee were disinterested and independent and that the committee acted in good faith, independently, and with reasonable care, the court shall enforce the determination of the committee. Otherwise, the court shall dissolve the stay of discovery entered under subsection 1 and allow the action to continue under the control of the plaintiff.

2023 Acts, ch 152, §65, 143, 161

Referred to in §489.105

Former §489.805 repealed effective January 1, 2024, by 2023 Acts, ch 152, §142, 161

489.806 Proceeds and expenses.

1. Except as otherwise provided in subsection 2, all of the following apply:

a. Any proceeds or other benefits of a derivative action, whether by judgment, compromise, or settlement, belong to the limited liability company and not to the plaintiff.

b. If the plaintiff receives any proceeds, the plaintiff shall remit them immediately to the limited liability company.

2. If a derivative action is successful in whole or in part, the court may award the plaintiff reasonable expenses, including reasonable attorney fees and costs, from the recovery of the limited liability company.

3. A derivative action on behalf of a limited liability company shall not be voluntarily dismissed or settled without the court's approval.

2008 Acts, ch 1162, §70, 155

C2009, §489.906

2023 Acts, ch 152, §70, 143, 161

C2024, §489.806

Former §489.806 repealed effective January 1, 2024, by 2023 Acts, ch 152, §142, 161

489.807 Cancellation of certificate of authority. Repealed by 2023 Acts, ch 152, §142, 161.

489.808 Effect of failure to have certificate of authority. Repealed by 2023 Acts, ch 152, §142, 161.

489.809 Action by attorney general. Transferred to §489.912; 2023 Acts, ch 152, §143, 161.

489.810 through 489.900 Reserved.

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SUBCHAPTER IX

FOREIGN LIMITED LIABILITY COMPANIES

Referred to in §489.114, 489.14304

489.901 Governing law.

1. The law of the jurisdiction of formation of a foreign limited liability company governs all of the following:

a. The internal affairs of the foreign limited liability company.

b. The liability of a member as member and manager as manager for a debt, obligation, or other liability of the foreign limited liability company.

c. The liability of a series of the foreign limited liability company.

2. A foreign limited liability company is not precluded from registering to do business in this state because of any difference between the law of the foreign limited liability company's jurisdiction of formation and the law of this state.

3. Registration of a foreign limited liability company to do business in this state does not permit the foreign limited liability company to engage in any business or affairs or exercise any power that a limited liability company cannot lawfully engage in or exercise in this state.

2008 Acts, ch 1162, §57, 155
C2009, §489.801
2019 Acts, ch 26, §45, 53; 2023 Acts, ch 152, §64, 143, 161
C2024, §489.901
Referred to in §489.902
Former §489.901 transferred to §489.801 by 2023 Acts, ch 152, §143, 161

489.902 Registration to do business in this state.

1. A foreign limited liability company shall not do business in this state until it registers with the secretary of state under this chapter.

2. A foreign limited liability company doing business in this state shall not maintain a proceeding in any court of this state until it is registered to do business in this state.

3. The failure of a foreign limited liability company to register to do business in this state does not impair the validity of a contract or act of the foreign company or preclude it from defending a proceeding in this state.

4. A limitation on the liability of a member or manager of a foreign limited liability company is not waived solely because the foreign company does business in this state without registering.

5. Section 489.901, subsection 1, applies even if a foreign limited liability company fails to register under this subchapter.

2023 Acts, ch 152, §77, 143, 161
Former §489.902 transferred to §489.802; 2023 Acts, ch 152, §143, 161

489.903 Foreign registration statement.

1. To register to do business in this state, a foreign limited liability company shall deliver a foreign registration statement to the secretary of state for filing. The registration statement must be signed by the foreign company and state all of the following:

a. The name of the foreign limited liability company and, if the name does not comply with section 489.112, an alternate name as required by section 489.906.

b. The foreign limited liability company's jurisdiction of formation.

c. The street and mailing addresses of the foreign limited liability company's principal office and, if the law of the foreign company's jurisdiction of formation requires the foreign company to maintain an office in that jurisdiction, the street and mailing addresses of that required office.

d. The street and mailing addresses of the place of business of the foreign limited liability company's registered agent in this state and the name of its registered agent.

2. The foreign limited liability company shall deliver the completed foreign registration statement to the secretary of state, and also deliver to the secretary of state a certificate of

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existence or a document of similar import duly authenticated by the secretary of state or other official having custody of corporate records in the state or country under whose law it is incorporated which is dated no earlier than ninety days prior to the date the application is filed by the secretary of state.

2023 Acts, ch 152, §78, 143, 161
Referred to in §489.904, 489.906
Former §489.903 transferred to §489.803; 2023 Acts, ch 152, §143, 161

489.904 Amendment of foreign registration statement.

A registered foreign limited liability company shall sign and deliver to the secretary of state for filing an amendment to its foreign registration statement if there is a change in any of the following:

1. Its name or alternate name.
2. Its jurisdiction of formation, unless its registration is deemed to have been withdrawn under section 489.908 or transferred under section 489.910.
3. An address required by section 489.903, subsection 1, paragraph *"c"*.
4. The information required by section 489.903, subsection 1, paragraph *"d"*.

2023 Acts, ch 152, §79, 143, 161
Former §489.904 transferred to §489.804; 2023 Acts, ch 152, §143, 161

489.905 Activities not constituting doing business in this state.

1. Activities of a foreign limited liability company that do not constitute doing business in this state for purposes of this subchapter include all of the following:

a. Maintaining, defending, mediating, arbitrating, or settling a proceeding.

b. Carrying on any activity concerning the internal affairs of the foreign limited liability company, including holding meetings of its members or managers.

c. Maintaining accounts in financial institutions.

d. Maintaining offices or agencies for the transfer, exchange, and registration of securities of the foreign limited liability company or maintaining trustees or depositories with respect to those securities.

e. Selling through independent contractors.

f. Soliciting or obtaining orders by any means if the orders require acceptance outside this state before they become contracts.

g. Creating or acquiring indebtedness, mortgages, or security interests in property.

h. Securing or collecting debts or enforcing mortgages or other security interests in property securing the debts and holding, protecting, or maintaining property so acquired.

i. Conducting an isolated transaction that is not in the course of similar transactions.

j. Owning, protecting, and maintaining property.

k. Doing business in interstate commerce.

2. This section does not apply in determining the contacts or activities that may subject a foreign limited liability company to service of process, taxation, or regulation under the laws of this state other than this chapter.

2023 Acts, ch 152, §69, 161

489.906 Noncomplying name of foreign limited liability company.

1. A foreign limited liability company whose name does not comply with section 489.112 shall not register to do business in this state until it adopts, for the purpose of doing business in this state, an alternate name that complies with section 489.112 by filing a foreign registration statement under section 489.903, or if applicable, a transfer of registration statement under section 489.910, setting forth that alternate name. After registering to do business in this state with an alternate name, a foreign limited liability company shall do business in this state under any of the following:

a. The alternate name.

b. The foreign limited liability company's name, with the addition of its jurisdiction of formation.

2. If a registered foreign limited liability company changes its name after registration to a name that does not comply with section 489.112, it shall not do business in this state until

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it complies with subsection 1 by amending its registration statement to adopt an alternate name that complies with section 489.112.

2023 Acts, ch 152, §71, 143, 161
Referred to in §489.114, 489.212, 489.903, 489.910
Former §489.906 transferred to §489.806; 2023 Acts, ch 152, §143, 161

489.907 Withdrawal of registration of registered foreign limited liability company.

1. A registered foreign limited liability company may withdraw its registration by delivering a statement of withdrawal to the secretary of state for filing. The statement of withdrawal must be signed by the foreign limited liability company and state all of the following:

a. The name of the foreign limited liability company and its jurisdiction of formation.

b. That the foreign limited liability company is not doing business in this state and that it withdraws its registration to do business in this state.

c. That the foreign limited liability company revokes the authority of its registered agent in this state.

d. An address to which process on the foreign limited liability company may be sent by the secretary of state under section 489.119, subsection 3.

2. After the withdrawal of the registration of a foreign limited liability company, service of process in any proceeding based on a cause of action arising during the time the entity was registered to do business in this state may be made as provided in section 489.119.

2023 Acts, ch 152, §72, 161
Referred to in §489.122

489.908 Deemed withdrawal upon domestication or conversion to certain domestic entities.

A registered foreign limited liability company that domesticates to a domestic limited liability company or converts to a domestic business corporation or domestic nonprofit corporation or any type of domestic filing entity or to a domestic limited liability partnership is deemed to have withdrawn its registration on the effectiveness of such event.

2023 Acts, ch 152, §73, 161
Referred to in §489.904

489.909 Withdrawal upon dissolution or conversion to certain nonfiling entities.

1. A registered foreign limited liability company that has dissolved and completed winding up or has converted to a domestic or foreign nonfiling entity other than a limited liability partnership shall deliver to the secretary of state for filing a statement of withdrawal. The statement must be signed by the dissolved foreign limited liability company or the converted domestic or foreign nonfiling entity and state:

a. In the case of a foreign limited liability company that has completed winding up all of the following:

(1) Its name and jurisdiction of formation.

(2) That the foreign limited liability company withdraws its registration to do business in this state and revokes the authority of its registered agent to accept service on its behalf.

(3) An address to which process on the foreign limited liability company may be sent by the secretary of state under section 489.119, subsection 3.

b. In the case of a foreign limited liability company that has converted to a domestic or foreign nonfiling entity other than a limited liability partnership, all of the following:

(1) The name of the converting foreign limited liability company and its jurisdiction of formation.

(2) The type of the nonfiling entity to which it has converted and its name and jurisdiction of formation.

(3) That it withdraws its registration to do business in this state and revokes the authority of its registered agent to accept service on its behalf.

(4) An address to which process on the foreign limited liability company may be sent by the secretary of state under section 489.119, subsection 3.

2. After the withdrawal of the registration of a foreign limited liability company, service

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of process in any proceeding based on a cause of action arising during the time the entity was registered to do business in this state may be made as provided in section 489.119.

2023 Acts, ch 152, §74, 161
Referred to in §489.122

489.910 Transfer of registration.

1. If a registered foreign limited liability company merges into a nonregistered foreign entity or converts to a foreign entity required to register with the secretary of state to do business in this state, the foreign entity shall deliver to the secretary of state for filing a transfer of registration statement. The transfer of registration statement must be signed by the surviving or converted foreign entity and state all of the following:

a. The name of the registered foreign limited liability company and its jurisdiction of formation before the merger or conversion.

b. The name and type of the surviving or converted foreign entity and its jurisdiction of formation after the merger or conversion and, if the name does not comply with section 489.112, an alternate name adopted pursuant to section 489.906.

c. All of the following information regarding the surviving or converted foreign entity after the merger or conversion:

(1) The street and mailing addresses of the principal office of the foreign entity and, if the law of the foreign entity's jurisdiction of formation requires it to maintain an office in that jurisdiction, the street and mailing addresses of that office.

(2) The street and mailing addresses of the place of business of the foreign entity's registered agent in this state and the name of its registered agent.

2. On the effective date of a transfer of registration statement as determined in accordance with section 489.207, the registration of the registered foreign limited liability company to do business in this state is transferred without interruption to the foreign entity into which it has merged or to which it has been converted.

2023 Acts, ch 152, §75, 161
Referred to in §489.904, 489.906

489.911 Administrative termination of registration.

1. The secretary of state may terminate the registration of a registered foreign limited liability company in the manner provided in subsections 2 and 3, if any of the following applies:

a. The foreign limited liability company does not pay within sixty days after they are due any fees, taxes, interest, or penalties imposed by this chapter or other laws of this state.

b. The foreign limited liability company does not deliver its biennial report to the secretary of state within sixty days after it is due.

c. The foreign limited liability company is without a registered agent or its registered agent has no place of business in this state for sixty days or more.

d. The secretary of state has not been notified within sixty days that the foreign limited liability company's registered agent or the registered agent's place of business has been changed, that its registered agent has resigned, or that the address of the registered agent has been discontinued.

2. The secretary of state may terminate the registration of a registered foreign limited liability company by doing all of the following:

a. Filing a certificate of termination.

b. Delivering a copy of the certificate of termination to the foreign company's registered agent or, if the foreign company does not have a registered agent, to the foreign company's principal office.

3. The certificate of termination must state all of the following:

a. The effective date of the termination, which must be not less than sixty days after the secretary of state delivers the copy of the certificate of termination as prescribed in subsection 2, paragraph *"b"*.

b. The grounds for termination under subsection 1.

4. The registration of a registered foreign limited liability company to do business in

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this state ceases on the effective date of the termination as set forth in the certificate of termination, unless before that date the foreign company cures each ground for termination stated in the certificate of termination. If the foreign company cures each ground, the secretary of state shall file a statement that the certificate of termination is withdrawn.

5. After the effective date of the termination as set forth in the certificate of termination, service of process in any proceeding based on a cause of action arising during the time the entity was registered to do business in this state may be made as provided in section 489.119.

2023 Acts, ch 152, §76, 161; 2024 Acts, ch 1125, §18, 31

489.912 Action by attorney general.

The attorney general may maintain an action to enjoin a foreign limited liability company from doing business in this state in violation of this chapter.

2008 Acts, ch 1162, §65, 155
C2009, §489.809
2023 Acts, ch 152, §66, 143, 161
C2024, §489.912

489.913 through 489.1000 Reserved.

SUBCHAPTER X

MERGER, INTEREST EXCHANGE, CONVERSION, AND DOMESTICATION

Referred to in §489.102, 489.103, 489.401, 489.407, 489.602, 489.603

PART 1

GENERAL PROVISIONS

Referred to in §489.14604, 489.14605, 489.14606

489.1001 Definitions.

As used in this subchapter, unless the context otherwise requires:

1. *"Acquired entity"* means the entity, all of one or more classes or series of interests of which are acquired in an interest exchange.

2. *"Acquiring entity"* means the entity that acquires all of one or more classes or series of interests of the acquired entity in an interest exchange.

3. *"Conversion"* means a transaction authorized by part 4.

4. *"Converted entity"* means the converting entity as it continues in existence after a conversion.

5. *"Converting entity"* means the domestic entity that approves a plan of conversion pursuant to section 489.1043 or the foreign entity that approves a conversion pursuant to the law of its jurisdiction of formation.

6. *"Distributional interest"* means the right under an unincorporated entity's organic law and organic rules to receive distributions from the entity.

7. *"Domestic"*, with respect to an entity, means governed as to its internal affairs by the law of this state.

8. *"Domesticated limited liability company"* means the domesticating limited liability company as it continues in existence after a domestication.

9. *"Domesticating limited liability company"* means the domestic limited liability company that approves a plan of domestication pursuant to section 489.1053 or the foreign limited liability company that approves a domestication pursuant to the law of its jurisdiction of formation.

10. *"Domestication"* means a transaction authorized by part 5.

11. *a. "Entity"* means any of the following:

(1) A business corporation.

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(2) A nonprofit corporation.
(3) A general partnership, including a limited liability partnership.
(4) A limited partnership, including a limited liability limited partnership.
(5) A limited liability company.
(6) A domestic cooperative.
(7) An unincorporated nonprofit association.
(8) A statutory trust, business trust, or common-law business trust.
(9) Any other person that has any of the following:
(a) A legal existence separate from any interest holder of that person.
(b) The power to acquire an interest in real property in its own name.

b. *"Entity"* does not include any of the following:
(1) An individual.
(2) A trust with a predominantly donative purpose or a charitable trust.
(3) An association or relationship that is not an entity listed in paragraph *"a"* and is not a partnership under the rules stated in section 486A.202, subsection 3, or a similar provision of the law of another jurisdiction.
(4) A decedent's estate.
(5) A government or a governmental subdivision, agency, or instrumentality.

12. *"Filing entity"* means an entity whose formation requires the filing of a public organic record. The term does not include a limited liability partnership.

13. *"Foreign"*, with respect to an entity, means an entity governed as to its internal affairs by the law of a jurisdiction other than this state.

14. *"Governance interest"* means a right under the organic law or organic rules of an unincorporated entity, other than as a governor, agent, assignee, or proxy, to any of the following:

a. Receive or demand access to information concerning, or the books and records of, the entity.

b. Vote for or consent to the election of the governors of the entity.

c. Receive notice of or vote on or consent to an issue involving the internal affairs of the entity.

15. *"Governor"* means any of the following:

a. A director of a business corporation.

b. A director or trustee of a nonprofit corporation.

c. A general partner of a general partnership.

d. A general partner of a limited partnership.

e. A manager of a manager-managed limited liability company.

f. A member of a member-managed limited liability company.

g. A director of a domestic cooperative.

h. A manager of an unincorporated nonprofit association.

i. A trustee of a statutory trust, business trust, or common-law business trust.

j. Any other person under whose authority the powers of an entity are exercised and under whose direction the activities and affairs of the entity are managed pursuant to the organic law and organic rules of the entity.

16. *"Interest"* means any of the following:

a. A share in a business corporation.

b. A membership in a nonprofit corporation.

c. A partnership interest in a general partnership.

d. A partnership interest in a limited partnership.

e. A membership interest in a limited liability company.

f. A share in a domestic cooperative.

g. A membership in an unincorporated nonprofit association.

h. A beneficial interest in a statutory trust, business trust, or common-law business trust.

i. A governance interest or distributional interest in any other type of unincorporated entity.

17. *"Interest exchange"* means a transaction authorized by part 3.

18. *"Interest holder"* means any of the following:

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a. A shareholder of a business corporation.
b. A member of a nonprofit corporation.
c. A general partner of a general partnership.
d. A general partner of a limited partnership.
e. A limited partner of a limited partnership.
f. A member of a limited liability company.
g. A shareholder of a domestic cooperative.
h. A member of an unincorporated nonprofit association.
i. A beneficiary or beneficial owner of a statutory trust, business trust, or common-law business trust.
j. Any other direct holder of an interest.

19. *"Interest holder liability"* means any of the following:
a. Personal liability for a liability of an entity which is imposed on a person due to any of the following:
(1) Solely by reason of the status of the person as an interest holder.
(2) By the organic rules of the entity which make one or more specified interest holders or categories of interest holders liable in their capacity as interest holders for all or specified liabilities of the entity.
b. An obligation of an interest holder under the organic rules of an entity to contribute to the entity.

20. *"Merger"* means a transaction authorized by part 2.

21. *"Merging entity"* means an entity that is a party to a merger and exists immediately before the merger becomes effective.

22. *"Organic law"* means the law of an entity's jurisdiction of formation governing the internal affairs of the entity.

23. *"Organic rules"* means the public organic record and private organic rules of an entity.

24. *"Plan"* means a plan of merger, plan of interest exchange, plan of conversion, or plan of domestication.

25. *"Plan of conversion"* means a plan under section 489.1042.

26. *"Plan of domestication"* means a plan under section 489.1052.

27. *"Plan of interest exchange"* means a plan under section 489.1032.

28. *"Plan of merger"* means a plan under section 489.1022.

29. *a. "Private organic rules"* means the rules, whether or not in a record, that govern the internal affairs of an entity, are binding on all its interest holders, and are not part of its public organic record, if any.
b. "Private organic rules" includes all of the following:
(1) The bylaws of a business corporation.
(2) The bylaws of a nonprofit corporation.
(3) The partnership agreement of a general partnership.
(4) The partnership agreement of a limited partnership.
(5) The operating agreement of a limited liability company.
(6) The bylaws of a domestic cooperative.
(7) The governing principles of an unincorporated nonprofit association.
(8) The trust instrument of a statutory trust or similar rules of a business trust or common-law business trust.

30. *"Protected agreement"* means any of the following:
a. A record evidencing indebtedness and any related agreement in effect on January 1, 2009.
b. An agreement that is binding on an entity on January 1, 2009.
c. The organic rules of an entity in effect on January 1, 2009.
d. An agreement that is binding on any of the governors or interest holders of an entity on January 1, 2009.

31. *a. "Public organic record"* means the record the filing of which by the secretary of state is required to form an entity and any amendment to or restatement of that record.
b. "Public organic record" includes any of the following:
(1) The articles of incorporation of a business corporation.

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(2) The articles of incorporation of a nonprofit corporation.
(3) The certificate of limited partnership of a limited partnership.
(4) The certificate of organization of a limited liability company.
(5) The articles of incorporation of a domestic cooperative.
(6) The certificate of trust of a statutory trust or similar record of a business trust.

32. *"Registered foreign entity"* means a foreign entity that is registered to do business in this state pursuant to a record filed by the secretary of state.

33. *"Statement of conversion"* means a statement under section 489.1045.

34. *"Statement of domestication"* means a statement under section 489.1055.

35. *"Statement of interest exchange"* means a statement under section 489.1035.

36. *"Statement of merger"* means a statement under section 489.1025.

37. *"Surviving entity"* means the entity that continues in existence after or is created by a merger.

38. *"Type of entity"* means a generic form of entity that is any of the following:

a. Recognized at common law.

b. Formed under an organic law, whether or not some entities formed under that organic law are subject to provisions of that law that create different categories of the form of entity.

2008 Acts, ch 1162, §71, 155; 2023 Acts, ch 152, §80, 161

489.1002 Relationship of subchapter to other laws.

1. This subchapter does not authorize an act prohibited by, and does not affect the application or requirements of, law other than this subchapter.

2. A transaction effected under this subchapter shall not create or impair a right, duty, or obligation of a person under the statutory law of this state other than this subchapter relating to a change in control, takeover, business combination, control-share acquisition, or similar transaction involving a domestic merging, acquired, converting, or domesticating business corporation unless any of the following applies:

a. If the corporation does not survive the transaction, the transaction satisfies any requirements of the law.

b. If the corporation survives the transaction, the approval of the plan is by a vote of the shareholders or directors which would be sufficient to create or impair the right, duty, or obligation directly under the law.

2023 Acts, ch 152, §81, 161
Former §489.1002 stricken effective January 1, 2024, by 2023 Acts, ch 152, §81, 161

489.1003 Required notice or approval.

1. A domestic or foreign entity that is required to give notice to, or obtain the approval of, a governmental agency or officer of this state to be a party to a merger must give the notice or obtain the approval to be a party to an interest exchange, conversion, or domestication.

2. Property held for a charitable purpose under the law of this state by a domestic or foreign entity immediately before a transaction under this subchapter becomes effective may be diverted from the objects for which it was donated, granted, devised, or otherwise transferred only to the extent a public benefit corporation is able to divert from such objects under chapter 504.

3. A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance which is made to a merging entity that is not the surviving entity and which takes effect or remains payable after the merger inures to the surviving entity.

4. A trust obligation that would govern property if transferred to a nonsurviving entity applies to property that is transferred to the surviving entity under this section.

2023 Acts, ch 152, §82, 161
Former §489.1003 stricken effective January 1, 2024, by 2023 Acts, ch 152, §82, 161

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489.1004 Nonexclusivity.

The fact that a transaction under this subchapter produces a certain result does not preclude the same result from being accomplished in any other manner permitted by law other than this subchapter.

2023 Acts, ch 152, §83, 161

Former §489.1004 stricken effective January 1, 2024, by 2023 Acts, ch 152, §83, 161

489.1005 Reference to external facts.

1. A plan may refer to facts ascertainable outside the plan if the manner in which the facts will operate upon the plan is specified in the plan. The facts may include the occurrence of an event or a determination or action by a person, whether or not the event, determination, or action is within the control of a party to the transaction.

2. The following provisions of a record delivered to the secretary of state for filing under this chapter or a plan delivered for filing in lieu of a statement shall not be made dependent on facts outside the record or plan:

a. The name and address of any person.

b. The address of the registered agent of any entity.

c. The registered agent of any entity.

d. The number of authorized interests and designation of each class or series of interests.

e. The effective date of a record delivered to the secretary of state for filing.

f. Any required statement in a record delivered to the secretary of state for filing of the date on which the underlying transaction was approved or the manner in which that approval was given.

2023 Acts, ch 152, §84, 161; 2024 Acts, ch 1125, §19, 31

Former §489.1005 stricken effective January 1, 2024, by 2023 Acts, ch 152, §84, 161

489.1006 Appraisal rights.

An interest holder of a domestic merging, acquired, converting, or domesticating limited liability company is entitled to contractual appraisal rights in connection with a transaction under this subchapter to the extent provided in any of the following:

1. The operating agreement.

2. The plan.

2023 Acts, ch 152, §85, 161

Referred to in §489.1026, 489.1036, 489.1046, 489.1056

Former §489.1006 stricken effective January 1, 2024, by 2023 Acts, ch 152, §85, 161

489.1007 Excluded entities and transactions.

This subchapter shall not be used to effect a transaction involving a bank, insurance company, or public utility where any chapter governing the regulation of such entity does not permit the transaction.

2023 Acts, ch 152, §86, 161

Former §489.1007 stricken effective January 1, 2024, by 2023 Acts, ch 152, §86, 161

489.1008 through 489.1016 Repealed by 2023 Acts, ch 152, §142, 161. See parts 2, 4, and 5.

489.1017 through 489.1020 Reserved.

PART 2

MERGER

Referred to in §489.1001, 489.14604, 489.14605, 489.14606

489.1021 Merger authorized.

1. By complying with this part, all of the following apply:

a. One or more domestic limited liability companies may merge with one or more domestic or foreign entities into a domestic or foreign surviving entity.

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b. Two or more foreign entities may merge into a domestic limited liability company.

2. By complying with the provisions of this part applicable to foreign entities, a foreign entity may be a party to a merger under this part or may be the surviving entity in such a merger if the merger is authorized by the law of the foreign entity's jurisdiction of formation.

2023 Acts, ch 152, §87, 161

489.1022 Plan of merger.

1. A domestic limited liability company may become a party to a merger under this part by approving a plan of merger. The plan must be in a record and contain all of the following:

a. As to each merging entity, its name, jurisdiction of formation, and type of entity.

b. If the surviving entity is to be created in the merger, a statement to that effect and the entity's name, jurisdiction of formation, and type of entity.

c. The manner of converting the interests in each party to the merger into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing.

d. If the surviving entity exists before the merger, any proposed amendments to all of the following:

(1) Its public organic record, if any.

(2) Its private organic rules that are, or are proposed to be, in a record.

e. If the surviving entity is to be created in the merger, all of the following:

(1) Its proposed public organic record, if any.

(2) The full text of its private organic rules that are proposed to be in a record.

f. The other terms and conditions of the merger.

g. Any other provision required by the law of a merging entity's jurisdiction of formation or the organic rules of a merging entity.

2. In addition to the requirements of subsection 1, a plan of merger may contain any other provision not prohibited by law.

2023 Acts, ch 152, §88, 161

Referred to in §489.105, 489.1001

489.1023 Approval of merger.

1. A plan of merger is not effective unless it has been approved according to all of the following:

a. By a domestic merging limited liability company, by all the members of the company entitled to vote on or consent to any matter.

b. In a record, by each member of a domestic merging limited liability company which will have interest holder liability for debts, obligations, and other liabilities that are incurred after the merger becomes effective, unless all of the following apply:

(1) The operating agreement of the limited liability company provides in a record for the approval of a merger in which some or all of its members become subject to interest holder liability by the affirmative vote or consent of fewer than all the members.

(2) The member consented in a record to or voted for that provision of the operating agreement or became a member after the adoption of that provision.

2. A merger involving a domestic merging entity that is not a limited liability company is not effective unless the merger is approved by that entity in accordance with its organic law.

3. A merger involving a foreign merging entity is not effective unless the merger is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of formation.

2023 Acts, ch 152, §89, 161

Referred to in §489.105

489.1024 Amendment or abandonment of plan of merger.

1. A plan of merger may be amended only with the consent of each party to the plan, except as otherwise provided in the plan.

2. A domestic merging limited liability company may approve an amendment of a plan of merger according to any of the following:

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a. In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended.

b. By its managers or members in the manner provided in the plan, but a member that was entitled to vote on or consent to approval of the merger is entitled to vote on or consent to any amendment of the plan that will change any of the following:

(1) The amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by the interest holders of any party to the plan.

(2) The public organic record, if any, or private organic rules of the surviving entity that will be in effect immediately after the merger becomes effective, except for changes that do not require approval of the interest holders of the surviving entity under its organic law or organic rules.

(3) Any other terms or conditions of the plan, if the change would adversely affect the member in any material respect.

3. After a plan of merger has been approved and before a statement of merger becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic merging limited liability company may abandon the plan in the same manner as the plan was approved.

4. If a plan of merger is abandoned after a statement of merger has been delivered to the secretary of state for filing and before the statement becomes effective, a statement of abandonment, signed by a party to the plan, must be delivered to the secretary of state for filing before the statement of merger becomes effective. The statement of abandonment takes effect on filing, and the merger is abandoned and does not become effective. The statement of abandonment must contain all of the following:

a. The name of each party to the plan of merger.

b. The date on which the statement of merger was filed by the secretary of state.

c. A statement that the merger has been abandoned in accordance with this section.

2023 Acts, ch 152, §90, 161
Referred to in §489.208

489.1025 Statement of merger — effective date of merger.

1. A statement of merger must be signed by each merging entity and delivered to the secretary of state for filing.

2. A statement of merger must contain all of the following:

a. The name, jurisdiction of formation, and type of entity of each merging entity that is not the surviving entity.

b. The name, jurisdiction of formation, and type of entity of the surviving entity, and if the surviving entity is a foreign entity, the street and mailing addresses of an office of the surviving entity that the secretary of state may use for purposes of section 489.1026, subsection 5.

c. A statement that the merger was approved by each domestic merging entity, if any, in accordance with this part and by each foreign merging entity, if any, in accordance with the law of its jurisdiction of formation.

d. If the surviving entity exists before the merger and is a domestic filing entity, any amendment to its public organic record approved as part of the plan of merger.

e. If the surviving entity is created by the merger and is a domestic filing entity, its public organic record, as an attachment.

f. If the surviving entity is created by the merger and is a domestic limited liability partnership, its statement of qualification, as an attachment.

3. In addition to the requirements of subsection 2, a statement of merger may contain any other provision not prohibited by law.

4. If the surviving entity is a domestic entity, its public organic record, if any, must satisfy the requirements of the law of this state, except that the public organic record does not need to be signed.

5. If the surviving entity is a domestic limited liability company, the merger becomes effective when the statement of merger is effective. In all other cases, the merger becomes effective on the later of the following:

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a. The date and time provided by the organic law of the surviving entity.

b. When the statement is effective.

2023 Acts, ch 152, §91, 161

Referred to in §489.1001

489.1026 Effect of merger.

1. When a merger becomes effective, all of the following apply:

a. The surviving entity continues or comes into existence.

b. Each merging entity that is not the surviving entity ceases to exist.

c. All property of each merging entity vests in the surviving entity without transfer, reversion, or impairment.

d. All debts, obligations, and other liabilities of each merging entity are debts, obligations, and other liabilities of the surviving entity.

e. Except as otherwise provided by law or the plan of merger, all the rights, privileges, immunities, powers, and purposes of each merging entity vest in the surviving entity.

f. If the surviving entity exists before the merger, all of the following apply:

(1) All its property continues to be vested in it without transfer, reversion, or impairment.

(2) It remains subject to all its debts, obligations, and other liabilities.

(3) All its rights, privileges, immunities, powers, and purposes continue to be vested in it.

g. The name of the surviving entity may be substituted for the name of any merging entity that is a party to any pending action or proceeding.

h. If the surviving entity exists before the merger, all of the following apply:

(1) Its public organic record, if any, is amended to the extent provided in the statement of merger.

(2) Its private organic rules that are to be in a record, if any, are amended to the extent provided in the plan of merger.

i. If the surviving entity is created by the merger, its private organic rules are effective and all of the following apply:

(1) If it is a filing entity, its public organic record becomes effective.

(2) If it is a limited liability partnership, its statement of qualification becomes effective.

j. The interests in each merging entity which are to be converted in the merger are converted, and the interest holders of those interests are entitled only to the rights provided to them under the plan of merger and to any appraisal rights they have under section 489.1006 and the merging entity's organic law.

2. Except as otherwise provided in the organic law or organic rules of a merging entity, the merger does not give rise to any rights that an interest holder, governor, or third party would have upon a dissolution, liquidation, or winding up of the merging entity.

3. When a merger becomes effective, a person that did not have interest holder liability with respect to any of the merging entities and becomes subject to interest holder liability with respect to a domestic entity as a result of the merger has interest holder liability only to the extent provided by the organic law of that entity and only for those debts, obligations, and other liabilities that are incurred after the merger becomes effective.

4. When a merger becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic merging limited liability company with respect to which the person had interest holder liability is subject to the following rules:

a. The merger does not discharge any interest holder liability under this chapter to the extent the interest holder liability was incurred before the merger became effective.

b. The person does not have interest holder liability under this chapter for any debt, obligation, or other liability that is incurred after the merger becomes effective.

c. This chapter continues to apply to the release, collection, or discharge of any interest holder liability preserved under paragraph *"a"* as if the merger had not occurred.

d. The person has whatever rights of contribution from any other person as are provided by this chapter, law other than this chapter, or the operating agreement of the domestic merging limited liability company with respect to any interest holder liability preserved under paragraph *"a"* as if the merger had not occurred.

5. When a merger becomes effective, a foreign entity that is the surviving entity may be

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served with process in this state for the collection and enforcement of any debts, obligations, or other liabilities of a domestic merging limited liability company as provided in section 489.119.

6. When a merger becomes effective, the registration to do business in this state of any foreign merging entity that is not the surviving entity is canceled.

2023 Acts, ch 152, §92, 161
Referred to in §489.1025, 489.14607

489.1027 through 489.1030 Reserved.

PART 3

INTEREST EXCHANGE

Referred to in §489.1001

489.1031 Interest exchange authorized.

1. By complying with this part, any of the following apply:

a. A domestic limited liability company may acquire all of one or more classes or series of interests of another domestic entity or a foreign entity in exchange for interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing.

b. All of one or more classes or series of interests of a domestic limited liability company may be acquired by another domestic entity or a foreign entity in exchange for interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing.

2. By complying with the provisions of this part applicable to foreign entities, a foreign entity may be the acquiring or acquired entity in an interest exchange under this part if the interest exchange is authorized by the law of the foreign entity's jurisdiction of formation.

3. If a protected agreement contains a provision that applies to a merger of a domestic limited liability company but does not refer to an interest exchange, the provision applies to an interest exchange in which the domestic limited liability company is the acquired entity as if the interest exchange were a merger until the provision is amended on or after January 1, 2009.

2023 Acts, ch 152, §93, 161

489.1032 Plan of interest exchange.

1. A domestic limited liability company may be the acquired entity in an interest exchange under this part by approving a plan of interest exchange. The plan must be in a record and contain all of the following:

a. The name of the acquired entity.

b. The name, jurisdiction of formation, and type of entity of the acquiring entity.

c. The manner of converting the interests in the acquired entity into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing.

d. Any proposed amendments to all of the following:

(1) The certificate of organization of the acquired entity.

(2) The operating agreement of the acquired entity that are, or are proposed to be, in a record.

e. The other terms and conditions of the interest exchange.

f. Any other provision required by the law of this state or the operating agreement of the acquired entity.

2. In addition to the requirements of subsection 1, a plan of interest exchange may contain any other provision not prohibited by law.

2023 Acts, ch 152, §94, 161
Referred to in §489.105, 489.1001

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489.1033 Approval of interest exchange.

1. A plan of interest exchange is not effective unless it has been approved according to all of the following:

a. By all the members of a domestic acquired limited liability company entitled to vote on or consent to any matter.

b. In a record, by each member of the domestic acquired limited liability company that will have interest holder liability for debts, obligations, and other liabilities that are incurred after the interest exchange becomes effective, unless all of the following apply:

(1) The operating agreement of the limited liability company provides in a record for the approval of an interest exchange or a merger in which some or all of its members become subject to interest holder liability by the affirmative vote or consent of fewer than all the members.

(2) The member consented in a record to or voted for that provision of the operating agreement or became a member after the adoption of that provision.

2. An interest exchange involving a domestic acquired entity that is not a limited liability company is not effective unless it is approved by the domestic entity in accordance with its organic law.

3. An interest exchange involving a foreign acquired entity is not effective unless it is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of formation.

4. Except as otherwise provided in its organic law or organic rules, the interest holders of the acquiring entity are not required to approve the interest exchange.

2023 Acts, ch 152, §95, 161
Referred to in §489.105

489.1034 Amendment or abandonment of plan of interest exchange.

1. A plan of interest exchange may be amended only with the consent of each party to the plan, except as otherwise provided in the plan.

2. A domestic acquired limited liability company may approve an amendment of a plan of interest exchange according to any of the following:

a. In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended.

b. By its managers or members in the manner provided in the plan, but a member that was entitled to vote on or consent to approval of the interest exchange is entitled to vote on or consent to any amendment of the plan that will change any of the following:

(1) The amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by any of the members of the acquired company under the plan.

(2) The certificate of organization or operating agreement of the acquired company that will be in effect immediately after the interest exchange becomes effective, except for changes that do not require approval of the members of the acquired company under this chapter or the operating agreement.

(3) Any other terms or conditions of the plan, if the change would adversely affect the member in any material respect.

3. After a plan of interest exchange has been approved and before a statement of interest exchange becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic acquired limited liability company may abandon the plan in the same manner as the plan was approved.

4. If a plan of interest exchange is abandoned after a statement of interest exchange has been delivered to the secretary of state for filing and before the statement becomes effective, a statement of abandonment, signed by the acquired limited liability company, must be delivered to the secretary of state for filing before the statement of interest exchange becomes effective. The statement of abandonment takes effect on filing, and the interest exchange is abandoned and does not become effective. The statement of abandonment must contain all of the following:

a. The name of the acquired limited liability company.

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b. The date on which the statement of interest exchange was filed by the secretary of state.

c. A statement that the interest exchange has been abandoned in accordance with this section.

2023 Acts, ch 152, §96, 161
Referred to in §489.208

489.1035 Statement of interest exchange — effective date of interest exchange.

1. A statement of interest exchange must be signed by a domestic acquired limited liability company and delivered to the secretary of state for filing.

2. A statement of interest exchange must contain all of the following:

a. The name of the acquired limited liability company.

b. The name, jurisdiction of formation, and type of entity of the acquiring entity.

c. A statement that the plan of interest exchange was approved by the acquired company in accordance with this part.

d. Any amendments to the acquired company's certificate of organization approved as part of the plan of interest exchange.

3. In addition to the requirements of subsection 2, a statement of interest exchange may contain any other provision not prohibited by law.

4. An interest exchange becomes effective when the statement of interest exchange is effective.

2023 Acts, ch 152, §97, 161
Referred to in §489.1001

489.1036 Effect of interest exchange.

1. When an interest exchange in which the acquired entity is a domestic limited liability company becomes effective, all of the following apply:

a. The interests in the acquired limited liability company which are the subject of the interest exchange are converted, and the members holding those interests are entitled only to the rights provided to them under the plan of interest exchange and to any appraisal rights they have under section 489.1006.

b. The acquiring entity becomes the interest holder of the interests in the acquired limited liability company stated in the plan of interest exchange to be acquired by the acquiring entity.

c. The certificate of organization of the acquired limited liability company is amended to the extent provided in the statement of interest exchange.

d. The provisions of the operating agreement of the acquired limited liability company that are to be in a record, if any, are amended to the extent provided in the plan of interest exchange.

2. Except as otherwise provided in the operating agreement of a domestic acquired limited liability company, the interest exchange does not give rise to any rights that a member, manager, or third party would have upon a dissolution, liquidation, or winding up of the acquired limited liability company.

3. When an interest exchange becomes effective, a person that did not have interest holder liability with respect to a domestic acquired limited liability company and becomes subject to interest holder liability with respect to a domestic entity as a result of the interest exchange has interest holder liability only to the extent provided by the organic law of the entity and only for those debts, obligations, and other liabilities that are incurred after the interest exchange becomes effective.

4. When an interest exchange becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic acquired limited liability company with respect to which the person had interest holder liability is subject to all of the following rules:

a. The interest exchange does not discharge any interest holder liability under this chapter to the extent the interest holder liability was incurred before the interest exchange became effective.

b. The person does not have interest holder liability under this chapter for any debt, obligation, or other liability that is incurred after the interest exchange becomes effective.

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c. This chapter continues to apply to the release, collection, or discharge of any interest holder liability preserved under paragraph *"a"* as if the interest exchange had not occurred.

d. The person has whatever rights of contribution from any other person as are provided by this chapter, law other than this chapter, or the operating agreement of the acquired limited liability company with respect to any interest holder liability preserved under paragraph *"a"* as if the interest exchange had not occurred.

2023 Acts, ch 152, §98, 161; 2024 Acts, ch 1125, §21, 31

481.1037 through 481.1040 Reserved.

PART 4

CONVERSION

Referred to in §489.1001

489.1041 Conversion authorized.

1. By complying with this part, a domestic limited liability company may become any of the following:

a. A domestic entity that is a different type of entity.

b. A foreign entity that is a different type of entity, if the conversion is authorized by the law of the foreign entity's jurisdiction of formation.

2. By complying with the provisions of this part applicable to foreign entities, a foreign entity that is not a foreign limited liability company may become a domestic limited liability company if the conversion is authorized by the law of the foreign entity's jurisdiction of formation.

3. If a protected agreement contains a provision that applies to a merger of a domestic limited liability company but does not refer to a conversion, the provision applies to a conversion of the limited liability company as if the conversion were a merger until the provision is amended on or after January 1, 2009.

4. A domestic entity that is not a limited liability company may become a domestic limited liability company if all of the following apply:

a. The domestic converting entity complies with section 489.1043.

b. The domestic converting entity files a statement of conversion in accordance with section 489.1045.

2023 Acts, ch 152, §99, 161

489.1042 Plan of conversion.

1. A domestic limited liability company may convert to a different type of entity under this part by approving a plan of conversion. The plan must be in a record and contain all of the following:

a. The name of the converting limited liability company.

b. The name, jurisdiction of formation, and type of entity of the converted entity.

c. The manner of converting the interests in the converting limited liability company into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing.

d. The proposed public organic record of the converted entity if it will be a filing entity.

e. The full text of the private organic rules of the converted entity which are proposed to be in a record.

f. The other terms and conditions of the conversion.

g. Any other provision required by the law of this state or the operating agreement of the converting limited liability company.

2. In addition to the requirements of subsection 1, a plan of conversion may contain any other provision not prohibited by law.

2023 Acts, ch 152, §100, 161

Referred to in §489.105, 489.1001

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489.1043 Approval of conversion.

1. A plan of conversion is not effective unless it has been approved according to all of the following:

a. By a domestic converting limited liability company, by all the members of the limited liability company entitled to vote on or consent to any matter.

b. In a record, by each member of a domestic converting limited liability company which will have interest holder liability for debts, obligations, and other liabilities that are incurred after the conversion becomes effective, unless all of the following apply:

(1) The operating agreement of the limited liability company provides in a record for the approval of a conversion or a merger in which some or all of its members become subject to interest holder liability by the affirmative vote or consent of fewer than all the members.

(2) The member voted for or consented in a record to that provision of the operating agreement or became a member after the adoption of that provision.

2. A conversion involving a domestic converting entity that is not a limited liability company is not effective unless it is approved by the domestic converting entity in accordance with its organic law.

3. A conversion of a foreign converting entity is not effective unless it is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of formation.

2023 Acts, ch 152, §101, 161
Referred to in §489.105, 489.1001, 489.1041

489.1044 Amendment or abandonment of plan of conversion.

1. A plan of conversion of a domestic converting limited liability company may be amended according to any of the following:

a. In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended.

b. By its managers or members in the manner provided in the plan, but a member that was entitled to vote on or consent to approval of the conversion is entitled to vote on or consent to any amendment of the plan that will change any of the following:

(1) The amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by any of the members of the converting limited liability company under the plan.

(2) The public organic record, if any, or private organic rules of the converted entity which will be in effect immediately after the conversion becomes effective, except for changes that do not require approval of the interest holders of the converted entity under its organic law or organic rules.

(3) Any other terms or conditions of the plan, if the change would adversely affect the member in any material respect.

2. After a plan of conversion has been approved by a domestic converting limited liability company and before a statement of conversion becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic converting limited liability company may abandon the plan in the same manner as the plan was approved.

3. If a plan of conversion is abandoned after a statement of conversion has been delivered to the secretary of state for filing and before the statement becomes effective, a statement of abandonment, signed by the converting entity, must be delivered to the secretary of state for filing before the statement of conversion becomes effective. The statement of abandonment takes effect on filing, and the conversion is abandoned and does not become effective. The statement of abandonment must contain all of the following:

a. The name of the converting limited liability company.

b. The date on which the statement of conversion was filed by the secretary of state.

c. A statement that the conversion has been abandoned in accordance with this section.

2023 Acts, ch 152, §102, 161
Referred to in §489.208

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489.1045 Statement of conversion — effective date of conversion.

1. A statement of conversion must be signed by the converting entity and delivered to the secretary of state for filing.

2. A statement of conversion must contain all of the following:

a. The name, jurisdiction of formation, and type of entity of the converting entity.

b. The name, jurisdiction of formation, and type of entity of the converted entity and if the converted entity is a foreign entity, the street and mailing addresses of an office of the converted entity that the secretary of state may use for purposes of section 489.1046, subsection 5.

c. If the converting entity is a domestic limited liability company, a statement that the plan of conversion was approved in accordance with this part or, if the converting entity is a foreign entity, a statement that the conversion was approved by the foreign entity in accordance with the law of its jurisdiction of formation.

d. If the converted entity is a domestic filing entity, its public organic record, as an attachment.

e. If the converted entity is a domestic limited liability partnership, its statement of qualification, as an attachment.

3. In addition to the requirements of subsection 2, a statement of conversion may contain any other provision not prohibited by law.

4. If the converted entity is a domestic entity, its public organic record, if any, must satisfy the requirements of the law of this state, except that the public organic record does not need to be signed.

5. If the converted entity is a domestic limited liability company, the conversion becomes effective when the statement of conversion is effective. In all other cases, the conversion becomes effective on the later of the following:

a. The date and time provided by the organic law of the converted entity.

b. When the statement is effective.

2023 Acts, ch 152, §103, 161
Referred to in §489.1001, 489.1041

489.1046 Effect of conversion.

1. When a conversion becomes effective all of the following apply:

a. The converted entity is any of the following:

(1) Organized under and subject to the organic law of the converted entity.

(2) The same entity without interruption as the converting entity.

b. All property of the converting entity continues to be vested in the converted entity without transfer, reversion, or impairment.

c. All debts, obligations, and other liabilities of the converting entity continue as debts, obligations, and other liabilities of the converted entity.

d. Except as otherwise provided by law or the plan of conversion, all the rights, privileges, immunities, powers, and purposes of the converting entity remain in the converted entity.

e. The name of the converted entity may be substituted for the name of the converting entity in any pending action or proceeding.

f. The certificate of organization of the converted entity becomes effective.

g. The provisions of the operating agreement of the converted entity which are to be in a record, if any, approved as part of the plan of conversion become effective.

h. The interests in the converting entity are converted, and the interest holders of the converting entity are entitled only to the rights provided to them under the plan of conversion and to any appraisal rights they have under section 489.1006.

2. Except as otherwise provided in the operating agreement of a domestic converting limited liability company, the conversion does not give rise to any rights that a member, manager, or third party would have upon a dissolution, liquidation, or winding up of the converting entity.

3. When a conversion becomes effective, a person that did not have interest holder liability with respect to the converting entity and becomes subject to interest holder liability with respect to a domestic entity as a result of the conversion has interest holder liability only to

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the extent provided by the organic law of the entity and only for those debts, obligations, and other liabilities that are incurred after the conversion becomes effective.

4. When a conversion becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic converting limited liability company with respect to which the person had interest holder liability is subject to all of the following rules:

a. The conversion does not discharge any interest holder liability under this chapter to the extent the interest holder liability was incurred before the conversion became effective.

b. The person does not have interest holder liability under this chapter for any debt, obligation, or other liability that arises after the conversion becomes effective.

c. This chapter continues to apply to the release, collection, or discharge of any interest holder liability preserved under paragraph *"a"* as if the conversion had not occurred.

d. The person has whatever rights of contribution from any other person as are provided by this chapter, law other than this chapter, or the organic rules of the converting entity with respect to any interest holder liability preserved under paragraph *"a"* as if the conversion had not occurred.

5. When a conversion becomes effective, a foreign entity that is the converted entity may be served with process in this state for the collection and enforcement of any of its debts, obligations, and other liabilities as provided in section 489.119.

6. If the converting entity is a registered foreign entity, its registration to do business in this state is canceled when the conversion becomes effective.

7. A conversion does not require the entity to wind up its affairs and does not constitute or cause the dissolution of the entity.

2023 Acts, ch 152, §104, 161
Referred to in §489.1045

489.1047 through 489.1050 Reserved.

PART 5

DOMESTICATION

Referred to in §489.1001

489.1051 Domestication authorized.

1. By complying with this part, a domestic limited liability company may become a foreign limited liability company if the domestication is authorized by the law of the foreign jurisdiction.

2. By complying with the provisions of this part applicable to foreign limited liability companies, a foreign limited liability company may become a domestic limited liability company if the domestication is authorized by the law of the foreign limited liability company's jurisdiction of formation.

3. If a protected agreement contains a provision that applies to a merger of a domestic limited liability company but does not refer to a domestication, the provision applies to a domestication of the limited liability company as if the domestication were a merger until the provision is amended on or after January 1, 2009.

2023 Acts, ch 152, §105, 161

489.1052 Plan of domestication.

1. A domestic limited liability company may become a foreign limited liability company in a domestication by approving a plan of domestication. The plan must be in a record and contain all of the following:

a. The name of the domesticating limited liability company.

b. The name and jurisdiction of formation of the domesticated limited liability company.

c. The manner of converting the interests in the domesticating limited liability company into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing.

d. The proposed certificate of organization of the domesticated limited liability company.

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e. The full text of the provisions of the operating agreement of the domesticated limited liability company that are proposed to be in a record.

f. The other terms and conditions of the domestication.

g. Any other provision required by the law of this state or the operating agreement of the domesticating limited liability company.

2. In addition to the requirements of subsection 1, a plan of domestication may contain any other provision not prohibited by law.

2023 Acts, ch 152, §106, 161
Referred to in §489.105, 489.1001

489.1053 Approval of domestication.

1. A plan of domestication of a domestic domesticating limited liability company is not effective unless it has been approved according to any of the following:

a. By all the members entitled to vote on or consent to any matter.

b. In a record, by each member that will have interest holder liability for debts, obligations, and other liabilities that are incurred after the domestication becomes effective, unless all of the following apply:

(1) The operating agreement of the domesticating limited liability company in a record provides for the approval of a domestication or merger in which some or all of its members become subject to interest holder liability by the affirmative vote or consent of fewer than all the members.

(2) The member voted for or consented in a record to that provision of the operating agreement or became a member after the adoption of that provision.

2. A domestication of a foreign domesticating limited liability company is not effective unless it is approved in accordance with the law of the foreign limited liability company's jurisdiction of formation.

2023 Acts, ch 152, §107, 161
Referred to in §489.105, 489.1001

489.1054 Amendment or abandonment of plan of domestication.

1. A plan of domestication of a domestic domesticating limited liability company may be amended according to any of the following:

a. In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended.

b. By its managers or members in the manner provided in the plan, but a member that was entitled to vote on or consent to approval of the domestication is entitled to vote on or consent to any amendment of the plan that will change any of the following:

(1) The amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by any of the members of the domesticating limited liability company under the plan.

(2) The certificate of organization or operating agreement of the domesticated limited liability company that will be in effect immediately after the domestication becomes effective, except for changes that do not require approval of the members of the domesticated limited liability company under its organic law or operating agreement.

(3) Any other terms or conditions of the plan, if the change would adversely affect the member in any material respect.

2. After a plan of domestication has been approved by a domestic domesticating limited liability company and before a statement of domestication becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic domesticating limited liability company may abandon the plan in the same manner as the plan was approved.

3. If a plan of domestication is abandoned after a statement of domestication has been delivered to the secretary of state for filing and before the statement becomes effective, a statement of abandonment, signed by the domesticating limited liability company, must be delivered to the secretary of state for filing before the statement of domestication becomes effective. The statement of abandonment takes effect on filing, and the domestication is

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abandoned and does not become effective. The statement of abandonment must contain all of the following:

a. The name of the domesticating limited liability company.

b. The date on which the statement of domestication was filed by the secretary of state.

c. A statement that the domestication has been abandoned in accordance with this section.

2023 Acts, ch 152, §108, 161

Referred to in §489.208

489.1055 Statement of domestication — effective date of domestication.

1. A statement of domestication must be signed by the domesticating limited liability company and delivered to the secretary of state for filing.

2. A statement of domestication must contain all of the following:

a. The name and jurisdiction of formation of the domesticating limited liability company.

b. The name and jurisdiction of formation of the domesticated limited liability company and the street and mailing addresses of an office of the domesticated limited liability company that the secretary of state may use for purposes of section 489.1056, subsection 5.

c. If the domesticating limited liability company is a domestic limited liability company, a statement that the plan of domestication was approved in accordance with this part or, if the domesticating limited liability company is a foreign limited liability company, a statement that the domestication was approved in accordance with the law of its jurisdiction of formation.

d. The certificate of organization of the domesticated limited liability company, as an attachment.

3. In addition to the requirements of subsection 2, a statement of domestication may contain any other provision not prohibited by law.

4. The certificate of organization of a domestic domesticated limited liability company must satisfy the requirements of this chapter, but the certificate does not need to be signed.

5. If the domesticated entity is a domestic limited liability company, the domestication becomes effective when the statement of domestication is effective. If the domesticated entity is a foreign limited liability company, the domestication becomes effective on the later of all of the following:

a. The date and time provided by the organic law of the domesticated entity.

b. When the statement is effective.

2023 Acts, ch 152, §109, 161

Referred to in §489.1001

489.1056 Effect of domestication.

1. When a domestication becomes effective, all of the following apply:

a. The domesticated entity is all of the following:

(1) Organized under and subject to the organic law of the domesticated entity.

(2) The same entity without interruption as the domesticating entity.

b. All property of the domesticating entity continues to be vested in the domesticated entity without transfer, reversion, or impairment.

c. All debts, obligations, and other liabilities of the domesticating entity continue as debts, obligations, and other liabilities of the domesticated entity.

d. Except as otherwise provided by law or the plan of domestication, all the rights, privileges, immunities, powers, and purposes of the domesticating entity remain in the domesticated entity.

e. The name of the domesticated entity may be substituted for the name of the domesticating entity in any pending action or proceeding.

f. The certificate of organization of the domesticated entity becomes effective.

g. The provisions of the operating agreement of the domesticated entity that are to be in a record, if any, approved as part of the plan of domestication become effective.

h. The interests in the domesticating entity are converted to the extent and as approved in connection with the domestication, and the members of the domesticating entity are entitled only to the rights provided to them under the plan of domestication and to any appraisal rights they have under section 489.1006.

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2. Except as otherwise provided in the organic law or operating agreement of the domesticating limited liability company, the domestication does not give rise to any rights that a member, manager, or third party would otherwise have upon a dissolution, liquidation, or winding up of the domesticating company.

3. When a domestication becomes effective, a person that did not have interest holder liability with respect to the domesticating limited liability company and becomes subject to interest holder liability with respect to a domestic limited liability company as a result of the domestication has interest holder liability only to the extent provided by this chapter and only for those debts, obligations, and other liabilities that are incurred after the domestication becomes effective.

4. When a domestication becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic domesticating limited liability company with respect to which the person had interest holder liability is subject to all of the following rules:

a. The domestication does not discharge any interest holder liability under this chapter to the extent the interest holder liability was incurred before the domestication became effective.

b. A person does not have interest holder liability under this chapter for any debt, obligation, or other liability that is incurred after the domestication becomes effective.

c. This chapter continues to apply to the release, collection, or discharge of any interest holder liability preserved under paragraph *"a"* as if the domestication had not occurred.

d. A person has whatever rights of contribution from any other person as are provided by this chapter, law other than this chapter, or the operating agreement of the domestic domesticating limited liability company with respect to any interest holder liability preserved under paragraph *"a"* as if the domestication had not occurred.

5. When a domestication becomes effective, a foreign limited liability company that is the domesticated company may be served with process in this state for the collection and enforcement of any of its debts, obligations, and other liabilities as provided in section 489.119.

6. If the domesticating limited liability company is a registered foreign entity, the registration of the limited liability company is canceled when the domestication becomes effective.

7. A domestication does not require a domestic domesticating limited liability company to wind up its affairs and does not constitute or cause the dissolution of the limited liability company.

2023 Acts, ch 152, §110, 161
Referred to in §489.1055

489.1057 through 489.1100 Reserved.

SUBCHAPTER XI

PROFESSIONAL LIMITED LIABILITY COMPANIES

Referred to in §542.7

489.1101 Definitions.

As used in this subchapter, unless the context otherwise requires:

1. *"Employee"* or *"agent"* does not include a clerk, stenographer, secretary, bookkeeper, technician, or other person who is not usually and ordinarily considered by custom and practice to be practicing a profession nor any other person who performs all that person's duties for the professional limited liability company under the direct supervision and control of one or more managers, employees, or agents of the professional limited liability company who are duly licensed in this state to practice a profession which the limited liability company is authorized to practice in this state. This subchapter does not require any such persons to be licensed to practice a profession if they are not required to be licensed under any other law of this state.

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2. *"Foreign professional limited liability company"* means a limited liability company organized under laws other than the laws of this state for a purpose for which a professional limited liability company may be organized under this subchapter.

3. *"Licensed"* includes registered, certified, admitted to practice, or otherwise legally authorized under the laws of this state.

4. *"Profession"* means the following professions:

a. Certified public accountancy.
b. Architecture.
c. Chiropractic.
d. Dentistry.
e. Physical therapy.
f. Practice as a physician associate.
g. Psychology.
h. Professional engineering.
i. Land surveying.
j. Landscape architecture.
k. Law.
l. Medicine and surgery.
m. Optometry.
n. Osteopathic medicine and surgery.
o. Accounting practitioner.
p. Podiatry.
q. Real estate brokerage.
r. Speech pathology.
s. Audiology.
t. Veterinary medicine.
u. Pharmacy.
v. Nursing.
w. Marital and family therapy or mental health counseling, provided that the marital and family therapist or mental health counselor is licensed under chapters 147 and 154D.
x. Social work, provided that the social worker is licensed pursuant to chapter 147 and section 154C.3, subsection 1, paragraph *"c"*.

5. *"Professional limited liability company"* means a limited liability company subject to this subchapter, except a foreign professional limited liability company.

6. *"Regulating board"* means any board, commission, court, or governmental authority which, under the laws of this state, is charged with the licensing, registration, certification, admission to practice, or other legal authorization of the practitioners of any profession.

7. *a. "Voluntary transfer"* includes a sale, voluntary assignment, gift, pledge, or encumbrance; a voluntary change of legal or equitable ownership or beneficial interest; or a voluntary change of persons having voting rights with respect to any transferable interest, except as proxies.

b. "Voluntary transfer" does not include a transfer of an individual's interest in a limited liability company or other property to a guardian or conservator appointed for that individual or the individual's property.

2008 Acts, ch 1088, §141; 2008 Acts, ch 1162, §87, 155; 2011 Acts, ch 1, §1, 5, 6; 2018 Acts, ch 1066, §1, 5; 2019 Acts, ch 24, §72; 2023 Acts, ch 152, §111, 161; 2026 Acts, ch 1008, §3
Code editor directive applied

489.1102 Purposes and powers.

1. A professional limited liability company shall be organized only for the purpose of engaging in the practice of one specific profession, or two or more specific professions which could lawfully be practiced in combination by a licensed individual or a partnership of licensed individuals, and for the additional purpose of doing all lawful things which may be incidental to or necessary or convenient in connection with the practice of the profession or professions. The certificate of organization of a professional limited liability company shall state in substance that the purposes for which the professional limited liability company is

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organized are to engage in the general practice of a specified profession or professions, or one or more specified branches or divisions thereof, and to do all lawful things which may be incidental to or necessary or convenient in connection with the practice of the profession or professions.

2. *a.* For purposes of this section, medicine and surgery, osteopathic medicine and surgery, and practice as a physician associate shall be deemed to be professions which could lawfully be practiced in combination by licensed individuals or a partnership of licensed individuals.

b. Nothing in this section shall be construed to expand the scope of practice of a physician associate.

c. For purposes of this section, marital and family therapy, mental health counseling, psychology, and social work shall be deemed to be professions which could lawfully be practiced in combination by licensed individuals or a partnership of licensed individuals.

2008 Acts, ch 1162, §88, 155; 2011 Acts, ch 1, §2, 5, 6; 2018 Acts, ch 1066, §2, 5; 2023 Acts, ch 73, §22; 2026 Acts, ch 1008, §3

Referred to in §489.1105, 489.1114
Code editor directive applied

489.1103 Name.

The name of a professional limited liability company, the name of a foreign professional limited liability company or its name as modified for use in this state, and any fictitious name or trade name adopted by a professional limited liability company or foreign professional limited liability company shall contain the words "Professional Limited Company", "Professional Limited Liability Company", or the abbreviation "P.L.C.", "PLC", "P.L.L.C.", or "PLLC", and except for the addition of such words or abbreviation, shall be a name which could lawfully be used by a licensed individual or by a partnership of licensed individuals in the practice in this state of a profession which the professional limited liability company is authorized to practice. Each regulating board may by rule adopt additional requirements as to the corporate names and fictitious or trade names of professional limited liability companies and foreign professional limited liability companies which are authorized to practice a profession which is within the jurisdiction of the regulating board.

2008 Acts, ch 1162, §89, 155; 2011 Acts, ch 56, §3, 5, 6; 2016 Acts, ch 1097, §21

489.1104 Who may organize.

One or more individuals having capacity to contract and licensed to practice a profession in this state in which the professional limited liability company is to be authorized to practice, may organize a professional limited liability company.

2008 Acts, ch 1162, §90, 155

489.1105 Practice by professional limited liability company.

1. Notwithstanding any other statute or rule of law, a professional limited liability company may practice a profession, but may do so in this state only through a member, manager, employee, or agent, who is licensed to practice the same profession in this state. In its practice of a profession, a professional limited liability company shall not do any act which could not lawfully be done by an individual licensed to practice the profession which the professional limited liability company is authorized to practice.

2. *a.* This section shall not prohibit persons practicing medicine and surgery, persons practicing osteopathic medicine and surgery, or persons practicing as physician associates from practicing their respective professions in lawful combination pursuant to section 489.1102.

b. Nothing in this section shall be construed to expand the scope of practice of a physician associate.

c. For purposes of this section, marital and family therapy, mental health counseling,

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psychology, and social work shall be deemed to be professions which could lawfully be practiced in combination by licensed individuals or a partnership of licensed individuals.

2008 Acts, ch 1162, §91, 155; 2011 Acts, ch 1, §3, 5, 6; 2020 Acts, ch 1063, §268; 2023 Acts, ch 73, §23; 2026 Acts, ch 1008, §3

Code editor directive applied

489.1106 Professional regulation.

A professional limited liability company shall not be required to register with or to obtain any license, registration, certificate, or other legal authorization from a regulating board in order to practice a profession. Except as provided in this section, this subchapter does not restrict or limit in any manner the authority or duties of any regulating board with respect to an individual practicing a profession which is within the jurisdiction of the regulating board, even if the individual is a member, manager, employee, or agent of a professional limited liability company or foreign professional limited liability company and practices the individual's profession through such professional limited liability company.

2008 Acts, ch 1162, §92, 155; 2023 Acts, ch 152, §112, 161

489.1107 Relationship and liability to persons served.

This subchapter does not modify any law applicable to the relationship between an individual practicing a profession and a person receiving professional services, including but not limited to any liability arising out of such practice or any law respecting privileged communications. This subchapter does not modify or affect the ethical standards or standards of conduct of any profession, including but not limited to any standards prohibiting or limiting the practice of the profession by a limited liability company or prohibiting or limiting the practice of two or more professions in combination. All such standards shall apply to the members, managers, employees, and agents through whom a professional limited liability company practices any profession in this state, to the same extent that the standards apply to an individual practitioner.

2008 Acts, ch 1162, §93, 155; 2023 Acts, ch 152, §113, 161

489.1108 Issuance of interests.

An interest of a professional limited liability company shall be issued only to an individual who is licensed to practice in any state a profession which the professional limited liability company is authorized to practice. Interests of a professional limited liability company shall not at any time be issued in, transferred into, or held in joint tenancy, tenancy in common, or any other form of joint ownership or co-ownership. Chapter 502 shall not be applicable to nor govern any transaction relating to any interests of a professional limited liability company.

2008 Acts, ch 1162, §94, 155

489.1109 Assignment of interests.

A member or other person shall not make a voluntary assignment of an interest in a professional limited liability company to any person, except to the professional limited liability company or to an individual who is licensed to practice in this state a profession which the limited liability company is authorized to practice. The certificate of organization or operating agreement of the professional limited liability company may contain any additional provisions restricting the assignment of interests. Unless the certificate of organization or an operating agreement otherwise provides, a voluntary assignment requires the unanimous consent of the members.

2008 Acts, ch 1162, §95, 155

489.1110 Convertible interests — rights and options.

A professional limited liability company shall not create or issue any interest convertible into an interest of the professional limited liability company. The provisions of this subchapter with respect to the issuance and transfer of interests apply to the creation, issuance, and transfer of any right or option entitling the holder to purchase from a professional limited liability company any interest of the professional limited liability

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company. A right or option shall not be transferable, whether voluntarily, involuntarily, by operation of law, or in any other manner. Upon the death of the holder, or when the holder ceases to be licensed to practice a profession in this state which the professional limited liability company is authorized to practice, the right or option shall expire.

2008 Acts, ch 1162, §96, 155; 2023 Acts, ch 152, §114, 161

489.1111 Voting trust — proxy.

A member of a professional limited liability company shall not create or enter into a voting trust or any other agreement conferring upon any other person the right to vote or otherwise represent any interests of a professional limited liability company, and no such voting trust or agreement is valid or effective. Any proxy of a member of a professional limited liability company shall be an individual licensed to practice a profession in this state which the professional limited liability company is authorized to practice. Any provision in any proxy instrument denying the right of the member to revoke the proxy at any time or for any period of time is not valid or effective. This section does not otherwise limit the right of a member to vote by proxy, but the certificate of organization or operating agreement of the professional limited liability company may further limit or deny the right to vote by proxy.

2008 Acts, ch 1162, §97, 155

489.1112 Required purchase by professional limited liability company of its own interests.

1. Notwithstanding any other statute or rule of law, a professional limited liability company shall purchase its own interests as provided in this section; and a member of a professional limited liability company and the member's executor, administrator, legal representative, and successors in interest, shall sell and transfer the interests held by them as provided in this section.

2. Upon the death of a member, the professional limited liability company shall immediately purchase all interests held by the deceased member.

3. In order to remain a member of a professional limited liability company, the member shall at all times be licensed to practice in this state a profession which the professional limited liability company is authorized to practice. When a member does not have or ceases to have this qualification, the professional limited liability company shall immediately purchase all interests held by that member.

4. When a person other than a member of record becomes entitled to have interests of a professional limited liability company transferred into that person's name or to exercise voting rights, except as a proxy, with respect to interests of the professional limited liability company, the professional limited liability company shall immediately purchase the interests. Without limiting the generality of the foregoing, this section shall be applicable whether the event occurs as a result of appointment of a guardian or conservator for a member or the member's property, transfer of interests by operation of law, involuntary transfer of interests, judicial proceeding, execution, levy, bankruptcy proceeding, receivership proceeding, foreclosure or enforcement of a pledge or encumbrance, or any other situation or occurrence. However, this section does not apply to any voluntary transfer of interests as defined in this subchapter.

5. Interests purchased by a professional limited liability company under this section shall be transferred to the professional limited liability company as of the close of business on the date of the death or other event which requires purchase. The member and the member's executors, administrators, legal representatives, or successors in interest, shall promptly do all things which may be necessary or convenient to cause transfer to be made as of the transfer date. However, the interests shall promptly be transferred on the books and records of the professional limited liability company as of the transfer date, notwithstanding any delay in transferring or surrendering the interests or certificates representing the interests, and the transfer shall be valid and effective for all purposes as of the close of business on the transfer date. The purchase price for such interests shall be paid as provided in this subchapter, but the transfer of interests to the professional limited liability company as provided in this section shall not be delayed or affected by any delay or default in making payment.

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6. *a.* Notwithstanding subsections 1 through 5, purchase by the professional limited liability company is not required upon the occurrence of any event other than death of a member, if the professional limited liability company is dissolved within sixty days after the occurrence of the event or voluntarily elects to no longer be a professional limited liability company but continue its existence as a limited liability company pursuant to section 489.1119 within sixty days after the occurrence of the event. The certificate of organization or operating agreement of the professional limited liability company may provide that purchase is not required upon the death of a member, if the professional limited liability company is dissolved within sixty days after the date of the member's death.

b. Notwithstanding subsections 1 through 5, purchase by the professional limited liability company is not required upon the death of a member if the professional limited liability company voluntarily elects to no longer be a professional limited liability company but continue its existence as a limited liability company pursuant to section 489.1119 within sixty days after death.

7. Unless otherwise provided in the certificate of organization or an operating agreement of the professional limited liability company or in an agreement among all members of the professional limited liability company, all of the following apply:

a. The purchase price for interests shall be its book value as of the end of the month immediately preceding the death or other event which requires purchase. Book value shall be determined from the books and records of the professional limited liability company in accordance with the regular method of accounting used by the professional limited liability company, uniformly and consistently applied. Adjustments to book value shall be made, if necessary, to take into account work in process and accounts receivable. A final determination of book value made in good faith by an independent certified public accountant or firm of certified public accountants employed by the professional limited liability company for the purpose shall be conclusive on all persons.

b. The purchase price shall be paid in cash as follows:

(1) Upon the death of a member, thirty percent of the purchase price shall be paid within ninety days after death, and the balance shall be paid in three equal annual installments on the first three anniversaries of the death.

(2) Upon the happening of any other event referred to in this section, one-tenth of the purchase price shall be paid within ninety days after the date of the event, and the balance shall be paid in three equal annual installments on the first three anniversaries of the date of the event.

c. Interest from the date of death or other event shall be payable annually on principal payment dates, at the rate of six percent per annum on the unpaid balance of the purchase price.

d. All persons who are members of the professional limited liability company on the date of death or other event, and their executors, administrators, and legal representatives, shall, to the extent the professional limited liability company fails to meet its obligations under this section, be jointly liable for the payment of the purchase price and interest in proportion to their percentage of ownership of the professional limited liability company's interests, disregarding interests of the deceased or withdrawing member.

e. The part of the purchase price remaining unpaid after the initial payment shall be evidenced by a negotiable promissory note, which shall be executed by the professional limited liability company and all members liable for payment. Any person liable on the note shall have the right to prepay the note in full or in part at any time.

f. If the person making any payment is not reasonably able to determine which of two or more persons is entitled to receive a payment, or if the payment is payable to a person who is unknown, or who is under disability and there is no person legally competent to receive the payment, or who cannot be found after the exercise of reasonable diligence by the person making the payment, it shall be deposited with the treasurer of state and shall be subject to the provisions of section 490.1440 with respect to funds deposited with the treasurer of state upon the voluntary or involuntary dissolution of a business corporation.

8. Notwithstanding the other provisions of this section, no part of the purchase price

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shall be required to be paid until the certificates, if any, representing the interests have been surrendered to the professional limited liability company.

9. Notwithstanding the other provisions of this section, payment of any part of the purchase price for interests of a deceased member shall not be required until the executor or administrator of the deceased member provides any indemnity, release, or other document from any taxing authority, which is reasonably necessary to protect the professional limited liability company against liability for estate, inheritance, and death taxes.

10. The certificate of organization or an operating agreement of the professional limited liability company or an agreement among all members of a professional limited liability company may provide for a different purchase price, a different method of determining the purchase price, a different interest rate or no interest, and other terms, conditions, and schedules of payment.

11. The certificate of organization or an operating agreement of the professional limited liability company or an agreement among all members of a professional limited liability company may provide for the optional or mandatory purchase of its own interests by the professional limited liability company in other situations, subject to any applicable law regarding such a purchase.

2008 Acts, ch 1162, §98, 155; 2023 Acts, ch 152, §115, 161

489.1113 Certificates representing interests.

Each certificate representing an interest of a professional limited liability company shall state in substance that the certificate represents an interest in a professional limited liability company and is not transferable except as expressly provided in this subchapter and in the certificate of organization or an operating agreement of the professional limited liability company.

2008 Acts, ch 1162, §99, 155; 2023 Acts, ch 152, §116, 161

489.1114 Management.

1. All managers of a professional limited liability company shall at all times be individuals who are licensed to practice a profession in this state or a lawful combination of professions pursuant to section 489.1102, which the limited liability company is authorized to practice.

2. Notwithstanding subsection 1, upon the occurrence of any event that requires the professional limited liability company either to be dissolved or to elect to no longer be a professional limited liability company but continue its existence as a limited liability company, as provided in section 489.1119, all of the following apply:

a. The professional limited liability company ceases to practice the profession that the professional limited liability company is authorized to practice, as provided in section 489.1119.

b. The individuals who are not licensed to practice in this state a profession that the professional limited liability company is authorized to practice may be appointed as officers and directors for the sole purpose of doing any of the following:

(1) Carrying out the dissolution of the professional limited liability company.

(2) If applicable, carrying out the voluntary election of the professional limited liability company to no longer be a professional limited liability company but continue its existence as a limited liability company, as provided in section 489.1119.

2008 Acts, ch 1162, §100, 155; 2011 Acts, ch 1, §4, 5, 6; 2023 Acts, ch 152, §117, 161

489.1115 Merger.

A professional limited liability company shall not merge with any entity except another professional limited liability company subject to this subchapter or a professional corporation subject to chapter 496C. Merger is not permitted unless the surviving or new professional limited liability company is a professional limited liability company that complies with all requirements of this subchapter.

2008 Acts, ch 1162, §101, 155; 2023 Acts, ch 152, §118, 161

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489.1116 Dissolution or liquidation.

A violation of any provision of this subchapter by a professional limited liability company or any of its members or managers shall be cause for its involuntary dissolution, or liquidation of its assets and business by the district court. Upon the death of the last remaining member of a professional limited liability company, or when the last remaining member is not licensed or ceases to be licensed to practice a profession in this state which the professional limited liability company is authorized to practice, or when any person other than the member of record becomes entitled to have all interests of the last remaining member of the professional limited liability company transferred into that person's name or to exercise voting rights, except as a proxy, with respect to such interests, the professional limited liability company shall not practice any profession. In that case, the professional limited liability company shall either be promptly dissolved or shall promptly elect to no longer be a professional limited liability company but continue its existence as a limited liability company as provided in section 489.1119. However, if prior to dissolution all outstanding interests of the professional limited liability company are acquired by two or more persons licensed to practice a profession in this state which the professional limited liability company is authorized to practice, the professional limited liability company need not be dissolved nor elect to no longer be a professional limited liability company and may instead practice the profession as provided in this subchapter.

2008 Acts, ch 1162, §102, 155; 2023 Acts, ch 152, §119, 161

489.1117 Foreign professional limited liability company.

1. A foreign professional limited liability company may practice a profession in this state if it complies with the provisions of this subchapter. The secretary of state may prescribe forms for this purpose. A foreign professional limited liability company may practice a profession in this state only through members, managers, employees, and agents who are licensed to practice the profession in this state. The provisions of this subchapter with respect to the practice of a profession by a professional limited liability company apply to a foreign professional limited liability company.

2. This subchapter does not prohibit the practice of a profession in this state by an individual who is a member, manager, employee, or agent of a foreign professional limited liability company, if the individual could lawfully practice the profession in this state in the absence of any relationship to a foreign professional limited liability company. This subsection applies regardless of whether or not the foreign professional limited liability company is authorized to practice a profession in this state.

2008 Acts, ch 1162, §103, 155; 2023 Acts, ch 152, §120, 161

489.1118 Limited liability companies organized under the other laws.

This subchapter does not apply to or interfere with the practice of any profession by or through any professional limited liability company organized after July 1, 1992, under any other law of this state or any other state or country, if the practice is lawful under any other statute or rule of law of this state. Any such professional limited liability company may voluntarily elect to adopt this subchapter and become subject to its provisions, by amending its certificate of organization to be consistent with all provisions of this subchapter and by stating in its amended certificate of organization that the limited liability company has voluntarily elected to adopt this subchapter. Any limited liability company organized under any law of any other state or country may become subject to the provisions of this subchapter by complying with all provisions of this subchapter with respect to foreign professional limited liability companies.

2008 Acts, ch 1162, §104, 155; 2023 Acts, ch 152, §121, 161

489.1119 Election to no longer be a professional limited liability company.

A professional limited liability company may elect to no longer be a professional limited liability company but continue its existence as a limited liability company by filing with the secretary of state an amendment to or restatement of its certificate of organization that states

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that the limited liability company is no longer a professional limited liability company and amending its name to no longer indicate it is a professional limited liability company.

2023 Acts, ch 152, §123, 161
Referred to in §489.1112, 489.1114, 489.1116
Former §489.1119 transferred to §489.1120; 2023 Acts, ch 152, §143, 161

489.1120 Conflicts with other provisions of this chapter.

The provisions of this subchapter shall prevail over any inconsistent provisions of this chapter.

2008 Acts, ch 1162, §105, 155
C2009, §489.1119
2023 Acts, ch 152, §122, 143, 161
C2024, §489.1120

489.1121 through 489.1200 Reserved.

SUBCHAPTER XII

MISCELLANEOUS PROVISIONS

489.1201 Uniformity of application and construction.

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

2008 Acts, ch 1162, §112, 155
C2009, §489.1301
2023 Acts, ch 152, §143, 161
C2024, §489.1201
Former §489.1201 repealed by its own terms; 2019 Acts, ch 26, §46

489.1202 Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §7001 et seq., but does not modify, limit, or supersede section 101(c) of that Act, 15 U.S.C. §7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that Act, 15 U.S.C. §7003(b).

2008 Acts, ch 1162, §113, 155
C2009, §489.1302
2023 Acts, ch 152, §143, 161
C2024, §489.1202
Former §489.1202 repealed by its own terms; 2019 Acts, ch 26, §47

489.1203 Savings clause.

This chapter does not affect an action commenced, proceeding brought, or right accrued before January 1, 2009.

2008 Acts, ch 1162, §114, 155
C2009, §489.1303
2013 Acts, ch 90, §145; 2023 Acts, ch 152, §143, 161
C2024, §489.1203
Former §489.1203 repealed by its own terms; 2019 Acts, ch 26, §48

489.1204 Severability clause.

If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

2023 Acts, ch 152, §124, 161

489.1205 Termination of a series. Repealed by its own terms; 2019 Acts, ch 26, §50.

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489.1206 Foreign series. Repealed by its own terms; 2019 Acts, ch 26, §51.

489.1207 Application to existing relationships.

1. For purposes of applying this chapter to a limited liability company formed before January 1, 2024, references in the limited liability company's operating agreement to provisions in this chapter in effect before January 1, 2024, are deemed to be references to the comparable provision in this chapter after January 1, 2024.

2. A limited liability company that has published notice of its dissolution and requested persons having claims against the limited liability company to present them in accordance with the notice pursuant to section 489.705 as that section existed immediately prior to January 1, 2024, shall be subject to the requirements set forth in that section as it existed immediately prior to January 1, 2024, including the right of a claim by a person that is commenced within five years after publication of the notice.

3. For the purposes of applying this chapter to a limited liability company formed before January 1, 2009, all of the following apply:

a. The limited liability company's articles of organization are deemed to be the company's certificate of organization.

b. For the purposes of applying section 489.102, subsection 15, and subject to section 489.107, subsection 4, language in the limited liability company's articles of organization designating the limited liability company's management structure operates as if that language were in the operating agreement.

c. If a professional limited liability company's name complied with section 490A.1503 as that section existed on December 30, 2010, that company's name shall also be deemed to comply with the name requirements of section 489.1103 of the 2011 edition of the Iowa Code.

2023 Acts, ch 152, §125, 161; 2024 Acts, ch 1125, §20, 31

Referred to in §489.102

489.1208 through 489.1300 Reserved.

SUBCHAPTER XIII

PRIOR PROVISIONS

489.1301 Uniformity of application and construction. Transferred to §489.1201; 2023 Acts, ch 152, §143, 161.

489.1302 Relation to Electronic Signatures in Global and National Commerce Act. Transferred to §489.1202; 2023 Acts, ch 152, §143, 161.

489.1303 Savings clause. Transferred to §489.1203; 2023 Acts, ch 152, §143, 161.

489.1304 Application to existing relationships. Repealed by 2023 Acts, ch 152, §142, 161.

489.1305 through 489.14100 Reserved.

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SUBCHAPTER XIV

UNIFORM PROTECTED SERIES ACT

Referred to in §10.1, 10.10, 489.101

PART 1

GENERAL PROVISIONS

489.14101 Short title.

This subchapter may be cited as the *"Uniform Protected Series Act"*.

2019 Acts, ch 26, §1, 41; 2023 Acts, ch 152, §126, 161

Referred to in §489.101

489.14102 Definitions.

As used in this subchapter, unless the context otherwise requires:

1. *"Asset"* means any of the following:

a. Property in which a series limited liability company or protected series has rights.

b. Property as to which the company or protected series has the power to transfer rights.

2. *"Associated asset"* means an asset that meets the requirements of section 489.14301.

3. *"Associated member"* means a member that meets the requirements of section 489.14302.

4. *"Foreign protected series"* means an arrangement, configuration, or other structure established by a foreign limited liability company which has attributes comparable to a protected series established under this subchapter. The term applies whether or not the law under which the foreign company is organized refers to "protected series".

5. *"Foreign series limited liability company"* means a foreign limited liability company that has at least one foreign protected series.

6. *"Nonassociated asset"* means any of the following:

a. An asset of a series limited liability company which is not an associated asset of the company.

b. An asset of a protected series of the company which is not an associated asset of the protected series.

7. *"Person"* means the same as defined in section 4.1 and includes a protected series.

8. *"Protected series"*, except in the phrase *"foreign protected series"*, means a protected series established under section 489.14201.

9. *"Protected-series manager"* means a person under whose authority the powers of a protected series are exercised and under whose direction the activities and affairs of the protected series are managed under the operating agreement, this subchapter, and this chapter.

10. *"Protected-series transferable interest"* means a right to receive a distribution from a protected series.

11. *"Protected-series transferee"* means a person to which all or part of a protected-series transferable interest of a protected series of a series limited liability company has been transferred, other than the company. The term includes a person that owns a protected-series transferable interest as a result of ceasing to be an associated member of a protected series.

12. *"Series limited liability company"*, except in the phrase *"foreign series limited liability company"*, means a limited liability company that has at least one protected series.

2019 Acts, ch 26, §2, 41; 2023 Acts, ch 152, §127, 128, 161

489.14103 Nature of protected series.

A protected series of a series limited liability company is a person distinct from all of the following:

1. The company, subject to section 489.14104, subsection 3, section 489.14501, subsection 1, and section 489.14502, subsection 4.

2. Another protected series of the company.

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3. A member of the company, whether or not the member is an associated member of the protected series.

4. A protected-series transferee of a protected series of the company.

5. A transferee of a transferable interest of the company.

2019 Acts, ch 26, §3, 41
Referred to in §489.14107

489.14104 Powers and duration of protected series.

1. A protected series of a series limited liability company has the capacity to sue and be sued in its own name.

2. Except as otherwise provided in subsections 3 and 4, a protected series of a series limited liability company has the same powers and purposes as the company.

3. A protected series of a series limited liability company ceases to exist not later than when the company completes its winding up.

4. A protected series of a series limited liability company shall not do any of the following:

a. Be a member of the company.

b. Establish a protected series.

c. Except as permitted by law of this state other than this subchapter, have a purpose or power that the law of this state other than this subchapter prohibits a limited liability company from doing or having.

2019 Acts, ch 26, §4, 41; 2023 Acts, ch 152, §129, 161
Referred to in §489.14103, 489.14107

489.14105 Governing law.

The law of this state governs all of the following:

1. The internal affairs of a protected series of a series limited liability company, including all of the following:

a. Relations among any associated members of the protected series.

b. Relations among the protected series and any of the following:

(1) Any associated member.

(2) The protected-series manager.

(3) Any protected-series transferee.

c. Relations between any associated member and any of the following:

(1) The protected-series manager.

(2) Any protected-series transferee.

d. The rights and duties of a protected-series manager.

e. Governance decisions affecting the activities and affairs of the protected series and the conduct of those activities and affairs.

f. Procedures and conditions for becoming an associated member or protected-series transferee.

2. The relations between a protected series of a series limited liability company and each of the following:

a. The company.

b. Another protected series of the company.

c. A member of the company which is not an associated member of the protected series.

d. A protected-series manager that is not a protected-series manager of the protected series.

e. A protected-series transferee that is not a protected-series transferee of the protected series.

3. The liability of a person for a debt, obligation, or other liability of a protected series of a series limited liability company if the debt, obligation, or liability is asserted solely by reason of the person being or acting as any of the following:

a. An associated member, protected-series transferee, or protected-series manager of the protected series.

b. A member of the company which is not an associated member of the protected series.

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c. A protected-series manager that is not a protected-series manager of the protected series.

d. A protected-series transferee that is not a protected-series transferee of the protected series.

e. A manager of the company.

f. A transferee of a transferable interest of the company.

4. The liability of a series limited liability company for a debt, obligation, or other liability of a protected series of the company if the debt, obligation, or liability is asserted solely by reason of the company doing any of the following:

a. Having delivered to the secretary of state for filing under section 489.14201, subsection 2, a protected series designation pertaining to the protected series or under section 489.14201, subsection 4, or section 489.14202, subsection 3, a statement of designation change pertaining to the protected series.

b. Being or acting as a protected-series manager of the protected series.

c. Having the protected series be or act as a manager of the company.

d. Owning a protected-series transferable interest of the protected series.

5. The liability of a protected series of a series limited liability company for a debt, obligation, or other liability of the company or of another protected series of the company if the debt, obligation, or liability is asserted solely by reason of any of the following:

a. The protected series is any of the following:

(1) A protected series of the company or having as a protected-series manager the company or another protected series of the company.

(2) Acting as a protected-series manager of another protected series of the company or a manager of the company.

b. The company owning a protected-series transferable interest of the protected series.

2019 Acts, ch 26, §5, 41
Referred to in §489.14107

489.14106 Relation of operating agreement, this subchapter, and this chapter.

1. Except as otherwise provided in this section and subject to sections 489.14107 and 489.14108, the operating agreement of a series limited liability company governs all of the following:

a. The internal affairs of a protected series, including all of the following:

(1) Relations among any associated members of the protected series.

(2) Relations among the protected series and any of the following:

(a) Any associated member.

(b) The protected-series manager.

(c) Any protected-series transferee.

(3) Relations between any associated member and any of the following:

(a) The protected-series manager.

(b) Any protected-series transferee.

(4) The rights and duties of a protected-series manager.

(5) Governance decisions affecting the activities and affairs of the protected series and the conduct of those activities and affairs.

(6) Procedures and conditions for becoming an associated member or protected-series transferee.

b. Relations among the protected series, the company, and any other protected series of the company.

c. Relations between all of the following:

(1) The protected series, its protected-series manager, any associated member of the protected series, or any protected-series transferee of the protected series.

(2) A person in the person's capacity as any of the following:

(a) A member of the company which is not an associated member of the protected series.

(b) A protected-series transferee or protected-series manager of another protected series.

(c) A transferee of the company.

2. If this chapter otherwise restricts the power of an operating agreement to affect a

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matter, the restriction applies to a matter under this subchapter in accordance with section 489.14108.

3. If law of this state other than this subchapter imposes a prohibition, limitation, requirement, condition, obligation, liability, or other restriction on a limited liability company, a member, manager, or other agent of the company, or a transferee of the company, except as otherwise provided in law of this state other than this subchapter, the restriction applies in accordance with section 489.14108.

4. Except as otherwise provided in section 489.14107, if the operating agreement of a series limited liability company does not provide for a matter described in subsection 1 in a manner permitted by this subchapter, the matter is determined in accordance with the following rules:

a. To the extent this subchapter addresses the matter, this subchapter governs.

b. To the extent this subchapter does not address the matter, the other subchapters of this chapter govern the matter in accordance with section 489.14108.

2019 Acts, ch 26, §6, 41; 2023 Acts, ch 152, §130, 161
Referred to in §489.14107, 489.14108

489.14107 Additional limitations on operating agreement.

1. An operating agreement shall not vary the effect of any of the following:

a. This section.

b. Section 489.14103.

c. Section 489.14104, subsection 1.

d. Section 489.14104, subsection 2, to provide a protected series a power beyond the powers this chapter provides a limited liability company.

e. Section 489.14104, subsection 3 or 4.

f. Section 489.14105.

g. Section 489.14106.

h. Section 489.14108.

i. Section 489.14201, except to vary the manner in which a limited liability company approves establishing a protected series.

j. Section 489.14202.

k. Section 489.14301.

l. Section 489.14302.

m. Section 489.14303, subsection 1 or 2.

n. Section 489.14304, subsection 3 or 6.

o. Section 489.14401, except to decrease or eliminate a limitation of liability stated in section 489.14401.

p. Section 489.14402.

q. Section 489.14403.

r. Section 489.14404.

s. Section 489.14501, subsections 1, 4, and 5.

t. Section 489.14502, except to designate a different person to manage winding up.

u. Section 489.14503.

v. Subchapter VI.

w. Subchapter VII.

x. Subchapter VIII.

y. A provision of this subchapter pertaining to any of the following:

(1) Registered agents.

(2) The secretary of state, including provisions pertaining to records authorized or required to be delivered to the secretary of state for filing under this subchapter.

2. An operating agreement shall not unreasonably restrict the duties and rights under section 489.14305 but may impose reasonable restrictions on the availability and use of information obtained under section 489.14305 and may provide appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on use.

2019 Acts, ch 26, §7, 41; 2022 Acts, ch 1021, §140; 2023 Acts, ch 152, §131, 161
Referred to in §489.14106, 489.14108

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489.14108 Rules for applying specified provisions of this chapter to specified provisions of this subchapter.

1. Except as otherwise provided in subsection 2 and section 489.14107, the following rules apply in applying section 489.14106, section 489.14304, subsections 3 and 6, section 489.14501, subsection 4, paragraph *"a"*, section 489.14502, subsection 1, and section 489.14503, subsection 2:

a. A protected series of a series limited liability company is deemed to be a limited liability company that is formed separately from the series limited liability company and is distinct from the series limited liability company and any other protected series of the series limited liability company.

b. An associated member of the protected series is deemed to be a member of the company deemed to exist under paragraph *"a"*.

c. A protected-series transferee of the protected series is deemed to be a transferee of the company deemed to exist under paragraph *"a"*.

d. A protected-series transferable interest of the protected series is deemed to be a transferable interest of the company deemed to exist under paragraph *"a"*.

e. A protected-series manager is deemed to be a manager of the company deemed to exist under paragraph *"a"*.

f. An asset of the protected series is deemed to be an asset of the company deemed to exist under paragraph *"a"*, whether or not the asset is an associated asset of the protected series.

g. Any creditor or other obligee of the protected series is deemed to be a creditor or obligee of the company deemed to exist under paragraph *"a"*.

2. Subsection 1 does not apply if its application would do any of the following:

a. Contravene section 489.105.

b. Authorize or require the secretary of state to do any of the following:

(1) Accept for filing a type of record that neither this subchapter nor any of the other subchapters of this chapter authorizes or requires a person to deliver to the secretary of state for filing.

(2) Make or deliver a record that neither this subchapter nor the other subchapters of this chapter authorizes or requires the secretary of state to make or deliver.

2019 Acts, ch 26, §8, 41; 2023 Acts, ch 152, §132, 161
Referred to in §489.14106, 489.14107, 489.14303, 489.14304, 489.14501, 489.14502, 489.14503

489.14109 through 489.14200 Reserved.

PART 2

ESTABLISHING PROTECTED SERIES

489.14201 Protected series designation — amendment.

1. With the affirmative vote or consent of all members of a limited liability company, the company may establish a protected series.

2. To establish a protected series, a limited liability company shall deliver to the secretary of state for filing a protected series designation, signed by the company, stating the name of the company and the name of the protected series to be established.

3. A protected series is established when the protected series designation takes effect under section 489.207.

4. To amend a protected series designation, a series limited liability company shall deliver to the secretary of state for filing a statement of designation change, signed by the company, that changes the name of the company, the name of the protected series to which the designation applies, or both. The change takes effect when the statement of designation change takes effect under section 489.207.

2019 Acts, ch 26, §9, 41; 2024 Acts, ch 1125, §22, 31
Referred to in §489.14102, 489.14105, 489.14107

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489.14202 Name.

1. Except as otherwise provided in subsection 2, the name of a protected series must comply with section 489.112.

2. The name of a protected series of a series limited liability company must do all of the following:

a. Begin with the name of the company, including any word or abbreviation required by section 489.112.

b. Contain the phrase *"Protected Series"* or *"protected series"* or the abbreviation "P.S." or "PS".

3. If a series limited liability company changes its name, the company shall deliver to the secretary of state for filing a statement of designation change for each of the company's protected series, changing the name of each protected series to comply with this section.

2019 Acts, ch 26, §10, 41
Referred to in §489.14105, 489.14107, 489.14703

489.14203 Registered agent.

1. The registered agent in this state for a series limited liability company is the registered agent in this state for each protected series of the company.

2. Before delivering a protected series designation to the secretary of state for filing, a limited liability company shall agree with a registered agent that the agent will serve as the registered agent in this state for both the company and the protected series.

3. A person that signs a protected series designation delivered to the secretary of state for filing affirms as a fact that the limited liability company on whose behalf the designation is delivered has complied with subsection 2.

4. A person that ceases to be the registered agent for a series limited liability company ceases to be the registered agent for each protected series of the company.

5. A person that ceases to be the registered agent for a protected series of a series limited liability company, other than as a result of the termination of the protected series, ceases to be the registered agent of the company and any other protected series of the company.

6. Except as otherwise agreed by a series limited liability company and its registered agent, the agent is not obligated to distinguish between a process, notice, demand, or other record concerning the company and a process, notice, demand, or other record concerning a protected series of the company.

2019 Acts, ch 26, §11, 41

489.14204 Service of process, notice, demand, or other record.

1. A protected series of a series limited liability company may be served with a process, notice, demand, or other record required or permitted by law by any of the following:

a. Serving the company.

b. Serving the registered agent of the protected series.

c. Other means authorized by law of this state other than the other subchapters of this chapter.

2. Service of a summons and complaint on a series limited liability company is notice to each protected series of the company of service of the summons and complaint and the contents of the complaint.

3. Service of a summons and complaint on a protected series of a series limited liability company is notice to the company and any other protected series of the company of service of the summons and complaint and the contents of the complaint.

4. Service of a summons and complaint on a foreign series limited liability company is notice to each foreign protected series of the foreign company of service of the summons and complaint and the contents of the complaint.

5. Service of a summons and complaint on a foreign protected series of a foreign series limited liability company is notice to the foreign company and any other foreign protected series of the company of service of the summons and complaint and the contents of the complaint.

6. Notice to a person under subsection 2, 3, 4, or 5 is effective whether or not the summons

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and complaint identify the person if the summons and complaint name as a party and identify any of the following:

a. The series limited liability company or a protected series of the company.

b. The foreign series limited liability company or a foreign protected series of the foreign company.

2019 Acts, ch 26, §12, 41; 2023 Acts, ch 152, §133, 161

489.14205 Certificate of existence for protected series.

1. On request of any person, the secretary of state shall issue a certificate of existence for a protected series of a series limited liability company or a certificate of authority for a foreign protected series in the following circumstances:

a. In the case of a protected series, if all of the following apply:

(1) No statement of dissolution, termination, or relocation pertaining to the protected series has been filed.

(2) The company has delivered to the secretary of state for filing the most recent biennial report required by section 489.212 and the report includes the name of the protected series, unless any of the following applies:

(a) When the company delivered the report for filing, the protected series designation pertaining to the protected series had not yet taken effect.

(b) After the company delivered the report for filing, the company delivered to the secretary of state for filing a statement of designation change changing the name of the protected series.

b. In the case of a foreign protected series, it is authorized to do business in this state.

2. A certificate issued under subsection 1 must state all of the following:

a. In the case of a protected series, all of the following:

(1) The name of the protected series of the series limited liability company and the name of the company.

(2) That the requirements of subsection 1 are met.

(3) The date the protected series designation pertaining to the protected series took effect.

(4) If a statement of designation change pertaining to the protected series has been filed, the effective date and contents of the statement.

b. In the case of a foreign protected series, that it is authorized to do business in this state.

c. That all fees, taxes, interest, and penalties due under this chapter or other law to the secretary of state have been paid if all of the following apply:

(1) Payment is reflected in the records of the secretary of state.

(2) Nonpayment affects the existence or good standing of the protected series.

d. Other facts reflected in the records of the secretary of state pertaining to the protected series or foreign protected series which the person requesting the certificate reasonably requests.

3. Subject to any qualification stated by the secretary of state in a certificate issued under subsection 1, the certificate may be relied on as conclusive evidence of the facts stated in the certificate.

2019 Acts, ch 26, §13, 41; 2024 Acts, ch 1125, §23, 31

489.14206 Information required in biennial report — effect of failure to provide.

1. In the biennial report required by section 489.212, a series limited liability company shall include the name of each protected series of the company for which all of the following apply:

a. For which the company has previously delivered to the secretary of state for filing a protected series designation.

b. Which has not dissolved and completed winding up.

2. A failure by a series limited liability company to comply with subsection 1 with regard to a protected series prevents issuance of a certificate of existence pertaining to the protected series but does not otherwise affect the protected series.

2019 Acts, ch 26, §14, 41; 2020 Acts, ch 1063, §383; 2024 Acts, ch 1125, §24, 31

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489.14207 through 489.14300 Reserved.

PART 3

ASSOCIATED ASSETS AND MEMBERS — TRANSFERABLE INTERESTS — MANAGEMENT — INFORMATION RIGHTS

489.14301 Associated asset.

1. Only an asset of a protected series may be an associated asset of the protected series. Only an asset of a series limited liability company may be an associated asset of the company.

2. An asset of a protected series of a series limited liability company is an associated asset of the protected series only if the protected series creates and maintains records that state the name of the protected series and describe the asset with sufficient specificity to permit a disinterested, reasonable individual to do all of the following:

a. Identify the asset and distinguish it from any other asset of the protected series, any asset of the company, and any asset of any other protected series of the company.

b. Determine when and from what person the protected series acquired the asset or how the asset otherwise became an asset of the protected series.

c. If the protected series acquired the asset from the company or another protected series of the company, determine any consideration paid, the payor, and the payee.

3. An asset of a series limited liability company is an associated asset of the company only if the company creates and maintains records that state the name of the company and describe the asset with sufficient specificity to permit a disinterested, reasonable individual to do all of the following:

a. Identify the asset and distinguish it from any other asset of the company and any asset of any protected series of the company.

b. Determine when and from what person the company acquired the asset or how the asset otherwise became an asset of the company.

c. If the company acquired the asset from a protected series of the company, determine any consideration paid, the payor, and the payee.

4. The records and recordkeeping required by subsections 2 and 3 may be organized by specific listing, category, type, quantity, or computational or allocational formula or procedure, including a percentage or share of any asset, or in any other reasonable manner.

5. To the extent permitted by this section and law of this state other than this subchapter, a series limited liability company or protected series of the company may hold an associated asset directly or indirectly, through a representative, nominee, or similar arrangement, except that all of the following applies:

a. A protected series shall not hold an associated asset in the name of the company or another protected series of the company.

b. The company shall not hold an associated asset in the name of a protected series of the company.

2019 Acts, ch 26, §15, 41; 2023 Acts, ch 152, §134, 161
Referred to in §489.14102, 489.14107, 489.14404

489.14302 Associated member.

1. Only a member of a series limited liability company may be an associated member of a protected series of the company.

2. A member of a series limited liability company becomes an associated member of a protected series of the company if the operating agreement or a procedure established by the agreement states all of the following:

a. That the member is an associated member of the protected series.

b. The date on which the member became an associated member.

c. Any protected-series transferable interest the associated member has in connection with becoming or being an associated member.

3. If a person that is an associated member of a protected series of a series limited liability

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company is dissociated from the company, the person ceases to be an associated member of the protected series.

2019 Acts, ch 26, §16, 41
Referred to in §489.14102, 489.14107

489.14303 Protected-series transferable interest.

1. A protected-series transferable interest of a protected series of a series limited liability company must be owned initially by an associated member of the protected series or the company.

2. If a protected series of a series limited liability company has no associated members when established, the company owns the protected-series transferable interests in the protected series.

3. In addition to acquiring a protected-series transferable series interest under subsection 2, a series limited liability company may acquire a protected-series transferable interest through a transfer from another person or as provided in the operating agreement.

4. Except for section 489.14108, subsection 1, paragraph *"c"*, a provision of this subchapter which applies to a protected-series transferee of a protected series of a series limited liability company applies to the company in its capacity as an owner of a protected-series transferable interest of the protected series. A provision of the operating agreement of a series limited liability company which applies to a protected-series transferee of a protected series of the company applies to the company in its capacity as an owner of a protected-series transferable interest of the protected series.

2019 Acts, ch 26, §17, 41; 2023 Acts, ch 152, §135, 161
Referred to in §489.14107

489.14304 Management.

1. A protected series may have more than one protected-series manager.

2. If a protected series has no associated members, the series limited liability company is the protected-series manager.

3. Section 489.14108 applies to determine any duties of a protected-series manager of a protected series of a series limited liability company to all of the following:

a. The protected series.

b. Any associated member of the protected series.

c. Any protected-series transferee of the protected series.

4. Solely by reason of being or acting as a protected-series manager of a protected series of a series limited liability company, a person owes no duty to any of the following:

a. The company.

b. Another protected series of the company.

c. Another person in that person's capacity as any of the following:

(1) A member of the company which is not an associated member of the protected series.

(2) A protected-series transferee or protected-series manager of another protected series.

(3) A transferee of the company.

5. An associated member of a protected series of a series limited liability company has the same rights as any other member of the company to vote on or consent to an amendment to the company's operating agreement or any other matter being decided by the members, whether or not the amendment or matter affects the interests of the protected series or the associated member.

6. Subchapter IX applies to a protected series in accordance with section 489.14108.

2019 Acts, ch 26, §18, 41; 2023 Acts, ch 152, §136, 161
Referred to in §489.14107, 489.14108

489.14305 Right of person not associated member of protected series to information concerning protected series.

1. A member of a series limited liability company which is not an associated member of a protected series of the company has a right to information concerning the protected series to the same extent, in the same manner, and under the same conditions that a member that

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is not a manager of a manager-managed limited liability company has a right to information concerning the company under section 489.410, subsection 2.

2. A person formerly an associated member of a protected series has a right to information concerning the protected series to the same extent, in the same manner, and under the same conditions that a person dissociated as a member of a manager-managed limited liability company has a right to information concerning the company under section 489.410, subsection 3.

3. If an associated member of a protected series dies, the legal representative of the deceased associated member has a right to information concerning the protected series to the same extent, in the same manner, and under the same conditions that the legal representative of a deceased member of a limited liability company has a right to information concerning the company under section 489.504.

4. A protected-series manager of a protected series has a right to information concerning the protected series to the same extent, in the same manner, and under the same conditions that a manager of a manager-managed limited liability company has a right to information concerning the company under section 489.410, subsection 2.

2019 Acts, ch 26, §19, 41
Referred to in §489.14107

489.14306 through 489.14400 Reserved.

PART 4

LIMITATION ON LIABILITY AND ENFORCEMENT OF CLAIMS

489.14401 Limitations on liability.

1. A person is not liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of any of the following:

a. A protected series of a series limited liability company solely by reason of being or acting as any of the following:

(1) An associated member, protected-series manager, or protected-series transferee of the protected series.

(2) A member, manager, or a transferee of the company.

b. A series limited liability company solely by reason of being or acting as an associated member, protected-series manager, or protected-series transferee of a protected series of the company.

2. Subject to section 489.14404, all of the following rules apply:

a. A debt, obligation, or other liability of a series limited liability company is solely the debt, obligation, or liability of the company.

b. A debt, obligation, or other liability of a protected series is solely the debt, obligation, or liability of the protected series.

c. A series limited liability company is not liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of a protected series of the company solely by reason of the protected series being a protected series of the company or the company for any of the following:

(1) Being or acting as a protected-series manager of the protected series.

(2) Having the protected series manage the company.

(3) Owning a protected-series transferable interest of the protected series.

d. A protected series of a series limited liability company is not liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of the company or another protected series of the company solely by reason of any of the following:

(1) Being a protected series of the company.

(2) Being or acting as a manager of the company or a protected-series manager of another protected series of the company.

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(3) Having the company or another protected series of the company be or act as a protected-series manager of the protected series.

2019 Acts, ch 26, §20, 41
Referred to in §489.14107, 489.14402

489.14402 Claim seeking to disregard limitation of liability.

1. Except as otherwise provided in subsection 2, a claim seeking to disregard a limitation in section 489.14401 is governed by the principles of law and equity, including a principle providing a right to a creditor or holding a person liable for a debt, obligation, or other liability of another person, which would apply if each protected series of a series limited liability company were a limited liability company formed separately from the series limited liability company and distinct from the series limited liability company and any other protected series of the series limited liability company.

2. The failure of a limited liability company or a protected series to observe formalities relating to the exercise of its powers or management of its activities and affairs is not a ground to disregard a limitation in section 489.14401, subsection 1, but may be a ground to disregard a limitation in section 489.14401, subsection 2.

3. This section applies to a claim seeking to disregard a limitation of liability applicable to a foreign series limited liability company or foreign protected series and comparable to a limitation stated in section 489.14401, if any of the following apply:

a. The claimant is a resident of this state or doing business or authorized to do business in this state.

b. The claim is to establish or enforce a liability arising under law of this state other than this subchapter or from an act or omission in this state.

2019 Acts, ch 26, §21, 41; 2023 Acts, ch 152, §137, 161
Referred to in §489.14107, 489.14701, 489.14703

489.14403 Remedies of judgment creditor of associated member or protected-series transferee.

Section 489.503 applies to a judgment creditor of any of the following:

1. An associated member or protected-series transferee of a protected series.

2. A series limited liability company, to the extent the company owns a protected-series transferable interest of a protected series.

2019 Acts, ch 26, §22, 41
Referred to in §489.14107

489.14404 Enforcement against nonassociated asset.

1. As used in this section:

a. "Enforcement date" means 12:01 a.m. on the date on which a claimant first serves process on a series limited liability company or protected series in an action seeking to enforce under this section a claim against an asset of the company or protected series by attachment, levy, or the like.

b. Subject to section 489.14608, subsection 2, *"incurrence date"* means the date on which a series limited liability company or protected series incurred the liability giving rise to a claim that a claimant seeks to enforce under this section.

2. If a claim against a series limited liability company or a protected series of the company has been reduced to judgment, in addition to any other remedy provided by law or equity, the judgment may be enforced in accordance with the following rules:

a. A judgment against the company may be enforced against an asset of a protected series of the company if any of the following applies:

(1) The asset was a nonassociated asset of the protected series on the incurrence date.

(2) The asset is a nonassociated asset of the protected series on the enforcement date.

b. A judgment against a protected series may be enforced against an asset of the company if any of the following apply:

(1) The asset was a nonassociated asset of the company on the incurrence date.

(2) The asset is a nonassociated asset of the company on the enforcement date.

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c. A judgment against a protected series may be enforced against an asset of another protected series of the company if any of the following applies:

(1) The asset was a nonassociated asset of the other protected series on the incurrence date.

(2) The asset is a nonassociated asset of the other protected series on the enforcement date.

3. In addition to any other remedy provided by law or equity, if a claim against a series limited liability company or a protected series has not been reduced to a judgment and law other than this subchapter permits a prejudgment remedy by attachment, levy, or the like, the court may apply subsection 2 as a prejudgment remedy.

4. In a proceeding under this section, the party asserting that an asset is or was an associated asset of a series limited liability company or a protected series of the company has the burden of proof on the issue.

5. This section applies to an asset of a foreign series limited liability company or foreign protected series if all of the following applies:

a. The asset is real or tangible property located in this state.

b. The claimant is a resident of this state or doing business or authorized to do business in this state, or the claim under section 489.14404 is to enforce a judgment, or to seek a prejudgment remedy, pertaining to a liability arising from law of this state other than this subchapter or an act or omission in this state.

c. The asset is not identified in the records of the foreign series limited liability company or foreign protected series in a manner comparable to the manner required by section 489.14301.

2019 Acts, ch 26, §23, 41; 2023 Acts, ch 152, §138, 139, 161
Referred to in §489.14107, 489.14401, 489.14608, 489.14701, 489.14703

489.14405 through 489.14500 Reserved.

PART 5

DISSOLUTION AND WINDING UP OF PROTECTED SERIES

489.14501 Events causing dissolution of protected series.

A protected series of a series limited liability company is dissolved, and its activities and affairs must be wound up, only on any of the following:

1. Dissolution of the company.

2. Occurrence of an event or circumstance the operating agreement states causes dissolution of the protected series.

3. Affirmative vote or consent of all members.

4. Entry by the court of an order dissolving the protected series on application by an associated member or protected-series manager of the protected series subject to all of the following:

a. In accordance with section 489.14108.

b. To the same extent, in the same manner, and on the same grounds the court would enter an order dissolving a limited liability company on application by a member or manager of the company.

5. Entry by the court of an order dissolving the protected series on application by the company or a member of the company on the ground that the conduct of all or substantially all the activities and affairs of the protected series is illegal.

2019 Acts, ch 26, §24, 41
Referred to in §489.14103, 489.14107, 489.14108

489.14502 Winding up dissolved protected series.

1. Subject to subsections 2 and 3 and in accordance with section 489.14108 all of the following apply:

a. A dissolved protected series shall wind up its activities and affairs in the same manner that a limited liability company winds up its activities and affairs under sections 489.702,

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489.704, and 489.705 subject to the same requirements and conditions and with the same effects.

b. Judicial supervision or another judicial remedy is available in the winding up of the protected series to the same extent, in the same manner, under the same conditions, and with the same effects that apply under section 489.702, subsection 5.

2. When a protected series of a series limited liability company dissolves, the company may deliver to the secretary of state for filing a statement of protected series dissolution stating the name of the company and the protected series and that the protected series is dissolved. The filing of the statement by the secretary of state has the same effect as the filing by the secretary of state of a statement of dissolution under section 489.103, subsection 4, paragraph *"b"*, subparagraph (1).

3. When a protected series of a series limited liability company has completed winding up, the company may deliver to the secretary of state for filing a statement of designation cancellation stating the name of the company and the protected series and that the protected series is terminated. The filing of the statement by the secretary of state has the same effect as the filing by the secretary of state of a statement of termination under section 489.103, subsection 4, paragraph *"b"*, subparagraph (2).

4. A series limited liability company has not completed its winding up until each of the protected series of the company has completed its winding up.

2019 Acts, ch 26, §25, 41
Referred to in §489.14103, 489.14107, 489.14108

489.14503 Effect of reinstatement of series limited liability company or revocation of voluntary dissolution.

If a series limited liability company that has been administratively dissolved is reinstated, or a series limited liability company that voluntarily dissolved rescinds its dissolution both of the following apply:

1. Each protected series of the company ceases winding up.

2. The provisions of section 489.710 apply to each protected series of the company in accordance with section 489.14108.

2019 Acts, ch 26, §26, 41
Referred to in §489.14107, 489.14108

489.14504 through 489.14600 Reserved.

PART 6

ENTITY TRANSACTIONS RESTRICTED

489.14601 Definitions.

As used in this part:

1. *"After a merger"* or *"after the merger"* means when a merger under section 489.14604 becomes effective and afterwards.

2. *"Before a merger"* or *"before the merger"* means before a merger under section 489.14604 becomes effective.

3. *"Continuing protected series"* means a protected series of a surviving company which continues in uninterrupted existence after a merger under section 489.14604.

4. *"Merging company"* means a limited liability company that is party to a merger under section 489.14604.

5. *"Nonsurviving company"* means a merging company that does not continue in existence after a merger under section 489.14604.

6. *"Relocated protected series"* means a protected series of a nonsurviving company which, after a merger under section 489.14604, continues in uninterrupted existence as a protected series of the surviving company.

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7. *"Surviving company"* means a merging company that continues in existence after a merger under section 489.14604.

2019 Acts, ch 26, §27, 41

489.14602 Protected series shall not be party to entity transaction.

A protected series shall not do any of the following:

1. Be an acquiring, acquired, converting, converted, merging, or surviving entity.
2. Participate in a domestication.
3. Be a party to or be formed, organized, established, or created in a transaction substantially like a merger, interest exchange, conversion, or domestication.

2019 Acts, ch 26, §28, 41

489.14603 Restriction on entity transaction involving protected series.

A series limited liability company shall not be any of the following:

1. An acquiring, acquired, converting, converted, domesticating, or domesticated entity.
2. Except as otherwise provided in section 489.14604, a party to or the surviving company of a merger.

2019 Acts, ch 26, §29, 41

489.14604 Merger authorized — parties restricted.

A series limited liability company may be party to a merger in accordance with subchapter X, parts 1 and 2, this section, and sections 489.14605 through 489.14608 only if all of the following apply:

1. Each other party to the merger is a limited liability company.
2. The surviving company is not created in the merger.

2019 Acts, ch 26, §30, 41; 2024 Acts, ch 1125, §25, 31
Referred to in §489.14601, 489.14603, 489.14605, 489.14606, 489.14607, 489.14608

489.14605 Plan of merger.

In a merger under section 489.14604, the plan of merger must do all of the following:

1. Comply with subchapter X, parts 1 and 2.
2. State in a record all of the following:

a. For any protected series of a nonsurviving company, whether after the merger the protected series will be a relocated protected series or be dissolved, wound up, and terminated.

b. For any protected series of the surviving company which exists before the merger, whether after the merger the protected series will be a continuing protected series or be dissolved, wound up, and terminated.

c. For each relocated protected series or continuing protected series all of the following:

(1) The name of any person that becomes an associated member or protected-series transferee of the protected series after the merger, any consideration to be paid by, on behalf of, or in respect of the person, the name of the payor, and the name of the payee.

(2) The name of any person whose rights or obligations in the person's capacity as an associated member or protected-series transferee will change after the merger.

(3) Any consideration to be paid to a person who before the merger was an associated member or protected-series transferee of the protected series and the name of the payor.

(4) If after the merger the protected series will be a relocated protected series, its new name.

d. For any protected series to be established by the surviving company as a result of the merger all of the following:

(1) The name of the protected series.

(2) Any protected-series transferable interest to be owned by the surviving company when the protected series is established.

(3) The name of and any protected-series transferable interest owned by any person that will be an associated member of the protected series when the protected series is established.

e. For any person that is an associated member of a relocated protected series and will

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remain a member after the merger, any amendment to the operating agreement of the surviving company which is all of the following:

(1) Is or is proposed to be in a record.

(2) Is necessary or appropriate to state the rights and obligations of the person as a member of the surviving company.

2019 Acts, ch 26, §31, 41; 2024 Acts, ch 1125, §26, 31
Referred to in §489.14604

489.14606 Articles of merger.

In a merger under section 489.14604, the statement of merger must do all of the following:

1. Comply with subchapter X, parts 1 and 2.

2. Include as an attachment the following records, each to become effective when the merger becomes effective upon any of the following:

a. For a protected series of a merging company being terminated as a result of the merger, a statement of termination signed by the company.

b. For a protected series of a nonsurviving company which after the merger will be a relocated protected series all of the following:

(1) A statement of relocation signed by the nonsurviving company which contains the name of the company and the name of the protected series before and after the merger.

(2) A statement of protected series designation signed by the surviving company.

c. For a protected series being established by the surviving company as a result of the merger, a protected series designation signed by the company.

2019 Acts, ch 26, §32, 41; 2024 Acts, ch 1125, §27, 28, 31
Referred to in §489.14604

489.14607 Effect of merger.

When a merger under section 489.14604 becomes effective, in addition to the effects stated in section 489.1026, all of the following apply:

1. As provided in the plan of merger, each protected series of each merging company which was established before the merger is any of the following:

a. Is a relocated protected series or continuing protected series.

b. Is dissolved, wound up, and terminated.

2. Any protected series to be established as a result of the merger is established.

3. Any relocated protected series or continuing protected series is the same person without interruption as it was before the merger.

4. All property of a relocated protected series or continuing protected series continues to be vested in the protected series without transfer, reversion, or impairment.

5. All debts, obligations, and other liabilities of a relocated protected series or continuing protected series continue as debts, obligations, and other liabilities of the protected series.

6. Except as otherwise provided by law or the plan of merger, all the rights, privileges, immunities, powers, and purposes of a relocated protected series or continuing protected series remain in the protected series.

7. The new name of a relocated protected series may be substituted for the former name of the protected series in any pending action or proceeding.

8. If provided in the plan of merger all of the following apply:

a. A person becomes an associated member or protected-series transferee of a relocated protected series or continuing protected series.

b. A person becomes an associated member of a protected series established by the surviving company as a result of the merger.

c. Any change in the rights or obligations of a person in the person's capacity as an associated member or protected-series transferee of a relocated protected series or continuing protected series take effect.

d. Any consideration to be paid to a person that before the merger was an associated member or protected-series transferee of a relocated protected series or continuing protected series is due.

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9. Any person that is a member of a relocated protected series becomes a member of the surviving company, if not already a member.

2019 Acts, ch 26, §33, 41; 2024 Acts, ch 1125, §29, 31
Referred to in §489.14604

489.14608 Application of section 489.14404 after merger.

1. A creditor's right that existed under section 489.14404 immediately before a merger under section 489.14604 may be enforced after the merger in accordance with all of the following:

a. A creditor's right that existed immediately before the merger against the surviving company, a continuing protected series, or a relocated protected series continues without change after the merger.

b. A creditor's right that existed immediately before the merger against a nonsurviving company all of the following apply:

(1) May be asserted against an asset of the nonsurviving company which vested in the surviving company as a result of the merger.

(2) Does not otherwise change.

c. Subject to subsection 2, all of the following apply:

(1) In addition to the remedy stated in paragraph *"a"*, a creditor with a right under section 489.14404 which existed immediately before the merger against a nonsurviving company or a relocated protected series may assert the right against any of the following:

(a) An asset of the surviving company, other than an asset of the nonsurviving company which vested in the surviving company as a result of the merger.

(b) An asset of a continuing protected series.

(c) An asset of a protected series established by the surviving company as a result of the merger.

(d) If the creditor's right was against an asset of the nonsurviving company, an asset of a relocated series.

(e) If the creditor's right was against an asset of a relocated protected series, an asset of another relocated protected series.

(2) In addition to the remedy stated in paragraph *"b"*, a creditor with a right that existed immediately before the merger against the surviving company or a continuing protected series may assert the right against any of the following:

(a) An asset of a relocated protected series.

(b) An asset of a nonsurviving company which vested in the surviving company as a result of the merger.

2. For the purposes of subsection 1, paragraph *"c"*, and section 489.14404, subsection 2, paragraph *"a"*, subparagraph (1); section 489.14404, subsection 2, paragraph *"b"*, subparagraph (1); and section 489.14404, subsection 2, paragraph *"c"*, subparagraph (1), the incurrence date is deemed to be the date on which the merger becomes effective.

3. A merger under section 489.14604 does not affect the manner in which section 489.14404 applies to a liability incurred after the merger.

2019 Acts, ch 26, §34, 41
Referred to in §489.14404, 489.14604

489.14609 through 489.14700 Reserved.

PART 7

FOREIGN PROTECTED SERIES

489.14701 Governing law.

The law of the jurisdiction of formation of a foreign series limited liability company governs all of the following:

1. The internal affairs of a foreign protected series of the company, including all of the following:

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a. Relations among any associated members of the foreign protected series.

b. Relations between the foreign protected series and any of the following:

(1) Any associated member.

(2) The protected-series manager.

(3) Any protected-series transferee.

c. Relations between any associated member and any of the following:

(1) The protected-series manager.

(2) Any protected-series transferee.

d. The rights and duties of a protected-series manager.

e. Governance decisions affecting the activities and affairs of the foreign protected series and the conduct of those activities and affairs.

f. Procedures and conditions for becoming an associated member or protected-series transferee.

2. Relations between the foreign protected series and all of the following:

a. The company.

b. Another foreign protected series of the company.

c. A member of the company which is not an associated member of the foreign protected series.

d. A foreign protected-series manager that is not a protected-series manager of the protected series.

e. A foreign protected-series transferee that is not a foreign protected-series transferee of the protected series.

f. A transferee of a transferable interest of the company.

3. Except as otherwise provided in sections 489.14402 and 489.14404, the liability of a person for a debt, obligation, or other liability of a foreign protected series of a foreign series limited liability company if the debt, obligation, or liability is asserted solely by reason of the person being or acting as any of the following:

a. An associated member, protected-series transferee, or protected-series manager of the foreign protected series.

b. A member of the company which is not an associated member of the foreign protected series.

c. A protected-series manager of another foreign protected series of the company.

d. A protected-series transferee of another foreign protected series of the company.

e. A manager of the company.

f. A transferee of a transferable interest of the company.

4. Except as otherwise provided in sections 489.14402 and 489.14404 all of the following apply:

a. The liability of the foreign series limited liability company for a debt, obligation, or other liability of a foreign protected series of the company if the debt, obligation, or liability is asserted solely by reason of the foreign protected series being a foreign protected series of the company or the company as a consequence of any of the following:

(1) Being or acting as a foreign protected-series manager of the foreign protected series.

(2) Having the foreign protected series manage the company.

(3) Owning a protected-series transferable interest of the foreign protected series.

b. The liability of a foreign protected series for a debt, obligation, or other liability of the company or another foreign protected series of the company if the debt, obligation, or liability is asserted solely by reason of the foreign protected series as a consequence of any of the following:

(1) Being a foreign protected series of the company or having the company or another foreign protected series of the company be or act as foreign protected-series manager of the foreign protected series.

(2) Managing the company or being or acting as a foreign protected-series manager of another foreign protected series of the company.

2019 Acts, ch 26, §35, 41

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489.14702 No attribution of activities constituting doing business or for establishing jurisdiction.

In determining whether a foreign series limited liability company or foreign protected series of the company does business in this state or is subject to the personal jurisdiction of the courts of this state all of the following apply:

1. The activities and affairs of the company are not attributable to a foreign protected series of the company solely by reason of the foreign protected series being a foreign protected series of the company.

2. The activities and affairs of a foreign protected series are not attributable to the company or another foreign protected series of the company solely by reason of the foreign protected series being a foreign protected series of the company.

2019 Acts, ch 26, §36, 41

489.14703 Authorization of foreign protected series.

1. Except as otherwise provided in this section and subject to sections 489.14402 and 489.14404, the law of this state governing the filing of a certificate of authority of a foreign limited liability company to do business in this state, including the consequences of not complying with that law, applies to a foreign protected series of a foreign series limited liability company as if the foreign protected series were a foreign limited liability company formed separately from the foreign series limited liability company and distinct from the foreign series limited liability company and any other foreign protected series of the foreign series limited liability company.

2. An application by a foreign protected series of a foreign series limited liability company for a certificate of authority to do business in this state must include all of the following:

a. The name and jurisdiction of formation of the foreign series limited liability company.

b. If the company has other foreign protected series, the name and street and mailing address of an individual who knows the name and street and mailing address of all of the following:

(1) Each other foreign protected series of the foreign series limited liability company.

(2) The foreign protected-series manager of and agent for service of process for each other foreign protected series of the foreign series limited liability company.

2A. If the jurisdiction under whose law the foreign protected series was organized does not provide for the protected series to obtain a certificate of existence, the foreign protected series shall attach a certificate of existence for the series limited liability company of which it is a protected series. In that case, a foreign protected series of the foreign series limited liability company will be deemed to be in existence and good standing as long as the series limited liability company is in existence and good standing.

3. The name of a foreign protected series applying for a certificate of authority or authorized to do business in this state must comply with section 489.14202 and may do so using a fictitious name pursuant to section 489.112, if the fictitious name complies with section 489.14202.

4. A foreign protected series that has in effect a certificate of authority pursuant to this section shall file with the secretary of state an amendment to its application if there is any change in the information required by subsection 2.

2019 Acts, ch 26, §37, 41

489.14704 Disclosure required when foreign series limited liability company or foreign protected series party to proceeding.

1. Not later than thirty days after becoming a party to a proceeding before a civil, administrative, or other adjudicative tribunal of or located in this state or a tribunal of the United States located in this state all of the following apply:

a. A foreign series limited liability company shall disclose to each other party the name and street and mailing address of all of the following:

(1) Each foreign protected series of the company.

(2) Each foreign protected-series manager of and a registered agent for service of process for each foreign protected series of the company.

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b. A foreign protected series of a foreign series limited liability company shall disclose to each other party the name and street and mailing address of all of the following:

(1) The company and each manager of the company and an agent for service of process for the company.

(2) Any other foreign protected series of the company and each foreign protected-series manager of and an agent for service of process for the other foreign protected series.

2. If a foreign series limited liability company or foreign protected series challenges the personal jurisdiction of the tribunal, the requirement that the foreign company or foreign protected series make disclosure under subsection 1 is tolled until the tribunal determines whether it has personal jurisdiction.

3. If a foreign series limited liability company or foreign protected series does not comply with subsection 1, a party to the proceeding may do any of the following:

a. Request the tribunal to treat the noncompliance as a failure to comply with the tribunal's discovery rules.

b. Bring a separate proceeding in the court to enforce subsection 1.

2019 Acts, ch 26, §38, 41

489.14705 through 489.14800 Reserved.

PART 8

TRANSITION PROVISIONS

489.14801 Uniformity of application and construction.

In applying and construing this subchapter, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact the uniform protected series Act as approved and recommended by the national conference of commissioners on uniform state laws.

2020 Acts, ch 1013, §1; 2023 Acts, ch 152, §140, 161

489.14802 Reserved.

489.14803 Transitional provisions. Repealed by its own terms; 2019 Acts, ch 26, §39.

489.14804 Savings clause.

This subchapter does not affect an action commenced, proceeding brought, or right accrued before July 1, 2020.

2019 Acts, ch 26, §40, 41; 2023 Acts, ch 152, §141, 161

CHAPTER 490

BUSINESS CORPORATIONS

Referred to in §9.11, 9H.1, 9H.4, 10.1, 10B.1, 10B.4, 10B.7, 10D.1, 15E.202, 15E.204, 15E.205, 135D.4, 135D.5, 261B.3A, 312.8, 423.1, 468.327, 468.506, 486A.901, 491.1, 495.3, 496B.3, 496B.6, 496B.8, 496B.11, 496B.12, 496B.17, 496C.2, 496C.3, 496C.4, 496C.9, 496C.14, 496C.16, 496C.19, 496C.20, 496C.21, 496C.22, 497.34, 498.36, 499.43B, 499.54, 499.59A, 499.61, 501A.102, 504.1108, 506.12, 508B.2, 514.23, 515.1, 515G.2, 515G.3, 521.2, 521.17, 524.1309, 524.1809, 524.2001, 547.1, 556.1, 556.5, 558.72, 602.6803, 669.14

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490.102 Reservation of power to amend or repeal.
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89 Acts, ch 288, §2

490.103 through 490.119 Reserved.

PART 2

FILING DOCUMENTS

490.120 Requirements for documents — extrinsic facts.
1. A document must satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to filing by the secretary of state.
2. This chapter must require or permit filing the document in the office of the secretary of state.
3. The document must contain the information required by this chapter and may contain other information.
4. The document must be typewritten or printed or, if electronically transmitted, it must be in a format that can be retrieved or reproduced in typewritten or printed form.
5. The document must be in the English language. A corporate name need not be in English if written in English letters or Arabic or Roman numerals, and the certificate of registration required of foreign corporations need not be in English if accompanied by a reasonably authenticated English translation.
6. Except as provided in section 490.1621, subsection 3, the document must be signed by any of the following:
a. The chair of the board of directors of a domestic or foreign corporation, its president, or another of its officers.
b. If directors have not been selected or the corporation has not been formed, by an incorporator.
c. If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.
7. *a.* The person executing the document shall sign it and state beneath or opposite the person's signature the person's name and the capacity in which the document is signed. The document may but need not contain a corporate seal, attestation, acknowledgment, or verification.
b. The secretary of state may accept for filing a document containing a copy of a signature, however made.

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8. If the secretary of state has prescribed a mandatory form for the document under section 490.121, subsection 1, the document must be in or on the prescribed form.

9. The document must be delivered to the office of the secretary of state for filing. Delivery may be made by electronic transmission if and to the extent permitted by the secretary of state. If it is filed in typewritten or printed form and not transmitted electronically, the secretary of state may require one exact or conformed copy to be delivered with the document.

10. When the document is delivered to the office of the secretary of state for filing, the correct filing fee, and any franchise tax, license fee, or penalty required by this chapter or other law to be paid at the time of delivery for filing must be paid or provision for payment made in a manner permitted by the secretary of state.

11. Whenever a provision of this chapter permits any of the terms of a plan or a filed document to be dependent on facts objectively ascertainable outside the plan or filed document, all of the following provisions apply:

a. The manner in which the facts will operate upon the terms of the plan or filed document must be set forth in the plan or filed document.

b. The facts may include any of the following:

(1) Any of the following that is available in a nationally recognized news or information medium either in print or electronically: statistical or market indices, market prices of any security or group of securities, interest rates, currency exchange rates, or similar economic or financial data.

(2) A determination or action by any person or body, including the corporation or any other party to a plan or filed document.

(3) The terms of, or actions taken under, an agreement to which the corporation is a party, or any other agreement or document.

c. As used in this subsection:

(1) *"Filed document"* means a document filed by the secretary of state under any provision of this chapter except subchapter XV or section 490.1621.

(2) *"Plan"* means a plan of domestication, conversion, merger, or share exchange.

d. The following provisions of a plan or filed document shall not be made dependent on facts outside the plan or filed document:

(1) The name and address of any person required in a filed document.

(2) The registered office of any entity required in a filed document.

(3) The registered agent of any entity required in a filed document.

(4) The number of authorized shares and designation of each class or series of shares.

(5) The effective date of a filed document.

(6) Any required statement in a filed document of the date on which the underlying transaction was approved or the manner in which that approval was given.

e. If a provision of a filed document is made dependent on a fact ascertainable outside of the filed document, and that fact is neither ascertainable by reference to a source described in paragraph *"b"*, subparagraph (1), nor a document that is a matter of public record, and the affected shareholders have not received notice of the fact from the corporation, then the corporation shall file with the secretary of state articles of amendment to the filed document setting forth the fact promptly after the time when the fact referred to is first ascertainable or thereafter changes. Articles of amendment under this paragraph *"e"* are deemed to be authorized by the authorization of the original filed document to which they relate and may be filed by the corporation without further action by the board of directors or the shareholders.

89 Acts, ch 288, §3; 90 Acts, ch 1205, §16; 2002 Acts, ch 1154, §1, 2, 125; 2007 Acts, ch 140, §1; 2012 Acts, ch 1023, §157; 2019 Acts, ch 20, §16; 2019 Acts, ch 24, §104; 2021 Acts, ch 165, §2, 230; 2022 Acts, ch 1058, §8

Referred to in §9.11, 490.125, 490.202, 490.601, 490.920, 490.931, 490.1006, 490.1102, 490.1103, 490.1601, 490.1621

490.120A Secretary of state — extra services — surcharge.

Upon the request of a filer of a document under this chapter, the secretary of state shall provide an extra filing service and assess a surcharge as provided in chapter 9, subchapter II.

2021 Acts, ch 165, §257

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490.121 Forms.

1. *a.* The secretary of state may prescribe and furnish on request any of the following forms:

(1) An application for a certificate of existence or certificate of registration.

(2) A foreign corporation's registration statement.

(3) A foreign corporation's statement of withdrawal.

(4) A foreign corporation's transfer of registration statement.

(5) The biennial report required by section 490.1621.

b. If the secretary of state so requires, use of the forms provided in paragraph *"a"* is mandatory.

2. The secretary of state may prescribe and furnish on request forms for other documents required or permitted to be filed pursuant to this chapter but their use is not mandatory.

89 Acts, ch 288, §4; 96 Acts, ch 1170, §2; 97 Acts, ch 171, §5; 2012 Acts, ch 1023, §157; 2021 Acts, ch 165, §3, 230

Referred to in §490.120

490.122 Filing, service, and copying fees.

1. The secretary of state shall collect the following fees when the documents described in this subsection are delivered to the secretary of state for filing:

DOCUMENT	FEE
a. Articles of incorporation	$ 50
b. Application for use of indistinguishable name	$ 10
c. Application for reserved name	$ 10
d. Notice of transfer of reserved name	$ 10
e. Application for registered name	$ 20
f. Application for renewal of registered name	$ 20
g. Corporation's statement of change of registered agent or registered office or both	No fee
h. Agent's statement of change of registered office for each affected corporation not to exceed a total of	No fee
i. Agent's statement of resignation	No fee
j. Articles of domestication	$ 50
k. Articles of conversion	$ 50
l. Amendment of articles of incorporation	$ 50
m. Restatement of articles of incorporation with amendment of articles	$ 50
n. Restatement of articles of incorporation without amendment of articles	$ 50
o. Articles of merger or share exchange	$ 50
p. Articles of dissolution	$ 5
q. Articles of revocation of dissolution	$ 5
r. Certificate of administrative dissolution	No fee
s. Application for reinstatement following administrative dissolution	$ 5
t. Certificate of reinstatement	No fee
u. Certificate of judicial dissolution	No fee
v. Foreign registration statement	$ 100
w. Amendment of foreign registration statement	$ 100
x. Statement of withdrawal	$ 10
y. Transfer of foreign registration statement	$ 100
z. Notice of termination of registration	No fee

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aa. Articles of correction ..... $ 5
ab. Articles of validation ..... $ 5
ac. Application for certificate of existence or registration ..... $ 5
ad. Biennial report ..... $ 60
ae. Any other document required or permitted to be filed by this chapter ..... $ 5

2. The secretary of state shall collect a fee of five dollars each time process is served on the secretary of state under this chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if such party prevails in the proceeding.

3. The secretary of state shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

a. One dollar a page for copying.

b. Five dollars for the certificate.

89 Acts, ch 288, §5; 90 Acts, ch 1205, §17; 97 Acts, ch 171, §6; 2008 Acts, ch 1162, §116, 155; 2021 Acts, ch 165, §4, 230
Referred to in §9.11, 499.45, 499.54, 524.303, 524.1402, 524.1410, 524.1421
See annual Iowa Acts for provisions relating to the authority to refund fees

490.123 Effective date of filed document.

1. Except to the extent otherwise provided in section 490.124, subsection 3, and part 5, a document accepted for filing is effective as follows:

a. On the date and at the time of filing, as provided in section 490.125, subsection 2.

b. On the date of filing and at the time specified in the document as its effective time, if later than the time under paragraph "*a*".

c. At a specified delayed effective date and time which shall not be more than ninety days after filing.

d. If a delayed effective date is specified, but no time is specified, at 12:01 a.m. on the date specified, which shall not be more than ninety days after the date of filing.

2. If a filed document does not specify the time zone or place at which a date or time or both is to be determined, the date or time or both at which it becomes effective shall be those prevailing at the place of filing in this state.

89 Acts, ch 288, §6; 2002 Acts, ch 1154, §3, 125; 2021 Acts, ch 165, §5, 230
Referred to in §490.140, 490.922, 490.933, 490.1006, 490.1106, 490.1403, 490.1404, 490.1510, 490.1621

490.124 Correcting filed document.

1. A document filed by the secretary of state pursuant to this chapter may be corrected if any of the following applies:

a. The document contains an inaccuracy.

b. The document was defectively signed, attested, sealed, verified, or acknowledged.

c. The electronic transmission was defective.

2. A document is corrected by complying with all of the following:

a. By preparing articles of correction that do all of the following:

(1) Describe the document, including its filing date, or a copy of the document is attached to the articles of correction.

(2) Specify the inaccuracy or defect to be corrected.

(3) Correct the inaccuracy or defect.

b. By delivering the articles of correction to the secretary of state for filing.

3. Articles of correction are effective on the effective date of the document they correct except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, articles of correction are effective when filed.

89 Acts, ch 288, §7; 2002 Acts, ch 1154, §4, 125; 2021 Acts, ch 165, §6, 230
Referred to in §9.14, 490.123

490.125 Filing duty of secretary of state.

1. Except as provided in subsection 5, if a document delivered to the office of the secretary

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of state for filing satisfies the requirements of section 490.120, the secretary of state shall file it.

2. The secretary of state files a document by recording it as filed on the date and time of receipt. After filing a document, except the biennial report required by section 490.1621, and except as provided in section 490.503, the secretary of state shall return to the person who delivered the document for filing a copy of the document with an acknowledgment of the date and time of filing.

3. If the secretary of state refuses to file a document, it shall be returned to the person who delivered the document for filing within five days after the document was delivered, together with a brief, written explanation of the reason for the refusal.

4. The secretary of state's duty to file documents under this section is ministerial. The secretary of state's filing or refusing to file a document does not create a presumption of any of the following:

a. The document does or does not conform to the requirements of this chapter.

b. The information contained in the document is correct or incorrect.

5. *a.* The secretary of state may require a record to be delivered by mail or in person if the secretary of state receives credible information that the document is being submitted for filing fraudulently or may be used to accomplish a fraudulent, criminal, or unlawful purpose.

b. As used in paragraph *"a"*, *"credible information"* means any of the following:

(1) An affidavit of unauthorized use as provided in section 490.1621A.

(2) Information provided to the secretary of state by another government agency.

(3) Information collected by the secretary of state from a credible third-party data set.

89 Acts, ch 288, §8; 96 Acts, ch 1170, §3; 97 Acts, ch 171, §7; 2002 Acts, ch 1154, §5, 125; 2021 Acts, ch 165, §7, 230; 2026 Acts, ch 1145, §18, 19

Referred to in §490.123
Subsection 1 amended
NEW subsection 5

490.126 Appeal from secretary of state's refusal to file document.

1. If the secretary of state refuses to file a document delivered for filing, the person that delivered the document for filing may petition the district court of the county where the corporation's principal office or, if none in this state, its registered office is located to compel its filing. The document and the explanation of the secretary of state's refusal to file must be attached to the petition. The court may decide the matter in a summary proceeding.

2. The court may order the secretary of state to file the document or take other action the court considers appropriate.

3. The court's final decision may be appealed as in other civil proceedings.

89 Acts, ch 288, §9; 2021 Acts, ch 165, §8, 230

490.127 Evidentiary effect of certified copy of filed document.

A certificate from the secretary of state delivered with a copy of a document filed by the secretary of state is conclusive evidence that the original document is on file with the secretary of state.

89 Acts, ch 288, §10; 90 Acts, ch 1205, §18; 2002 Acts, ch 1154, §6, 125; 2021 Acts, ch 165, §9, 230

490.128 Certificate of existence or registration.

1. Any person may apply to the secretary of state to furnish a certificate of existence for a domestic corporation or a certificate of registration for a foreign corporation.

2. A certificate of existence must set forth all of the following:

a. The domestic corporation's corporate name.

b. That the domestic corporation is duly incorporated under the law of this state, the date of its incorporation, and the period of its duration if less than perpetual.

c. That all fees, taxes, and penalties owed to this state have been paid, subject to all of the following:

(1) Payment is reflected in the records of the secretary of state.

(2) Nonpayment affects the existence of the domestic corporation.

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d. That its most recent biennial report required by section 490.1621 has been filed by the secretary of state.

e. That articles of dissolution have not been filed.

f. That the corporation is not administratively dissolved and a proceeding is not pending under section 490.1421.

g. Other facts of record in the office of the secretary of state that may be requested by the applicant.

3. A certificate of registration must set forth all of the following:

a. The foreign corporation's name used in this state.

b. That the foreign corporation is registered to do business in this state.

c. That all fees, taxes, and penalties owed to this state have been paid, subject to all of the following:

(1) Payment is reflected in the records of the secretary of state.

(2) Nonpayment affects the registration of the foreign corporation.

d. That its most recent biennial report required by section 490.1621 has been filed by the secretary of state.

e. Other facts of record in the office of the secretary of state that may be requested by the applicant.

4. Subject to any qualification stated in the certificate, a certificate of existence or registration issued by the secretary of state may be relied upon as conclusive evidence of the facts stated in the certificate.

89 Acts, ch 288, §11; 90 Acts, ch 1205, §19; 97 Acts, ch 171, §8; 2021 Acts, ch 165, §10, 230

490.129 Penalty for signing false document.

1. A person commits an offense by signing a document that the person knows is false in any material respect with intent that the document be delivered to the secretary of state for filing.

2. An offense under this section is a serious misdemeanor punishable by a fine of not to exceed one thousand dollars.

89 Acts, ch 288, §12; 2021 Acts, ch 165, §11, 230

PART 3

SECRETARY OF STATE

490.130 Powers.

The secretary of state has the power reasonably necessary to perform the duties required of the secretary of state by this chapter.

89 Acts, ch 288, §14
CS89, §490.135
2021 Acts, ch 165, §12, 216, 230
C2022, §490.130

490.131 through 490.134 Reserved.

490.135 Secretary of state — powers. Transferred to §490.130; 2021 Acts, ch 165, §12, 216, 230.

490.136 through 490.139 Reserved.

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PART 4

DEFINITIONS

490.140 Chapter definitions.

As used in this chapter, unless otherwise specified:

1. *"Articles of incorporation"* means the articles of incorporation described in section 490.202, all amendments to the articles of incorporation, and any other documents permitted or required to be delivered for filing by a domestic business corporation with the secretary of state under any provision of this chapter that modify, amend, supplement, restate, or replace the articles of incorporation. After an amendment of the articles of incorporation or any other document filed under this chapter that restates the articles of incorporation in their entirety, the articles of incorporation shall not include any prior documents. When used with respect to a foreign corporation or a domestic or foreign nonprofit corporation, the *"articles of incorporation"* of such an entity means the document of such entity that is equivalent to the articles of incorporation of a domestic business corporation.

2. *"Authorized shares"* means the shares of all classes a domestic or foreign corporation is authorized to issue.

3. *"Beneficial shareholder"* means a person who owns the beneficial interest in shares, which may be a record shareholder or a person on whose behalf shares are registered in the name of an intermediary or nominee.

4. *"Conspicuous"* means so written, displayed, or presented that a reasonable person against whom the writing is to operate should have noticed it.

5. *"Cooperative association"* means an entity that is structured and operated on a cooperative basis pursuant to 26 U.S.C. §1381(a) and that meets the definitional requirements of an association as provided in 12 U.S.C. §1141j(a) or 7 U.S.C. §291.

6. *"Corporation"*, *"domestic corporation"*, *"business corporation"*, or *"domestic business corporation"* means a corporation for profit, which is not a foreign corporation, incorporated under this chapter.

7. *"Deliver"* or *"delivery"* means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and, if authorized in accordance with section 490.141, by electronic transmission.

8. *"Distribution"* means a direct or indirect transfer of cash or other property, except a corporation's own shares, or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution may be in the form of a payment of a dividend; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; a distribution in liquidation; or otherwise.

9. *"Document"* means any of the following:

a. A tangible medium on which information is inscribed, and includes handwritten, typed, printed or similar instruments, and copies of such instruments.

b. An electronic record.

10. *"Domestic"*, with respect to an entity, means an entity governed as to its internal affairs by the law of this state.

11. *"Effective date"*, when referring to a document accepted for filing by the secretary of state, means the time and date determined in accordance with section 490.123.

12. *"Electronic"* means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

13. *"Electronic mail"* means an electronic transmission directed to a unique electronic mail address.

14. *"Electronic mail address"* means a destination, commonly expressed as a string of characters, consisting of a unique user name or mailbox, commonly referred to as the "local part" of the address, and a reference to an internet domain, commonly referred to as the "domain part" of the address, whether or not displayed, to which electronic mail may be sent or delivered.

15. *"Electronic record"* means information that is stored in an electronic or other nontangible medium and is retrievable in paper form through an automated process used in

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conventional commercial practice, unless otherwise authorized in accordance with section 490.141, subsection 10.

16. *"Electronic transmission"* or *"electronically transmitted"* means any form or process of communication not directly involving the physical transfer of paper or another tangible medium, which is all of the following:

a. Suitable for the retention, retrieval, and reproduction of information by the recipient.

b. Retrievable in paper form by the recipient through an automated process used in conventional commercial practice, unless otherwise authorized in accordance with section 490.141, subsection 10.

17. *"Eligible entity"* means a domestic or foreign unincorporated entity or a domestic or foreign nonprofit corporation.

18. *"Eligible interests"* means interests or memberships.

19. *"Employee"* includes an officer but not a director. A director may accept duties that make the director also an employee.

20. *"Entity"* includes a domestic and foreign business corporation; domestic and foreign nonprofit corporation; estate; trust; domestic and foreign unincorporated entity; and a state, the United States, and a foreign government.

21. *"Expenses"* means reasonable expenses of any kind, including reasonable fees and expenses of counsel and experts, that are incurred in connection with a matter.

22. *"Filing entity"* means an unincorporated entity, other than a limited liability partnership, that is of a type that is created by filing a public organic record or is required to file a public organic record that evidences its creation.

23. *"Foreign"*, with respect to an entity, means an entity governed as to its internal affairs by the organic law of a jurisdiction other than this state.

24. *"Foreign corporation"* or *"foreign business corporation"* means a corporation incorporated under a law other than the law of this state which would be a business corporation if incorporated under the law of this state.

25. *"Foreign nonprofit corporation"* means a corporation incorporated under a law other than the law of this state which would be a nonprofit corporation if incorporated under the law of this state.

26. *"Foreign registration statement"* means the foreign registration statement described in section 490.1503.

27. *"Governmental subdivision"* includes an authority, city, county, district, and municipality.

28. *"Governor"* means any person under whose authority the powers of an entity are exercised and under whose direction the activities and affairs of the entity are managed pursuant to the organic law governing the entity and its organic rules.

29. *"Includes"* and *"including"* denote a partial definition or a nonexclusive list.

30. *"Individual"* means a natural person.

31. *"Interest"* means either or both of the following rights under the organic law governing an unincorporated entity:

a. The right to receive distributions from the entity either in the ordinary course or upon liquidation.

b. The right to receive notice or vote on issues involving its internal affairs, other than as an agent, assignee, proxy, or person responsible for managing its business and affairs.

32. *"Interest holder"* means a person who holds of record an interest.

33. *a. "Interest holder liability"* means any of the following:

(1) Personal liability for a debt, obligation, or other liability of a domestic or foreign corporation or eligible entity that is imposed on a person by any of the following:

(a) Solely by reason of the person's status as a shareholder, member, or interest holder.

(b) By the articles of incorporation of the domestic corporation or the organic rules of the eligible entity or foreign corporation that make one or more specified shareholders, members, or interest holders, or categories of shareholders, members, or interest holders, liable in their capacity as shareholders, members, or interest holders for all or specified liabilities of the corporation or eligible entity.

(2) An obligation of a shareholder, member, or interest holder under the articles of

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incorporation of a domestic corporation or the organic rules of an eligible entity or foreign corporation to contribute to the entity.

b. For purposes of paragraph *"a"*, except as otherwise provided in the articles of incorporation of a domestic corporation or the organic law or organic rules of an eligible entity or a foreign corporation, interest holder liability arises under paragraph *"a"*, subparagraph (1), when the corporation or eligible entity incurs the liability.

34. *"Jurisdiction of formation"* means the state or country the law of which includes the organic law governing a domestic or foreign corporation or eligible entity.

35. *"Means"* denotes an exhaustive definition.

36. *"Membership"* means the rights of a member in a domestic or foreign nonprofit corporation.

37. *"Merger"* means a transaction pursuant to section 490.1102.

38. *"Nonfiling entity"* means an unincorporated entity that is of a type that is not created by filing a public organic record.

39. *"Nonprofit corporation"* or *"domestic nonprofit corporation"* means a corporation incorporated under the laws of this state and subject to the provisions of chapter 504.

40. *"Organic law"* means the statute governing the internal affairs of a domestic or foreign business or nonprofit corporation or unincorporated entity.

41. *"Organic rules"* means the public organic record and private organic rules of a domestic or foreign corporation or eligible entity.

42. *"Person"* means a person as defined in section 4.1.

43. *"Principal office"* means the office, in or out of this state, so designated in the biennial report required by section 490.1621 or foreign registration statement where the principal executive offices of a domestic or foreign corporation are located.

44. *a. "Private organic rules"* means any of the following:

(1) The bylaws of a domestic or foreign business or nonprofit corporation.

(2) The rules, regardless of whether in writing, that govern the internal affairs of an unincorporated entity, are binding on all of its interest holders, and are not part of its public organic record, if any.

b. Where private organic rules have been amended or restated, the term means the private organic rules as last amended or restated.

45. *"Proceeding"* includes a civil suit and criminal, administrative, and investigatory action.

46. *a. "Public organic record"* means any of the following:

(1) The articles of incorporation of a domestic or foreign business or nonprofit corporation.

(2) The document, if any, the filing of which is required to create an unincorporated entity, or which creates the unincorporated entity and is required to be filed.

b. Where a public organic record has been amended or restated, the term means the public organic record as last amended or restated.

47. *"Record date"* means the date fixed for determining the identity of the corporation's shareholders and their shareholdings for purposes of this chapter. Unless another time is specified when the record date is fixed, the determination shall be made as of the close of business at the principal office of the corporation on the date so fixed.

48. *"Record shareholder"* means any of the following:

a. The person in whose name shares are registered in the records of the corporation.

b. The person identified as the beneficial owner of shares in a beneficial ownership certificate pursuant to section 490.723 on file with the corporation to the extent of the rights granted by such certificate.

49. *"Registered foreign corporation"* means a foreign corporation registered to do business in the state pursuant to subchapter XV.

50. *"Secretary"* means the corporate officer to whom the board of directors has delegated responsibility under section 490.840, subsection 3, to maintain the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation.

51. *"Share exchange"* means a transaction pursuant to section 490.1103.

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52. *"Shareholder"* means a record shareholder.

53. *"Shares"* means the units into which the proprietary interests in a domestic or foreign corporation are divided.

54. *"Sign"* or *"signature"* means, with present intent to authenticate or adopt a document, doing any of the following:

a. Executing or adopting a tangible symbol to a document, including any manual, facsimile, or conformed signature.

b. Attaching to or logically associating with an electronic transmission an electronic sound, symbol, or process, and including an electronic signature in an electronic transmission.

55. *"State"*, when referring to a part of the United States, includes a state and commonwealth, and their agencies and governmental subdivisions, and a territory and insular possession, and their agencies and governmental subdivisions, of the United States.

56. *"Subscriber"* means a person who subscribes for shares in a corporation, whether before or after incorporation.

57. *"Type of entity"* means a generic form of entity that is any of the following:

a. Recognized at common law.

b. Formed under an organic law, regardless of whether some entities formed under that law are subject to provisions of that law that create different categories of the form of entity.

58. *a. "Unincorporated entity"* means an organization or artificial legal person that either has a separate legal existence or has the power to acquire an estate in real property in its own name and that is not any of the following:

(1) A domestic or foreign business or nonprofit corporation.

(2) A series of a limited liability company or of another type of entity.

(3) An estate.

(4) A trust.

(5) A state, the United States, or foreign government.

b. "Unincorporated entity" includes a general partnership, limited liability company, limited partnership, business trust, joint stock association, and unincorporated nonprofit association.

59. *"United States"* includes a district, authority, bureau, commission, department, and any other agency of the United States.

60. *"Unrestricted voting trust beneficial owner"* means, with respect to any shareholder rights, a voting trust beneficial owner whose entitlement to exercise the shareholder right in question is not inconsistent with the voting trust agreement.

61. *"Voting group"* means all shares of one or more classes or series that under the articles of incorporation or this chapter are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this chapter to vote generally on the matter are for that purpose a single voting group.

62. *"Voting power"* means the current power to vote in the election of directors.

63. *"Voting trust beneficial owner"* means an owner of a beneficial interest in shares of the corporation held in a voting trust established pursuant to section 490.730, subsection 1.

64. *"Writing"* or *"written"* means any information in the form of a document.

89 Acts, ch 288, §15; 91 Acts, ch 211, §3; 97 Acts, ch 171, §9; 2001 Acts, ch 142, §1; 2002 Acts, ch 1154, §7, 8, 125; 2007 Acts, ch 140, §2; 2011 Acts, ch 2, §1, 10; 2013 Acts, ch 31, §1, 2, 82; 2019 Acts, ch 24, §73, 104; 2021 Acts, ch 165, §13, 230; 2022 Acts, ch 1058, §1, 5

Referred to in §15E.202, 123.45

490.141 Notices and other communications.

1. A notice under this chapter must be in writing unless oral notice is reasonable in the circumstances. Unless otherwise agreed between the sender and the recipient, words in a notice or other communication under this chapter must be in English.

2. A notice or other communication may be given by any method of delivery, except that a notice or other communication by electronic transmission must be in accordance with this section. If the methods of delivery are impracticable, a notice or other communication from a corporation may be given by means of a broad nonexclusionary distribution to the public,

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which may include a newspaper of general circulation in the area where published; radio, television, or other form of public broadcast communication; or other methods of distribution that the corporation has previously identified to its shareholders.

3. A notice or other communication to a domestic corporation or to a registered foreign corporation may be delivered to the corporation's registered agent at its registered office or to the secretary at the corporation's principal office shown in its most recent biennial report required by section 490.1621 or, in the case of a foreign corporation that has not yet delivered a biennial report, in its foreign registration statement.

4. A notice or other communication from a corporation to a shareholder may be delivered by electronic mail to the electronic mail address for a shareholder required to be included in the record of shareholders maintained pursuant to section 490.1601, subsection 4, unless the shareholder has previously notified the corporation in writing that the shareholder objects to receiving notices and other communication by electronic mail. Any notice or other communication may be delivered to a shareholder by another form of electronic transmission if consented to by the shareholder or if authorized by subsection 10. Any notice or other communication from the corporation to any other person may be delivered by electronic transmission if consented to by the recipient or if authorized by subsection 10. Any consent given under this subsection or subsection 10 may be revoked with respect to future notices or communications by the person who consented by giving written notice to the person to whom the consent was delivered.

5. A notice or other communication shall no longer be delivered to an electronic mail address or other electronic transmission address pursuant to subsection 4, if all of the following apply:

a. The corporation receives notice from the information processing system into which such notice or other communication was entered that two consecutive notices or other communications given by electronic transmission have not been delivered to the electronic mail address or other electronic transmission address to which such notice or other communication was directed.

b. Such notice of nondelivery becomes known to the secretary, the transfer agent, or another person responsible for the giving of notices or other communications for the corporation; provided, however, that the inadvertent failure to recognize such notice of nondelivery as a cessation of authority to provide a shareholder with notice by electronic mail or other electronic transmission shall not invalidate any meeting or other action.

6. Unless otherwise agreed between the sender and the recipient, a notice or other communication by electronic transmission is received when all of the following apply:

a. The electronic transmission enters an information processing system directed to any of the following:

(1) In the case of a shareholder, the electronic mail address for the shareholder required to be included in the record of shareholders maintained pursuant to section 490.1601, subsection 4, or other electronic transmission address at which the shareholder has consented to receive notice or other communications by electronic transmission.

(2) In the case of any other recipient, the electronic transmission address at which the recipient has consented to receive notice or other communications by electronic transmission.

b. The electronic transmission is in a form capable of being processed by that system.

7. Receipt of an electronic acknowledgment from an information processing system described in subsection 6, paragraph "*a*", establishes that an electronic transmission was received but, by itself, does not establish that the content sent corresponds to the content received.

8. An electronic transmission is received under this section even if no person is aware of its receipt.

9. A notice or other communication, if in a comprehensible form or manner, is effective at the earliest of the following:

a. If in a physical form, the earliest of when it is actually received, or when it is left at any of the following:

(1) A shareholder's address included in the record of shareholders maintained pursuant to section 490.1601, subsection 4.

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(2) A director's residence or usual place of business.

(3) The domestic or registered foreign corporation's principal office.

b. If mailed by United States mail postage prepaid and addressed to a shareholder at the shareholder's address included in the record of shareholders pursuant to section 490.1601, subsection 4, upon deposit in the mail.

c. If mailed by United States mail postage prepaid and addressed to a recipient other than a shareholder, at the address included in the corporation's records the earliest of when it is actually received, or as follows:

(1) If sent by registered or certified mail, return receipt requested, the date shown on the return receipt signed by or on behalf of the addressee.

(2) Five days after it is deposited in the United States mail.

d. If an electronic transmission, when it is received as provided in subsection 6.

e. If oral, when communicated.

10. A notice or other communication may be in the form of an electronic transmission that cannot be directly reproduced in paper form by the recipient through an automated process used in conventional commercial practice only if all of the following apply:

a. The electronic transmission is otherwise retrievable in perceivable form.

b. The sender and the recipient have consented in writing to the use of such form of electronic transmission.

11. If this chapter prescribes requirements for notices or other communications in particular circumstances, those requirements govern. If articles of incorporation or bylaws prescribe requirements for notices or other communications, not inconsistent with this section or other provisions of this chapter, those requirements govern. The articles of incorporation or bylaws may authorize or require delivery of notices of meetings of directors by electronic transmission.

12. In the event that any provisions of this chapter are deemed to modify, limit, or supersede the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §7001 et seq., the provisions of this chapter shall control to the maximum extent permitted by section 102(a)(2) of that federal Act.

13. *a.* Whenever notice would otherwise be required to be given under any provision of this chapter to a shareholder, the notice need not be given if the corporation is not permitted to deliver notice by electronic transmission pursuant to subsections 4 and 5 and any of the following apply:

(1) Notices to the shareholders of two consecutive annual meetings, and all notices of meetings during the period between such two consecutive annual meetings, have been sent to such shareholder at such shareholder's address included in the record of shareholders maintained pursuant to section 490.1601, subsection 4, and have been returned undeliverable or could not be delivered.

(2) All, but not less than two, payments of dividends on securities during a twelve-month period, or two consecutive payments of dividends on securities during a period of more than twelve months, have been sent to such shareholder at such shareholder's address included in the record of shareholders maintained pursuant to section 490.1601, subsection 4, and have been returned undeliverable or could not be delivered.

(3) No address has been provided to the corporation by or on behalf of a shareholder and the corporation has not otherwise obtained an address for the shareholder that the corporation believes is reliable.

b. In addition, if any such shareholder to which this subsection applies delivers to the corporation a written notice setting forth such shareholder's then-current address, the requirement that notice be given to such shareholder shall be reinstated.

89 Acts, ch 288, §16; 97 Acts, ch 171, §10; 2002 Acts, ch 1154, §9, 125; 2013 Acts, ch 31, §3, 82; 2021 Acts, ch 165, §14, 230; 2022 Acts, ch 1021, §141; 2022 Acts, ch 1058, §2

Referred to in §490.140, 490.145, 490.149, 490.807, 490.843, 490.1601, 490.1621, 524.533, 524.607, 524.1308A

490.142 Number of shareholders.

1. For purposes of this chapter, any of the following identified as a shareholder in a corporation's current record of shareholders constitutes one shareholder:

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a. Three or fewer co-owners.

b. A corporation, partnership, trust, estate, or other entity.

c. The trustees, guardians, custodians, or other fiduciaries of a single trust, estate, or account.

2. For purposes of this chapter, shareholdings registered in substantially similar names constitute one shareholder if it is reasonable to believe that the names represent the same person.

89 Acts, ch 288, §17; 2021 Acts, ch 165, §15, 230

490.143 Qualified director.

1. As used in this chapter, a *"qualified director"* means a director who takes action, if at the time action is to be taken any of the following applies:

a. Under section 490.202, subsection 2, paragraph *"f"*, the director is not a director under any of the following circumstances:

(1) To whom the limitation or elimination of the duty of an officer to offer potential business opportunities to the corporation would apply.

(2) Has a material relationship with any other person to whom the limitation or elimination described in subparagraph (1) would apply.

b. Under section 490.744, the director does not have any of the following:

(1) A material interest in the outcome of the proceeding.

(2) A material relationship with a person who has such an interest.

c. Under section 490.853 or 490.855, all of the following apply:

(1) The director is not a party to the proceeding.

(2) The director is not a director as to whom a transaction is a director's conflicting interest transaction or who sought a disclaimer of the corporation's interest in a business opportunity under section 490.870, which transaction or disclaimer is challenged in the proceeding.

(3) The director does not have a material relationship with a director described in either subparagraph (1) or (2).

d. Under section 490.862, the director is not any of the following:

(1) A director as to whom the transaction is a director's conflicting interest transaction.

(2) A director who has a material relationship with another director as to whom the transaction is a director's conflicting interest transaction.

e. Under section 490.870, the director is not a director who does any of the following:

(1) Pursues or takes advantage of the business opportunity, directly, or indirectly through or on behalf of another person.

(2) Has a material relationship with a director or officer who pursues or takes advantage of the business opportunity, directly, or indirectly through or on behalf of another person.

2. As used in this section, all of the following apply:

a. "Material interest" means an actual or potential benefit or detriment, other than one which would devolve on the corporation or the shareholders generally, that would reasonably be expected to impair the objectivity of the director's judgment when participating in the action to be taken.

b. "Material relationship" means a familial, financial, professional, employment, or other relationship that would reasonably be expected to impair the objectivity of the director's judgment when participating in the action to be taken.

3. The presence of one or more of the following circumstances shall not automatically prevent a director from being a qualified director:

a. Nomination or election of the director to the current board by any director who is not a qualified director with respect to the matter, or by any person that has a material relationship with that director, acting alone or participating with others.

b. Service as a director of another corporation of which a director who is not a qualified director with respect to the matter, or any individual who has a material relationship with that director, is or was also a director.

c. With respect to action to be taken under section 490.744, status as a named defendant,

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as a director against whom action is demanded, or as a director who approved the conduct being challenged.

2013 Acts, ch 31, §4, 82; 2021 Acts, ch 165, §16, 230; 2022 Acts, ch 1021, §142; 2022 Acts, ch 1058, §6; 2023 Acts, ch 64, §79

490.144 Householding.

1. A corporation has delivered written notice or any other report or statement under this chapter, the articles of incorporation, or the bylaws to all shareholders who share a common address if all of the following apply:

a. The corporation delivers one copy of the notice, report, or statement to the common address.

b. The corporation addresses the notice, report, or statement to those shareholders either as a group or to each of those shareholders individually or to the shareholders in a form to which each of those shareholders has consented.

c. Each of those shareholders consents to delivery of a single copy of such notice, report, or statement to the shareholders' common address.

2. Any such consent described in subsection 1, paragraph *"b"* or *"c"*, shall be revocable by any of such shareholders who deliver written notice of revocation to the corporation. If such written notice of revocation is delivered, the corporation shall begin providing individual notices, reports, or other statements to the revoking shareholder no later than thirty days after delivery of the written notice of revocation.

3. Any shareholder who fails to object by written notice to the corporation, within sixty days of written notice by the corporation of its intention to deliver single copies of notices, reports, or statements to shareholders who share a common address as permitted by subsection 1, shall be deemed to have consented to receiving such single copy at the common address; provided that the notice of intention explains that consent may be revoked and the method for revoking.

2013 Acts, ch 31, §5, 82; 2021 Acts, ch 165, §17, 230

PART 5

RATIFICATION OF DEFECTIVE CORPORATE ACTIONS

Referred to in §490.123

490.145 Part definitions.

As used in this part:

1. *"Corporate action"* means any action taken by or on behalf of the corporation, including any action taken by the incorporator, the board of directors, a committee of the board of directors, an officer or agent of the corporation, or the shareholders.

2. *"Date of the defective corporate action"* means the date or, if the defective corporate action occurred or may have occurred on more than one date, the range of dates, or the approximate date or range of dates, if the exact date or range of dates is unknown or not readily ascertainable, the defective corporate action was purported to have been taken.

3. *"Defective corporate action"* means all of the following:

a. Any corporate action purportedly taken that is, and at the time such corporate action was purportedly taken would have been, within the power of the corporation, but is void or voidable due to a failure of authorization.

b. An overissue.

4. *"Failure of authorization"* means the failure to authorize, approve, or otherwise effect a corporate action in compliance with the provisions of this chapter, the articles of incorporation or bylaws, a corporate resolution, or any plan or agreement to which the corporation is a party, if and to the extent such failure would render such corporate action void or voidable.

5. *"Overissue"* means the purported issuance of any of the following:

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a. Shares of a class or series in excess of the number of shares of a class or series the corporation has the power to issue under section 490.601 at the time of such issuance.

b. Shares of any class or series that is not then authorized for issuance by the articles of incorporation.

6. *"Putative shares"* means the shares of any class or series, including shares issued upon exercise of rights, options, warrants or other securities convertible into shares of the corporation, or interests with respect to such shares, that were created or issued as a result of a defective corporate action, and any of the following applies:

a. But for any failure of authorization would constitute valid shares.

b. Cannot be determined by the board of directors to be valid shares.

7. *"Valid shares"* means the shares of any class or series that have been duly authorized and validly issued in accordance with this chapter, including as a result of ratification or validation under this part.

8. *a.* *"Validation effective time"* with respect to any defective corporate action ratified under this part means the later of the following:

(1) The time at which the ratification of the defective corporate action is approved by the shareholders, or if approval of shareholders is not required, the time at which the notice required by section 490.149 becomes effective in accordance with section 490.141.

(2) The time at which any articles of validation filed in accordance with section 490.151 become effective.

b. The validation effective time shall not be affected by the filing or pendency of a judicial proceeding under section 490.152 or otherwise, unless otherwise ordered by the court.

2021 Acts, ch 165, §18, 230

490.146 Defective corporate actions.

1. A defective corporate action shall not be void or voidable if ratified in accordance with section 490.147 or validated in accordance with section 490.152.

2. Ratification under section 490.147 or validation under section 490.152 shall not be deemed to be the exclusive means of ratifying or validating any defective corporate action, and the absence or failure of ratification in accordance with this part shall not, of itself, affect the validity or effectiveness of any corporate action properly ratified under common law or otherwise, nor shall it create a presumption that any such corporate action is or was a defective corporate action or void or voidable.

3. In the case of an overissue, putative shares shall be valid shares effective as of the date originally issued or purportedly issued upon any of the following:

a. The effectiveness under this part and under subchapter X of an amendment to the articles of incorporation authorizing, designating, or creating such shares.

b. The effectiveness of any other corporate action under this part ratifying the authorization, designation, or creation of such shares.

2021 Acts, ch 165, §19, 230

490.147 Ratification of defective corporate actions.

1. To ratify a defective corporate action under this section, other than the ratification of an election of the initial board of directors under subsection 2, the board of directors shall take action ratifying the action in accordance with section 490.148, stating all of the following:

a. The defective corporate action to be ratified and, if the defective corporate action involved the issuance of putative shares, the number and type of putative shares purportedly issued.

b. The date of the defective corporate action.

c. The nature of the failure of authorization with respect to the defective corporate action to be ratified.

d. That the board of directors approves the ratification of the defective corporate action.

2. In the event that a defective corporate action to be ratified relates to the election of the initial board of directors of the corporation under section 490.205, subsection 1, paragraph *"b"*, a majority of the persons who, at the time of the ratification, are exercising the powers of directors may take an action stating all of the following:

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a. The name of the person or persons who first took action in the name of the corporation as the initial board of directors of the corporation.

b. The earlier of the date on which such persons first took such action or were purported to have been elected as the initial board of directors.

c. That the ratification of the election of such person or persons as the initial board of directors is approved.

3. If any provision of this chapter, the articles of incorporation or bylaws, any corporate resolution, or any plan or agreement to which the corporation is a party in effect at the time action under subsection 1 is taken requires shareholder approval or would have required shareholder approval at the date of the occurrence of the defective corporate action, the ratification of the defective corporate action approved in the action taken by the directors under subsection 1 shall be submitted to the shareholders for approval in accordance with section 490.148.

4. Unless otherwise provided in the action taken by the board of directors under subsection 1, after the action by the board of directors has been taken and, if required, approved by the shareholders, the board of directors may abandon the ratification at any time before the validation effective time without further action of the shareholders.

2021 Acts, ch 165, §20, 230
Referred to in §490.146, 490.148, 490.149, 490.150, 490.151, 490.152

490.148 Action on ratification.

1. The quorum and voting requirements applicable to a ratifying action by the board of directors under section 490.147, subsection 1, shall be the quorum and voting requirements applicable to the corporate action proposed to be ratified at the time such ratifying action is taken.

2. If the ratification of the defective corporate action requires approval by the shareholders under section 490.147, subsection 3, and if the approval is to be given at a meeting, the corporation shall notify each holder of valid and putative shares, regardless of whether entitled to vote, as of the record date for notice of the meeting and as of the date of the occurrence of defective corporate action, provided that notice shall not be required to be given to holders of valid or putative shares whose identities or addresses for notice cannot be determined from the records of the corporation. The notice must state that the purpose, or one of the purposes, of the meeting is to consider ratification of a defective corporate action and must be accompanied by all of the following:

a. Either a copy of the action taken by the board of directors in accordance with section 490.147, subsection 1, or the information required by section 490.147, subsection 1, paragraphs "*a*" through "*d*".

b. A statement that any claim that the ratification of such defective corporate action and any putative shares issued as a result of such defective corporate action should not be effective, or should be effective only on certain conditions, shall be brought within one hundred twenty days from the applicable validation effective time.

3. Except as provided in subsection 4, with respect to the voting requirements to ratify the election of a director, the quorum and voting requirements applicable to the approval by the shareholders required by section 490.147, subsection 3, shall be the quorum and voting requirements applicable to the corporate action proposed to be ratified at the time of such shareholder approval.

4. The approval by shareholders to ratify the election of a director requires that the votes cast within the voting group favoring such ratification exceed the votes cast opposing such ratification of the election at a meeting at which a quorum is present.

5. Putative shares on the record date for determining the shareholders entitled to vote on any matter submitted to shareholders under section 490.147, subsection 3, and without giving effect to any ratification of putative shares that becomes effective as a result of such vote, shall neither be entitled to vote nor counted for quorum purposes in any vote to approve the ratification of any defective corporate action.

6. If the approval under this section of putative shares would result in an overissue, in addition to the approval required by section 490.147, approval of an amendment to the articles

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of incorporation under subchapter X to increase the number of shares of an authorized class or series or to authorize the creation of a class or series of shares so there would be no overissue shall also be required.

2021 Acts, ch 165, §21, 230
Referred to in §490.147, 490.149, 490.152

490.149 Notice requirements.

1. Unless shareholder approval is required under section 490.147, subsection 3, prompt notice of an action taken under section 490.147 shall be given to each holder of valid and putative shares, regardless of whether entitled to vote, as of all of the following:

a. The date of such action by the board of directors.

b. The date of the defective corporate action ratified, provided that notice shall not be required to be given to holders of valid and putative shares whose identities or addresses for notice cannot be determined from the records of the corporation.

2. The notice must contain all of the following:

a. Either a copy of the action taken by the board of directors in accordance with section 490.147, subsection 1 or 2, or the information required by section 490.147, subsection 1, paragraphs *"a"* through *"d"*, or section 490.147, subsection 2, paragraphs *"a"* through *"c"*, as applicable.

b. A statement that any claim that the ratification of the defective corporate action and any putative shares issued as a result of such defective corporate action should not be effective, or should be effective only on certain conditions, shall be brought within one hundred twenty days from the applicable validation effective time.

3. No notice under this section is required with respect to any action required to be submitted to shareholders for approval under section 490.147, subsection 3, if notice is given in accordance with section 490.148, subsection 2.

4. A notice required by this section may be given in any manner permitted by section 490.141 and, for any corporation subject to the reporting requirements of section 13 or 15(d) of the federal Securities Exchange Act of 1934, may be given by means of a filing or furnishing of such notice with the United States securities and exchange commission.

2021 Acts, ch 165, §22, 230
Referred to in §490.145

490.150 Effect of ratification.

From and after the validation effective time, and without regard to the one hundred twenty-day period during which a claim may be brought under section 490.152, all of the following shall apply:

1. Each defective corporate action ratified in accordance with section 490.147 shall not be void or voidable as a result of the failure of authorization identified in the action taken under section 490.147, subsection 1 or 2, and shall be deemed a valid corporate action effective as of the date of the defective corporate action.

2. The issuance of each putative share or fraction of a putative share purportedly issued pursuant to a defective corporate action identified in the action taken under section 490.147 shall not be void or voidable, and each such putative share or fraction of a putative share shall be deemed to be an identical share or fraction of a valid share as of the time it was purportedly issued.

3. Any corporate action taken subsequent to the defective corporate action ratified in accordance with this part in reliance on such defective corporate action having been validly effected and any subsequent defective corporate action resulting directly or indirectly from such original defective corporate action shall be valid as of the time taken.

2021 Acts, ch 165, §23, 230

490.151 Filings.

1. If the defective corporate action ratified under this part would have required under any other section of this chapter a filing in accordance with this chapter, then, regardless of whether a filing was previously made in respect of such defective corporate action and in lieu of a filing otherwise required by this chapter, the corporation shall file articles of validation in

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accordance with this section, and such articles of validation shall serve to amend or substitute for any other filing with respect to such defective corporate action required by this chapter.

2. The articles of validation must set forth all of the following:

a. The defective corporate action that is the subject of the articles of validation, including in the case of any defective corporate action involving the issuance of putative shares, the number and type of putative shares issued and the date or dates upon which such putative shares were purported to have been issued.

b. The date of the defective corporate action.

c. The nature of the failure of authorization in respect of the defective corporate action.

d. A statement that the defective corporate action was ratified in accordance with section 490.147, including the date on which the board of directors ratified such defective corporate action and the date, if any, on which the shareholders approved the ratification of such defective corporate action.

e. The information required by subsection 3.

3. The articles of validation must also contain the following information:

a. If a filing was previously made in respect of the defective corporate action and no changes to such filing are required to give effect to the ratification of such defective corporate action in accordance with section 490.147, the articles of validation must set forth all of the following:

(1) The name, title, and filing date of the filing previously made and any articles of correction to that filing.

(2) A statement that a copy of the filing previously made, together with any articles of correction to that filing, is attached as an exhibit to the articles of validation.

b. If a filing was previously made in respect of the defective corporate action and such filing requires any change to give effect to the ratification of such defective corporate action in accordance with section 490.147, the articles of validation must set forth all of the following:

(1) The name, title, and filing date of the filing previously made and any articles of correction to that filing.

(2) A statement that a filing containing all of the information required to be included under the applicable section or sections of this chapter to give effect to such defective corporate action is attached as an exhibit to the articles of validation.

(3) The date and time that such filing is deemed to have become effective.

c. If a filing was not previously made in respect of the defective corporate action and the defective corporate action ratified under section 490.147 would have required a filing under any other section of this chapter, the articles of validation must set forth all of the following:

(1) A statement that a filing containing all of the information required to be included under the applicable section or sections of this chapter to give effect to such defective corporate action is attached as an exhibit to the articles of validation.

(2) The date and time that such filing is deemed to have become effective.

2021 Acts, ch 165, §24, 230

Referred to in §490.145

490.152 Judicial proceedings regarding validity of corporate actions.

1. Upon application by the corporation, any successor entity to the corporation, a director of the corporation, any shareholder, beneficial shareholder, or unrestricted voting trust beneficial owner of the corporation, including any such shareholder, beneficial shareholder, or unrestricted voting trust beneficial owner as of the date of the defective corporate action ratified under section 490.147, or any other person claiming to be substantially and adversely affected by a ratification under section 490.147, the district court of the county where a corporation's principal office or, if none in this state, its registered office is located may do all of the following:

a. Determine the validity and effectiveness of any corporate action or defective corporate action.

b. Determine the validity and effectiveness of any ratification under section 490.147.

c. Determine the validity of any putative shares.

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d. Modify or waive any of the procedures specified in section 490.147 or 490.148 to ratify a defective corporate action.

2. In connection with an action under this section, the court may make such findings or orders, and take into account any factors or considerations, regarding such matters as it deems proper under the circumstances.

3. Service of process of the application under subsection 1 on the corporation may be made in any manner provided by statute of this state or by rule of the applicable court for service on the corporation, and no other party need be joined in order for the court to adjudicate the matter. In an action filed by the corporation, the court may require notice of the action to be provided to other persons specified by the court and permit such other persons to intervene in the action.

4. Notwithstanding any other provision of this section or otherwise under applicable law, any action asserting that the ratification of any defective corporate action and any putative shares issued as a result of such defective corporate action should not be effective, or should be effective only on certain conditions, shall be brought within one hundred twenty days of the validation effective time.

2021 Acts, ch 165, §25, 230
Referred to in §490.145, 490.146, 490.150

490.153 through 490.200 Reserved.

SUBCHAPTER II

INCORPORATION

Referred to in §15E.206

490.201 Incorporators.

One or more persons may act as the incorporator or incorporators of a corporation by delivering articles of incorporation to the secretary of state for filing.

89 Acts, ch 288, §18; 2021 Acts, ch 165, §26, 230
Referred to in §15E.206

490.202 Articles of incorporation.

1. The articles of incorporation must set forth all of the following:

a. A corporate name for the corporation that satisfies the requirements of section 490.401.

b. The number of shares the corporation is authorized to issue.

c. The street and mailing addresses of the corporation's initial registered office and the name of its initial registered agent at that office.

d. The name and address of each incorporator.

2. The articles of incorporation may set forth any of the following:

a. The names and addresses of the individuals who are to serve as the initial directors.

b. Provisions not inconsistent with law regarding any of the following:

(1) The purpose or purposes for which the corporation is organized.

(2) Managing the business and regulating the affairs of the corporation.

(3) Defining, limiting, and regulating the powers of the corporation, its board of directors, and shareholders.

(4) A par value for authorized shares or classes of shares.

(5) The imposition of interest holder liability on shareholders.

c. Any provision that under this chapter is required or permitted to be set forth in the bylaws.

d. A provision eliminating or limiting the liability of a director to the corporation or its shareholders for money damages for any action taken, or any failure to take any action, as a director, except liability for any of the following:

(1) The amount of a financial benefit received by a director to which the director is not entitled.

(2) An intentional infliction of harm on the corporation or the shareholders.

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(3) A violation of section 490.832.
(4) An intentional violation of criminal law.

e. A provision permitting or making obligatory indemnification of a director for liability, as defined in section 490.850, to any person for any action taken, or any failure to take any action, as a director, except liability for any of the following:
(1) Receipt of a financial benefit to which the director is not entitled.
(2) An intentional infliction of harm on the corporation or its shareholders.
(3) A violation of section 490.832.
(4) An intentional violation of criminal law.

f. A provision limiting or eliminating any duty of a director or any other person to offer the corporation the right to have or participate in any, or one or more classes or categories of, business opportunities, before the pursuit or taking of the opportunity by the director or other person; provided that any application of such a provision to an officer or a related person of that officer is subject to all of the following:
(1) It also requires approval of that application by the board of directors, subsequent to the effective date of the provision, by action of qualified directors taken in compliance with the same procedures as are set forth in section 490.862.
(2) It may be limited by the authorizing action of the board.

3. The articles of incorporation need not set forth any of the corporate powers enumerated in this chapter.

4. Provisions of the articles of incorporation may be made dependent upon facts objectively ascertainable outside the articles of incorporation in accordance with section 490.120, subsection 11.

5. As used in this section, "*related person*" has the meaning specified in section 490.860.

89 Acts, ch 288, §19; 2002 Acts, ch 1154, §10, 125; 2003 Acts, ch 44, §80; 2007 Acts, ch 140, §3; 2012 Acts, ch 1023, §87; 2021 Acts, ch 165, §27, 230
Referred to in §490.140, 490.143, 490.622, 490.801, 490.831, 490.851, 490.870, 490.922, 490.933, 490.1704, 491.5, 524.1309

490.203 Incorporation.

1. Unless a delayed effective date is specified, the corporate existence begins when the articles of incorporation are filed.

2. The secretary of state's filing of the articles of incorporation is conclusive proof that the incorporators satisfied all conditions precedent to incorporation except in a proceeding by the state to cancel or revoke the incorporation or involuntarily dissolve the corporation.

89 Acts, ch 288, §20; 2021 Acts, ch 165, §28, 230

490.204 Liability for preincorporation transactions.

All persons purporting to act as or on behalf of a corporation, knowing there was no incorporation under this chapter, are jointly and severally liable for all liabilities created while so acting.

89 Acts, ch 288, §21

490.205 Organization of corporation.

1. After incorporation, the following shall apply:

a. If initial directors are named in the articles of incorporation, the initial directors shall hold an organizational meeting, at the call of a majority of the directors, to complete the organization of the corporation by appointing officers, adopting bylaws, and carrying on any other business brought before the meeting.

b. If initial directors are not named in the articles of incorporation, the incorporator or incorporators shall hold an organizational meeting at the call of a majority of the incorporators to do any of the following:
(1) Elect initial directors and complete the organization of the corporation.
(2) Elect a board of directors who shall complete the organization of the corporation.

2. Action required or permitted by this chapter to be taken by incorporators at an organizational meeting may be taken without a meeting if the action taken is evidenced by one or more written consents describing the action taken and signed by each incorporator.

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3. An organizational meeting may be held in or out of this state.

89 Acts, ch 288, §22; 2021 Acts, ch 165, §29, 230
Referred to in §490.147

490.206 Bylaws.

1. The incorporators or board of directors of a corporation shall adopt initial bylaws for the corporation.

2. The bylaws of a corporation may contain any provision that is not inconsistent with law or the articles of incorporation.

3. The bylaws may contain any of the following provisions:

a. A requirement that if the corporation solicits proxies or consents with respect to an election of directors, the corporation include in its proxy statement and any form of its proxy or consent, to the extent and subject to such procedures or conditions as are provided in the bylaws, one or more individuals nominated by a shareholder in addition to individuals nominated by the board of directors.

b. A requirement that the corporation reimburse the expenses incurred by a shareholder in soliciting proxies or consents in connection with an election of directors, to the extent and subject to such procedures and conditions as are provided in the bylaws, provided that no bylaw so adopted shall apply to elections for which any record date precedes its adoption.

4. Notwithstanding section 490.1020, subsection 2, paragraph *"b"*, the shareholders in amending, repealing, or adopting a bylaw described in subsection 3 shall not limit the authority of the board of directors to amend or repeal any condition or procedure set forth in or to add any procedure or condition to such a bylaw to provide for a reasonable, practical, and orderly process.

89 Acts, ch 288, §23; 2021 Acts, ch 165, §30, 230
Referred to in §490.749, 490.1020

490.207 Emergency bylaws.

1. Unless the articles of incorporation provide otherwise, the board of directors may adopt bylaws to be effective only in an emergency as defined in subsection 4. The emergency bylaws, which are subject to amendment or repeal by the shareholders, may make all provisions necessary for managing the corporation during the emergency, including any of the following:

a. Procedures for calling a meeting of the board of directors.

b. Quorum requirements for the meeting.

c. Designation of additional or substitute directors.

2. All provisions of the regular bylaws not inconsistent with the emergency bylaws remain effective during the emergency. The emergency bylaws are not effective after the emergency ends.

3. Corporate action taken in good faith in accordance with the emergency bylaws has all of the following effects:

a. The action binds the corporation.

b. The action shall not be used to impose liability on a director, officer, employee, or agent of the corporation.

4. An emergency exists for purposes of this section if a quorum of the board of directors cannot readily be assembled because of some catastrophic event.

89 Acts, ch 288, §24; 2021 Acts, ch 165, §31, 230

490.208 Forum selection provisions.

1. The articles of incorporation or bylaws may require that any or all internal corporate claims shall be brought exclusively in any specified court or courts of this state and, if so specified, in any additional courts in this state or in any other jurisdictions with which the corporation has a reasonable relationship.

2. A provision of the articles of incorporation or bylaws adopted under subsection 1 shall not have the effect of conferring jurisdiction on any court or over any person or claim, and shall not apply if none of the courts specified by such provision has the requisite personal and subject matter jurisdiction. If the court or courts of this state specified in a provision adopted

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under subsection 1 do not have the requisite personal and subject matter jurisdiction and another court of this state does have such jurisdiction, then the internal corporate claim may be brought in such other court of this state, notwithstanding that such other court of this state is not specified in such provision, and in any other court specified in such provision that has the requisite jurisdiction.

3. No provision of the articles of incorporation or bylaws may prohibit bringing an internal corporate claim in the courts of this state or require such claims to be determined by arbitration.

4. *"Internal corporate claim"* means, for the purposes of this section, any of the following:

a. Any claim that is based upon a violation of a duty under the laws of this state by a current or former director, officer, or shareholder in such capacity.

b. Any derivative action or proceeding brought on behalf of the corporation.

c. Any action asserting a claim arising pursuant to any provision of this chapter or the articles of incorporation or bylaws.

d. Any action asserting a claim governed by the internal affairs doctrine that is not included in paragraphs *"a"* through *"c"*.

2021 Acts, ch 165, §32, 230

490.209 Foreign-trade zone corporation.

A domestic corporation may be incorporated or organized under the laws of this state, and a foreign corporation may be registered to do business in this state, for the purpose of establishing, operating, and maintaining a foreign-trade zone as defined in 19 U.S.C. §81(a). The domestic or foreign corporation must maintain its principal place of business in this state. The domestic or foreign corporation described in this section has all powers necessary or convenient for applying for a grant of authority to establish, operate, and maintain a foreign-trade zone under 19 U.S.C. §81(a) et seq., and regulations promulgated under that law, and for establishing, operating, and maintaining a foreign-trade zone pursuant to that grant of authority.

2021 Acts, ch 165, §33, 230; 2022 Acts, ch 1021, §143

490.210 through 490.300 Reserved.

SUBCHAPTER III

PURPOSES AND POWERS

490.301 Purposes.

1. A corporation incorporated under this chapter has the purpose of engaging in any lawful business unless a more limited purpose is set forth in the articles of incorporation.

2. A corporation engaging in a business that is subject to regulation under another statute of this state may incorporate under this chapter only if permitted by, and subject to all limitations of, the other statute.

89 Acts, ch 288, §25
Referred to in §490.401

490.302 General powers.

Unless its articles of incorporation provide otherwise, every corporation has perpetual duration and succession in its corporate name and has the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including the power to do all of the following:

1. Sue and be sued, complain, and defend in its corporate name.

2. Have a corporate seal, which may be altered at will, and to use it, or a facsimile of it, by impressing or affixing it or in any other manner reproducing it.

3. Make and amend bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for managing the business and regulating the affairs of the corporation.

4. Purchase, receive, lease, or otherwise acquire, and own, hold, improve, use, and

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otherwise deal with, real or personal property, or any legal or equitable interest in property, wherever located.

5. Sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property.

6. Purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of, and deal in and with shares or other interests in, or obligations of, any other entity.

7. Make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other securities and obligations, which may be convertible into or include the option to purchase other securities of the corporation, and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income.

8. Lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment.

9. Be a promoter, partner, member, associate, or manager of any partnership, joint venture, trust, or other entity.

10. Conduct its business, locate offices, and exercise the powers granted by this chapter within or without this state.

11. Elect directors and appoint officers, employees, and agents of the corporation, define their duties, fix their compensation, and lend them money and credit.

12. Pay pensions and establish pension plans, pension trusts, profit sharing plans, share bonus plans, share option plans, and benefit or incentive plans for any or all of its current or former directors, officers, employees, and agents.

13. Make donations for the public welfare or for charitable, scientific, or educational purposes.

14. Transact any lawful business that will aid governmental policy.

15. Make payments or donations, or do any other act, not inconsistent with law, that furthers the business and affairs of the corporation.

89 Acts, ch 288, §26; 2021 Acts, ch 165, §34, 230

490.303 Emergency powers.

1. In anticipation of or during an emergency as defined in subsection 4, the board of directors of a corporation may do all of the following:

a. Modify lines of succession to accommodate the incapacity of any director, officer, employee, or agent.

b. Relocate the principal office, designate alternative principal offices or regional offices, or authorize the officers to do so.

2. During an emergency as defined in subsection 4, unless emergency bylaws provide otherwise:

a. Notice of a meeting of the board of directors need be given only to those directors whom it is practicable to reach and may be given in any practicable manner.

b. One or more officers of the corporation present at a meeting of the board of directors may be deemed to be directors for the meeting, in order of rank and within the same rank in order of seniority, as necessary to achieve a quorum.

3. Corporate action taken in good faith during an emergency under this section to further the ordinary business affairs of the corporation shall both:

a. Bind the corporation.

b. Not be used to impose liability on a corporate director, officer, employee, or agent.

4. An emergency exists for purposes of this section if a quorum of the board of directors cannot readily be assembled because of some catastrophic event.

89 Acts, ch 288, §27; 2021 Acts, ch 165, §35, 230

490.304 Ultra vires.

1. Except as provided in subsection 2, the validity of corporate action is not challengeable on the ground that the corporation lacks or lacked power to act.

2. A corporation's power to act may be challenged in any of the following proceedings:

a. By a shareholder against the corporation to enjoin the act.

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b. By the corporation, directly, derivatively, or through a receiver, trustee, or other legal representative, against an incumbent or former director, officer, employee, or agent of the corporation.

c. By the attorney general under section 490.1430.

3. In a shareholder's proceeding under subsection 2, paragraph *"a"*, to enjoin an unauthorized corporate act, the court may enjoin or set aside the act, if equitable and if all affected persons are parties to the proceeding, and may award damages for loss, other than anticipated profits, suffered by the corporation or another party because of enjoining the unauthorized act.

89 Acts, ch 288, §28

490.305 through 490.400 Reserved.

SUBCHAPTER IV

NAME

490.401 Corporate name.

1. A corporate name is subject to all of the following:

a. It must contain the word "corporation", "incorporated", "company", or "limited", or the abbreviation "corp.", "inc.", "co.", or "ltd.", or words or abbreviations of like import in another language.

b. It must not contain language stating or implying that the corporation is organized for a purpose other than that permitted by section 490.301 and its articles of incorporation.

2. Except as authorized by subsections 3 and 4, a corporate name must be distinguishable upon the records of the secretary of state from all of the following:

a. The corporate name of a corporation incorporated in this state which is not administratively dissolved, or if such corporation has been administratively dissolved, within five years after the effective date of dissolution.

b. A corporate name reserved or registered under section 490.402 or 490.403 or any similar provision of the law of this state.

c. The name of a registered foreign corporation or an alternate name adopted by a registered foreign corporation because its corporate name is unavailable.

d. The corporate name of a nonprofit corporation incorporated in this state which is not administratively dissolved.

e. The name of a foreign nonprofit corporation authorized to do business in this state or an alternate name adopted by a foreign nonprofit corporation authorized to conduct activities in this state because its real name is unavailable.

f. The name of a domestic filing entity which is not administratively dissolved.

g. The name of a foreign unincorporated entity registered to do business in this state or an alternate name adopted by such an entity registered to conduct activities in this state because its real name is unavailable.

h. A name reserved, registered, or protected as follows:

(1) For a limited liability partnership, section 486A.1001 or 486A.1002.

(2) For a limited partnership, section 488.108, 488.109, or 488.810.

(3) For a business corporation, this section, or section 490.402, 490.403, or 490.1422.

(4) For a limited liability company under chapter 489, section 489.112, 489.113, 489.114, or 489.710.

(5) For a nonprofit corporation, section 504.401, 504.402, 504.403, or 504.1423.

3. A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable upon the secretary of state's records from one or more of the names described in subsection 2. The secretary of state shall authorize use of the name applied for if any of the following conditions apply:

a. The other corporation or unincorporated entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to

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a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation.

b. The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

4. A corporation may use the name, including the fictitious name, of another domestic or foreign corporation that is used in this state if the other corporation is incorporated or registered to do business in this state and the proposed user corporation submits documentation to the satisfaction of the secretary of state establishing any of the following conditions:

a. Has merged with the other corporation.

b. Has been formed by reorganization of the other corporation.

c. Has acquired all or substantially all of the assets, including the corporate name, of the other corporation.

5. This chapter does not control the use of fictitious names; however, if a corporation or a foreign corporation uses a fictitious name in this state, it shall deliver to the secretary of state for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.

89 Acts, ch 288, §29; 90 Acts, ch 1205, §20 – 22; 96 Acts, ch 1170, §4; 2004 Acts, ch 1049, §183, 191, 192; 2006 Acts, ch 1089, §6; 2008 Acts, ch 1162, §138, 154, 155; 2021 Acts, ch 165, §36, 230; 2022 Acts, ch 1021, §144; 2022 Acts, ch 1058, §9, 10; 2023 Acts, ch 152, §150, 161

Referred to in §488.108, 490.202, 490.403, 490.1422, 490.1503, 490.1506, 490.1510, 490.1621, 490.1702, 504.401, 504.403

490.402 Reserved name.

1. A person may reserve the exclusive use of a corporate name, including a fictitious or alternate name for a foreign corporation whose corporate name is not available, by delivering an application to the secretary of state for filing. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the secretary of state finds that the corporate name applied for is available, the secretary of state shall reserve the name for the applicant's exclusive use for a nonrenewable one hundred twenty-day period.

2. The owner of a reserved corporate name may transfer the reservation to another person by delivering to the secretary of state a signed notice of the transfer that states the name and address of the transferee.

89 Acts, ch 288, §30; 2021 Acts, ch 165, §37, 230

Referred to in §488.108, 490.401, 504.401, 504.403, 504.1506, 524.310

490.403 Registered name.

1. A foreign corporation may register its corporate name, or its corporate name with the addition of any word or abbreviation listed in section 490.401, subsection 1, paragraph "*a*", if necessary for the corporate name to comply with section 490.401, subsection 1, paragraph "*a*", if the name is distinguishable upon the records of the secretary of state from the corporate names that are not available under section 490.401, subsection 2.

2. A foreign corporation registers its corporate name, or its corporate name with any addition permitted by subsection 1, by delivering to the secretary of state for filing an application that complies with all of the following:

a. Sets forth that name, the state or country and date of its incorporation, and a brief description of the nature of the business which is to be conducted in this state.

b. Is accompanied by a certificate of existence, or a document of similar import, from the state or country of incorporation.

3. The name is registered for the applicant's exclusive use upon the effective date of the application and for the remainder of the calendar year, unless renewed.

4. A foreign corporation whose name registration is effective may renew it for successive years by delivering to the secretary of state for filing a renewal application, which complies with the requirements of subsection 2, between October 1 and December 31 of the preceding year. The renewal application when filed renews the registration for the following calendar year.

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5. *a.* A foreign corporation whose name registration is effective may thereafter do any of the following:

(1) Register to do business as a foreign corporation under the registered name, if it complies with section 490.401, subsection 1, paragraph *"b"*.

(2) Consent in writing to the use of that name by a domestic corporation thereafter incorporated under this chapter or by another foreign corporation.

b. The registration terminates when the domestic corporation is incorporated or the foreign corporation registers to do business under that name.

89 Acts, ch 288, §31; 2021 Acts, ch 165, §38, 230
Referred to in §488.108, 490.401, 504.401, 504.403, 504.1506, 524.310

490.404 through 490.500 Reserved.

SUBCHAPTER V

OFFICE AND AGENT

490.501 Registered office and agent of domestic and registered foreign corporations.

1. Each corporation shall continuously maintain in this state all of the following:

a. A registered office that may be the same as any of its places of business.

b. A registered agent, which may be any of the following:

(1) An individual who resides in this state and whose business office is identical with the registered office.

(2) A domestic or foreign corporation or eligible entity whose business office is identical with the registered office and, in the case of a foreign corporation or foreign eligible entity, is registered to do business in this state.

2. As used in this subchapter, *"corporation"* means both a domestic corporation and a registered foreign corporation.

89 Acts, ch 288, §32; 2015 Acts, ch 45, §1; 2021 Acts, ch 165, §39, 230
Referred to in §491.111, 624.23

490.502 Change of registered office or registered agent.

1. A corporation may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth all of the following:

a. The name of the corporation.

b. The street and mailing addresses of its current registered office.

c. If the current registered office is to be changed, the street and mailing addresses of the new registered office.

d. The name of its current registered agent.

e. If the current registered agent is to be changed, the name of the new registered agent and the new agent's written consent, either on the statement or attached to it, to the appointment.

f. That after the change or changes are made, the street and mailing addresses of its registered office and of the business office of its registered agent will be identical.

2. If the street or mailing address of a registered agent's business office changes, the agent shall change the street or mailing address of the registered office of any corporation for which the agent is the registered agent by delivering a signed written notice of the change to the corporation and delivering to the secretary of state for filing a signed statement that complies with the requirements of subsection 1 and states that the corporation has been notified of the change.

3. If a registered agent changes the registered agent's business address to another place, the registered agent may change the business address and the address of the registered agent by filing a statement as required in subsection 2 for each corporation, or a single statement for all corporations named in the notice, except that it need be signed only by the registered agent and need not be responsive to subsection 1, paragraph *"e"*, and must recite that a copy of the statement has been mailed to each corporation named in the notice.

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4. A corporation may also change its registered office or registered agent in its biennial report as provided in section 490.1621.

89 Acts, ch 288, §33; 96 Acts, ch 1170, §5; 97 Acts, ch 171, §11; 2006 Acts, ch 1089, §7; 2013 Acts, ch 31, §6, 82; 2021 Acts, ch 165, §40, 230

Referred to in §490.1621

490.503 Resignation of registered agent.

1. A registered agent may resign as agent for a corporation by delivering to the secretary of state for filing a statement of resignation signed by the agent which shall state all of the following:

a. The name of the corporation.

b. The name of the agent.

c. The agent resigns from serving as registered agent for the corporation.

d. The address of the corporation to which the agent will deliver the notice required by subsection 3.

2. A statement of resignation takes effect on the earlier of the following:

a. 12:01 a.m. on the thirty-first day after the day on which it is filed by the secretary of state.

b. The designation of a new registered agent for the corporation.

3. A registered agent promptly shall deliver to the corporation notice of the date on which a statement of resignation was delivered to the secretary of state for filing.

4. When a statement of resignation takes effect, the person that resigned ceases to have responsibility under this chapter for any matter thereafter tendered to it as agent for the corporation. The resignation does not affect any contractual rights the corporation has against the agent or that the agent has against the corporation.

5. A registered agent may resign with respect to a corporation regardless of whether the corporation is in good standing.

89 Acts, ch 288, §34; 96 Acts, ch 1170, §6; 2020 Acts, ch 1058, §4; 2021 Acts, ch 165, §41, 230

Referred to in §490.125

490.504 Service on corporation.

1. A corporation's registered agent is the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the corporation.

2. If a corporation has no registered agent, or the agent cannot with reasonable diligence be served, the corporation may be served by registered or certified mail, return receipt requested, addressed to the secretary at the corporation's principal office. Service is perfected under this subsection at the earliest of the following:

a. The date the corporation receives the mail.

b. The date shown on the return receipt, if signed on behalf of the corporation.

c. Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

3. *a.* The secretary of state shall be an agent of the corporation upon whom process, notice, or demand may be served, if any of the following applies:

(1) The process, notice, or demand cannot be served on a corporation pursuant to subsection 1 or 2.

(2) The process, notice, or demand is to be served on a registered foreign corporation that has withdrawn its registration pursuant to section 490.1507 or 490.1509, or the registration of which has been terminated pursuant to section 490.1511.

b. Service of any process, notice, or demand on the secretary of state as agent for a corporation may be made by delivering to the secretary of state duplicate copies of the process, notice, or demand. If process, notice, or demand is served on the secretary of state, the secretary of state shall forward one of the copies by registered or certified mail, return receipt requested, to the corporation at the last address shown in the records of the secretary of state. Service is effected under this subsection at the earliest of the following:

(1) The date the corporation receives the process, notice, or demand.

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(2) The date shown on the return receipt, if signed on behalf of the corporation.

(3) Five days after the process, notice, or demand is deposited with the United States mail by the secretary of state.

4. This section does not prescribe the only means, or necessarily the required means, of serving a corporation.

89 Acts, ch 288, §35; 96 Acts, ch 1170, §7; 2021 Acts, ch 165, §42, 230
Referred to in §490.1421, 490.1422, 490.1423, 490.1507, 490.1509, 490.1511, 624.23

490.505 through 490.600 Reserved.

SUBCHAPTER VI

SHARES AND DISTRIBUTIONS

PART 1

SHARES

490.601 Authorized shares.

1. The articles of incorporation must set forth any classes of shares and series of shares within a class, and the number of shares of each class and series, that the corporation is authorized to issue. If more than one class or series of shares is authorized, the articles of incorporation must prescribe a distinguishing designation for each class or series and, before the issuance of shares of a class or series, describe the terms, including the preferences, rights, and limitations of that class or series. Except to the extent varied as permitted by this section, all shares of a class or series must have terms, including preferences, rights, and limitations that are identical with those of other shares of the same class or series.

2. The articles of incorporation must authorize all of the following:

a. One or more classes or series of shares that together have full voting rights.

b. One or more classes or series of shares, which may be the same class, classes, or series as those with voting rights, that together are entitled to receive the net assets of the corporation upon dissolution.

3. The articles of incorporation may authorize one or more classes or series of shares that have any of the following characteristics:

a. Have special, conditional, or limited voting rights, or no right to vote, except to the extent otherwise provided by this chapter.

b. Are redeemable or convertible as specified in the articles of incorporation in any of the following ways:

(1) At the option of the corporation, the shareholder, or another person or upon the occurrence of a specified event.

(2) For cash, indebtedness, securities, or other property.

(3) At prices and in amounts specified or determined in accordance with a formula.

c. Entitle the holders to distributions calculated in any manner, including dividends that may be cumulative, noncumulative, or partially cumulative.

d. Have preference over any other class or series of shares with respect to distributions, including distributions upon the dissolution of the corporation.

4. The terms of shares may be made dependent upon facts objectively ascertainable outside the articles of incorporation in accordance with section 490.120, subsection 11.

5. Any of the terms of shares may vary among holders of the same class or series so long as such variations are expressly set forth in the articles of incorporation.

6. The description of the preferences, rights, and limitations of classes or series of shares in subsection 3 is not exhaustive.

89 Acts, ch 288, §36; 2007 Acts, ch 140, §4; 2021 Acts, ch 165, §43, 230
Referred to in §490.145, 490.602

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490.602 Terms of class or series determined by board of directors.

1. If the articles of incorporation so provide, the board of directors is authorized, without shareholder approval, to do any of the following:

a. Classify any unissued shares into one or more classes or into one or more series within a class.

b. Reclassify any unissued shares of any class into one or more classes or into one or more series within one or more classes.

c. Reclassify any unissued shares of any series of any class into one or more classes or into one or more series within a class.

2. If the board of directors acts pursuant to subsection 1, it shall determine the terms, including the preferences, rights, and limitations, to the same extent permitted under section 490.601, of any of the following:

a. Any class of shares before the issuance of any shares of that class.

b. Any series within a class before the issuance of any shares of that series.

3. Before issuing any shares of a class or series created under this section, the corporation shall deliver to the secretary of state for filing articles of amendment setting forth the terms determined under subsection 1.

89 Acts, ch 288, §37; 2007 Acts, ch 140, §5; 2021 Acts, ch 165, §44, 230
Referred to in §490.804, 490.1005

490.603 Issued and outstanding shares.

1. A corporation may issue the number of shares of each class or series authorized by the articles of incorporation. Shares that are issued are outstanding shares until they are reacquired, redeemed, converted, or canceled.

2. The reacquisition, redemption, or conversion of outstanding shares is subject to the limitations of subsection 3 and to section 490.640.

3. At all times that shares of the corporation are outstanding, one or more shares that together have full voting rights and one or more shares that together are entitled to receive the net assets of the corporation upon dissolution must be outstanding.

89 Acts, ch 288, §38; 2021 Acts, ch 165, §45, 230

490.604 Fractional shares.

1. A corporation may issue fractions of a share or in lieu of doing so may do any of the following:

a. Pay in cash the value of fractions of a share.

b. Issue scrip in registered or bearer form entitling the holder to receive a full share upon surrendering enough scrip to equal a full share.

c. Arrange for disposition of fractional shares by the holders of such shares.

2. Each certificate representing scrip must be conspicuously labeled "scrip" and must contain the information required by section 490.625, subsection 2.

3. The holder of a fractional share is entitled to exercise the rights of a shareholder, including the rights to vote, to receive dividends, and to receive distributions upon dissolution. The holder of scrip is not entitled to any of these rights unless the scrip provides for them.

4. The board of directors may authorize the issuance of scrip subject to any condition, including any of the following:

a. That the scrip will become void if not exchanged for full shares before a specified date.

b. That the shares for which the scrip is exchangeable may be sold and the proceeds paid to the scripholders.

89 Acts, ch 288, §39; 2021 Acts, ch 165, §46, 230

490.605 through 490.619 Reserved.

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PART 2

ISSUANCE OF SHARES

490.620 Subscription for shares before incorporation.

1. A subscription for shares entered into before incorporation is irrevocable for six months unless the subscription agreement provides a longer or shorter period or all the subscribers agree to revocation.

2. The board of directors may determine the payment terms of subscriptions for shares that were entered into before incorporation, unless the subscription agreement specifies them. A call for payment by the board of directors must be uniform so far as practicable as to all shares of the same class or series, unless the subscription agreement specifies otherwise.

3. Shares issued pursuant to subscriptions entered into before incorporation are fully paid and nonassessable when the corporation receives the consideration specified in the subscription agreement.

4. If a subscriber defaults in payment of cash or property under a subscription agreement entered into before incorporation, the corporation may collect the amount owed as any other debt. Alternatively, unless the subscription agreement provides otherwise, the corporation may rescind the agreement and may sell the shares if the debt remains unpaid for more than twenty days after the corporation delivers a written demand for payment to the subscriber.

5. A subscription agreement entered into after incorporation is a contract between the subscriber and the corporation subject to section 490.621.

89 Acts, ch 288, §40; 2013 Acts, ch 31, §7, 82; 2021 Acts, ch 165, §47, 230

490.621 Issuance of shares.

1. The powers granted in this section to the board of directors may be reserved to the shareholders by the articles of incorporation.

2. The board of directors may authorize shares to be issued for consideration consisting of any tangible or intangible property or benefit to the corporation, including cash, promissory notes, services performed, contracts for services to be performed, or other securities of the corporation.

3. Before the corporation issues shares, the board of directors shall determine that the consideration received or to be received for shares to be issued is adequate. That determination by the board of directors is conclusive insofar as the adequacy of consideration for the issuance of shares relates to whether the shares are validly issued, fully paid, and nonassessable.

4. When the corporation receives the consideration for which the board of directors authorized the issuance of shares, the shares issued therefor are fully paid and nonassessable.

5. The corporation may place in escrow shares issued for a contract for future services or benefits or a promissory note, or make other arrangements to restrict the transfer of the shares, and may credit distributions in respect of the shares against their purchase price, until the services are performed, the benefits are received, or the note is paid. If the services are not performed, the benefits are not received, or the note is not paid, the shares escrowed or restricted and the distributions credited may be canceled in whole or part.

6. *a.* An issuance of shares or other securities convertible into or rights exercisable for shares in a transaction or a series of integrated transactions requires approval of the shareholders, at a meeting at which a quorum consisting of a majority, or such greater number as the articles of incorporation may prescribe, of the votes entitled to be cast on the matter exists, if all of the following conditions are satisfied:

(1) The shares, other securities, or rights are to be issued for consideration other than cash or cash equivalents.

(2) The voting power of shares that are issued and issuable as a result of the transaction or series of integrated transactions will comprise more than twenty percent of the voting power of the shares of the corporation that were outstanding immediately before the transaction.

b. For purposes of this subsection, the following shall apply:

(1) For purposes of determining the voting power of shares issued and issuable as a result

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of a transaction or series of integrated transactions, the voting power of shares or other securities convertible into or rights exercisable for shares shall be the greater of the following:

(a) The voting power of the shares to be issued.

(b) The voting power of the shares that would be outstanding after giving effect to the conversion of convertible shares and other securities and the exercise of rights to be issued.

(2) A series of transactions is integrated only if consummation of one transaction is made contingent on consummation of one or more of the other transactions.

89 Acts, ch 288, §41; 2002 Acts, ch 1154, §11, 125; 2021 Acts, ch 165, §48, 230
Referred to in §490.620, 490.1104

490.622 Liability of shareholders.

1. A purchaser from a corporation of the corporation's own shares is not liable to the corporation or its creditors with respect to the shares except to pay the consideration for which the shares were authorized to be issued or specified in the subscription agreement.

2. A shareholder of a corporation is not personally liable for any liabilities of the corporation, including liabilities arising from acts of the corporation, subject to the following exceptions:

a. To the extent provided in a provision of the articles of incorporation permitted by section 490.202, subsection 2, paragraph "*b*", subparagraph (5).

b. A shareholder may become personally liable by reason of the shareholder's own acts or conduct.

89 Acts, ch 288, §42; 2021 Acts, ch 165, §49, 230

490.623 Share dividends.

1. Unless the articles of incorporation provide otherwise, shares may be issued pro rata and without consideration to the corporation's shareholders or to the shareholders of one or more classes or series of shares. An issuance of shares under this subsection is a share dividend.

2. Shares of one class or series shall not be issued as a share dividend in respect of shares of another class or series unless one or more of the following conditions are met:

a. The articles of incorporation so authorize.

b. A majority of the votes entitled to be cast by the class or series to be issued approve the issue.

c. There are no outstanding shares of the class or series to be issued.

3. The board of directors may fix the record date for determining shareholders entitled to a share dividend, which date shall not be retroactive. If the board of directors does not fix the record date for determining shareholders entitled to a share dividend, the record date is the date the board of directors authorizes the share dividend.

89 Acts, ch 288, §43; 2021 Acts, ch 165, §50, 230

490.624 Share rights, options, warrants, and awards.

1. A corporation may issue rights, options, or warrants for the purchase of shares or other securities of the corporation. The board of directors shall determine the terms and conditions upon which the rights, options, or warrants are issued and the terms, including the consideration for which the shares or other securities are to be issued. The authorization by the board of directors for the corporation to issue such rights, options, or warrants constitutes authorization of the issuance of the shares or other securities for which the rights, options, or warrants are exercisable.

2. The terms and conditions of such rights, options, or warrants may include restrictions or conditions that do any of the following:

a. Preclude or limit the exercise, transfer, or receipt of such rights, options, or warrants by any person or persons owning or offering to acquire a specified number or percentage of the outstanding shares or other securities of the corporation or by any transferee or transferees of any such person or persons.

b. Invalidate or void such rights, options, or warrants held by any such person or persons or any such transferee or transferees.

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3. The board of directors may authorize one or more officers to do any of the following:

a. Designate the recipients of rights, options, warrants, or other equity compensation awards that involve the issuance of shares.

b. Determine, within an amount and subject to any other limitations established by the board of directors and, if applicable, the shareholders, the number of such rights, options, warrants, or other equity compensation awards and the terms of such rights, options, warrants, or awards to be received by the recipients, provided that an officer shall not use such authority to designate the officer or any other persons as the board of directors may specify as a recipient of such rights, options, warrants, or other equity compensation awards.

89 Acts, ch 288, §44; 2007 Acts, ch 140, §6; 2008 Acts, ch 1031, §55, 116; 2013 Acts, ch 31, §8, 82; 2021 Acts, ch 165, §51, 230

490.624A Poison pill defense authorized. Repealed by 2021 Acts, ch 165, §217, 230.

490.625 Form and content of certificates.

1. Shares may, but need not, be represented by certificates. Unless this chapter or another statute expressly provides otherwise, the rights and obligations of shareholders are identical regardless of whether their shares are represented by certificates.

2. At a minimum, each share certificate must state on its face all of the following:

a. The name of the corporation and that it is organized under the law of this state.

b. The name of the person to whom issued.

c. The number and class of shares and the designation of the series, if any, the certificate represents.

3. *a.* If the corporation is authorized to issue different classes of shares or series of shares within a class, the front or back of each certificate must summarize all of the following:

(1) The preferences, rights, and limitations applicable to each class and series.

(2) Any variations in preferences, rights, and limitations among the holders of the same class or series.

(3) The authority of the board of directors to determine the terms of future classes or series.

b. Alternatively, each certificate may state conspicuously on its front or back that the corporation will furnish the shareholder this information on request in writing and without charge.

4. Each share certificate must be signed by two officers designated in the bylaws.

5. If the person who signed a share certificate no longer holds office when the certificate is issued, the certificate is nevertheless valid.

89 Acts, ch 288, §46; 2021 Acts, ch 165, §52, 230
Referred to in §490.604, 490.626

490.626 Shares without certificates.

1. Unless the articles of incorporation or bylaws provide otherwise, the board of directors of a corporation may authorize the issuance of some or all of the shares of any or all of its classes or series without certificates. The authorization does not affect shares already represented by certificates until they are surrendered to the corporation.

2. Within a reasonable time after the issuance or transfer of shares without certificates, the corporation shall deliver to the shareholder a written statement of the information required on certificates by section 490.625, subsections 2 and 3, and, if applicable, section 490.627.

89 Acts, ch 288, §47; 2021 Acts, ch 165, §53, 230
Referred to in §490.627, 490.732, 490.1702

490.627 Restriction on transfer of shares.

1. The articles of incorporation, the bylaws, an agreement among shareholders, or an agreement between shareholders and the corporation may impose restrictions on the transfer or registration of transfer of shares of the corporation. A restriction does not affect shares issued before the restriction was adopted unless the holders of the shares are parties to the restriction agreement or voted in favor of the restriction.

2. A restriction on the transfer or registration of transfer of shares is valid and enforceable

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against the holder or a transferee of the holder if the restriction is authorized by this section and its existence is noted conspicuously on the front or back of the certificate or is contained in the information statement required by section 490.626, subsection 2. Unless so noted, or contained, a restriction is not enforceable against a person without knowledge of the restriction.

3. A restriction on the transfer or registration of transfer of shares is authorized for any of the following purposes:

a. To maintain the corporation's status when it is dependent on the number or identity of its shareholders.

b. To preserve exemptions under federal or state securities law.

c. For any other reasonable purpose.

4. A restriction on the transfer or registration of transfer of shares may do any of the following:

a. Obligate the shareholder first to offer the corporation or other persons, separately, consecutively, or simultaneously, an opportunity to acquire the restricted shares.

b. Obligate the corporation or other persons, separately, consecutively, or simultaneously, to acquire the restricted shares.

c. Require the corporation, the holders of any class or series of its shares, or other persons to approve the transfer of the restricted shares, if the requirement is not manifestly unreasonable.

d. Prohibit the transfer of the restricted shares to designated persons or classes of persons, if the prohibition is not manifestly unreasonable.

5. As used in this section, *"shares"* includes a security convertible into or carrying a right to subscribe for or acquire shares.

89 Acts, ch 288, §48; 2021 Acts, ch 165, §54, 230
Referred to in §490.626

490.628 Reversion of disbursements to cooperative associations.

1. As used in this section, *"disbursement"* means an amount of any distribution or any other increment or sum realized or accruing from stock or other equity interest in a cooperative association organized under this chapter.

2. Once a person's stock or other equity interest in a cooperative association organized under this chapter is deemed abandoned under section 556.5, any disbursement held by the cooperative association for or owing to the person shall be subject to the same requirements as provided in section 499.30A that apply to a cooperative association organized under chapter 499, including all of the following:

a. The retention of the disbursement in a reversion fund established by the cooperative association or the delivery of the disbursement to the treasurer of state.

b. The payment of the disbursement to a person filing a claim with the cooperative association who asserts an interest in the disbursement.

c. The forfeiture of the disbursement to the cooperative association, and the use of the forfeited disbursement by the cooperative association in order to teach and promote cooperation or provide for economic development, including creating economic opportunities for its shareholders.

2001 Acts, ch 142, §2
CS2001, §490.629
2021 Acts, ch 165, §216, 230
C2022, §490.628
Referred to in §556.5
Former §490.628 repealed by 2021 Acts, ch 165, §217, 230

490.629 Reversion of disbursements to cooperative associations. Transferred to §490.628; 2021 Acts, ch 165, §216, 230.

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PART 3

SUBSEQUENT ACQUISITION OF SHARES BY SHAREHOLDERS AND CORPORATION

490.630 Shareholders' preemptive rights.

1. The shareholders of a corporation do not have a preemptive right to acquire the corporation's unissued shares except to the extent the articles of incorporation so provide.

2. A statement included in the articles of incorporation that "the corporation elects to have preemptive rights", or words of similar effect, means that the following principles apply except to the extent the articles of incorporation expressly provide otherwise:

a. The shareholders of the corporation have a preemptive right, granted on uniform terms and conditions prescribed by the board of directors to provide a fair and reasonable opportunity to exercise the right, to acquire proportional amounts of the corporation's unissued shares upon the decision of the board of directors to issue them.

b. A preemptive right may be waived by a shareholder. A waiver evidenced by a writing is irrevocable even though it is not supported by consideration.

c. There is no preemptive right with respect to any of the following:

(1) Shares issued as compensation to directors, officers, employees, or agents of the corporation, its subsidiaries, or its affiliates.

(2) Shares issued to satisfy conversion or option rights created to provide compensation to directors, officers, employees, or agents of the corporation, its subsidiaries, or its affiliates.

(3) Shares authorized in the articles of incorporation that are issued within six months from the effective date of incorporation.

(4) Shares sold otherwise than for cash.

d. Holders of shares of any class or series without voting power but with preferential rights to distributions have no preemptive rights with respect to shares of any class or series.

e. Holders of shares of any class or series with voting power but without preferential rights to distributions have no preemptive rights with respect to shares of any class or series with preferential rights to distributions unless the shares with preferential rights are convertible into or carry a right to subscribe for or acquire the shares without preferential rights.

f. Shares subject to preemptive rights that are not acquired by shareholders may be issued to any person for a period of one year after being offered to shareholders at a consideration set by the board of directors that is not lower than the consideration set for the exercise of preemptive rights. An offer at a lower consideration or after the expiration of one year is subject to the shareholders' preemptive rights.

3. As used in this section, *"shares"* includes a security convertible into or carrying a right to subscribe for or acquire shares.

89 Acts, ch 288, §50; 2006 Acts, ch 1089, §8; 2021 Acts, ch 165, §55, 230

490.631 Corporation's acquisition of its own shares.

1. A corporation may acquire its own shares and, except as may be otherwise provided pursuant to section 490.632, shares so acquired constitute authorized but unissued shares.

2. If the articles of incorporation prohibit the reissue of the acquired shares, the number of authorized shares is reduced by the number of shares acquired.

89 Acts, ch 288, §51; 90 Acts, ch 1205, §23; 2002 Acts, ch 1154, §12, 125

Referred to in §490.1005

490.632 Reacquired shares as issued but not outstanding shares.

1. A corporation which, as of December 30, 1989, treated any of its shares which it had reacquired as issued but not outstanding shares may continue to treat those shares as issued but not outstanding shares.

2. If a corporation reacquires its own shares after December 30, 1989, but before January 1, 1991, those shares constitute issued but not outstanding shares as of and after their reacquisition if either of the following is applicable:

a. When the shares are reacquired, the articles of incorporation contain a provision specifying that reacquired shares constitute issued but not outstanding shares.

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b. Prior to January 1, 1991, the board of directors adopts a resolution specifying that shares reacquired after December 30, 1989, and prior to January 1, 1991, constitute issued but not outstanding shares.

3. If a corporation reacquires its own shares after December 31, 1990, those shares constitute issued but not outstanding shares if, at the time they are reacquired by the corporation, either of the following is applicable:

a. The articles of incorporation contain a provision specifying that reacquired shares constitute issued but not outstanding shares.

b. The board of directors has adopted a resolution specifying that reacquired shares constitute issued but not outstanding shares.

4. Unless otherwise provided in its articles of incorporation, a corporation may at any time, by resolution adopted by its board of directors, cancel or otherwise restore to the status of authorized but unissued shares any of its shares which it has previously reacquired and treated as issued but not outstanding shares.

90 Acts, ch 1205, §24; 91 Acts, ch 97, §54
Referred to in §490.631

490.633 through 490.639 Reserved.

PART 4

DISTRIBUTIONS

490.640 Distribution to shareholders.

1. A board of directors may authorize and the corporation may make distributions to its shareholders subject to restriction by the articles of incorporation and the limitation in subsection 3.

2. The board of directors may fix the record date for determining shareholders entitled to a distribution, which date shall not be retroactive. If the board of directors does not fix a record date for determining shareholders entitled to a distribution, other than one involving a purchase, redemption, or other acquisition of the corporation's shares, the record date is the date the board of directors authorizes the distribution.

3. A distribution shall not be made if, after giving it effect, any of the following would result:

a. The corporation would not be able to pay its debts as they become due in the usual course of business.

b. The corporation's total assets would be less than the sum of its total liabilities plus, unless the articles of incorporation permit otherwise, the amount that would be needed, if the corporation were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of shareholders whose preferential rights are superior to those receiving the distribution.

4. The board of directors may base a determination that a distribution is not prohibited under subsection 3 either on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.

5. Except as provided in subsection 7, the effect of a distribution under subsection 3 is measured as follows:

a. In the case of distribution by purchase, redemption, or other acquisition of the corporation's shares, as of the earlier of the following:

(1) The date cash or other property is transferred or debt to a shareholder is incurred by the corporation.

(2) The date the shareholder ceases to be a shareholder with respect to the acquired shares.

b. In the case of any other distribution of indebtedness, as of the date the indebtedness is distributed.

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c. In all other cases, as of the following:

(1) The date the distribution is authorized if the payment occurs within one hundred twenty days after the date of authorization.

(2) The date the payment is made if it occurs more than one hundred twenty days after the date of authorization.

6. A corporation's indebtedness to a shareholder incurred by reason of a distribution made in accordance with this section is at parity with the corporation's indebtedness to its general, unsecured creditors except to the extent subordinated by agreement.

7. Indebtedness of a corporation, including indebtedness issued as a distribution, is not considered a liability for purposes of determinations under subsection 3 if its terms provide that payment of principal and interest are made only if and to the extent that payment of a distribution to shareholders could then be made under this section. If such indebtedness is issued as a distribution, each payment of principal or interest is treated as a distribution, the effect of which is measured on the date the payment is actually made.

8. This section shall not apply to distributions in liquidation under subchapter XIV.

89 Acts, ch 288, §52; 2002 Acts, ch 1154, §13, 125; 2008 Acts, ch 1015, §1; 2019 Acts, ch 24, §104; 2021 Acts, ch 165, §56, 230

Referred to in §490.603, 490.732, 490.832, 490.1434

490.641 through 490.700 Reserved.

SUBCHAPTER VII

SHAREHOLDERS

PART 1

MEETINGS

490.701 Annual meeting.

1. Unless directors are elected by written consent in lieu of an annual meeting as permitted by section 490.704, a corporation shall hold a meeting of shareholders annually, at a time stated in or fixed in accordance with the bylaws, at which directors shall be elected.

2. Unless the board of directors determines to hold the meeting solely by means of remote communication in accordance with section 490.709, subsection 3, annual meetings may be held as follows:

a. In or out of this state at the place stated in or fixed in accordance with the bylaws.

b. If no place is stated in or fixed in accordance with the bylaws, at the corporation's principal office.

3. The failure to hold an annual meeting at the time stated in or fixed in accordance with a corporation's bylaws does not affect the validity of any corporate action.

89 Acts, ch 288, §53; 2013 Acts, ch 31, §9, 82; 2021 Acts, ch 165, §57, 230

490.702 Special meeting.

1. Except as provided in subsection 5, a corporation shall hold a special meeting of shareholders upon the occurrence of any of the following:

a. On call of its board of directors or the person or persons authorized to do so by the articles of incorporation or bylaws.

b. If the shareholders holding at least ten percent of all the votes entitled to be cast on an issue proposed to be considered at the proposed special meeting sign, date, and deliver to the corporation one or more written demands for the meeting describing the purpose or purposes for which it is to be held, provided that the articles of incorporation may fix a lower percentage or a higher percentage not exceeding twenty-five percent of all the votes entitled to be cast on any issue proposed to be considered. Unless otherwise provided in the articles of incorporation, a written demand for a special meeting may be revoked by a writing to that

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effect received by the corporation before the receipt by the corporation of demands sufficient in number to require the holding of a special meeting.

2. If not otherwise fixed under section 490.703 or 490.707, the record date for determining shareholders entitled to demand a special meeting shall be the first date on which a signed shareholder demand is delivered to the corporation. No written demand for a special meeting shall be effective unless, within sixty days of the earliest date on which such a demand delivered to the corporation as required by this section was signed, written demands signed by shareholders holding at least the percentage of votes specified in or fixed in accordance with subsection 1, paragraph "*b*", have been delivered to the corporation.

3. Unless the board of directors determines to hold the meeting solely by remote participation in accordance with section 490.709, subsection 3, special meetings of shareholders may be held as follows:

a. In or out of this state at the place stated in or fixed in accordance with the bylaws.

b. If no place is so stated in or fixed in accordance with the bylaws, at the corporation's principal office.

4. Only business within the purpose or purposes described in the meeting notice required by section 490.705, subsection 3, may be conducted at a special meeting of shareholders.

5. Notwithstanding subsections 1 through 4, a corporation that has a class of equity securities registered pursuant to section 12 of the federal Securities Exchange Act of 1934 is required to hold a special meeting only upon the occurrence of any of the following:

a. On call of its board of directors or the person or persons authorized to call a special meeting by the articles of incorporation or bylaws.

b. If the holders of at least fifty percent of all the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting sign, date, and deliver to the corporation's secretary one or more written demands for the meeting describing the purpose or purposes for which it is to be held.

89 Acts, ch 288, §54; 97 Acts, ch 117, §1, 2; 2002 Acts, ch 1154, §14, 125; 2011 Acts, ch 2, §2, 10; 2021 Acts, ch 165, §58, 59, 230

Referred to in §490.703

490.703 Court-ordered meeting.

1. The district court of the county where a corporation's principal office, or, if none in this state, its registered office is located may summarily order a meeting to be held pursuant to any of the following:

a. On application of any shareholder of the corporation if an annual meeting was not held or action by written consent in lieu of an annual meeting did not become effective within the earlier of six months after the end of the corporation's fiscal year or fifteen months after its last annual meeting.

b. On application of one or more shareholders who signed a demand for a special meeting valid under section 490.702 if any of the following applies:

(1) Notice of the special meeting was not given within thirty days after the first day on which the requisite number of such demands have been delivered to the corporation.

(2) The special meeting was not held in accordance with the notice.

2. The court may fix the time and place of the meeting, determine the shares entitled to participate in the meeting, specify a record date or dates for determining shareholders entitled to notice of and to vote at the meeting, prescribe the form and content of the meeting notice, fix the quorum required for specific matters to be considered at the meeting, or direct that the shares represented at the meeting constitute a quorum for action on those matters, and enter other orders necessary to accomplish the purpose or purposes of the meeting.

3. For purposes of subsection 1, paragraph "*a*", "*shareholder*" means a record shareholder, a beneficial shareholder, and an unrestricted voting trust beneficial owner.

89 Acts, ch 288, §55; 2013 Acts, ch 31, §10, 82; 2021 Acts, ch 165, §60, 230

Referred to in §490.702, 490.705, 490.749

490.704 Action without meeting.

1. Unless otherwise provided in the articles of incorporation, any action required or

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permitted by this chapter to be taken at a shareholders' meeting may be taken without a meeting or vote, and, except as provided in subsection 5, without prior notice, if one or more written consents bearing the date of signature and describing the action taken are signed by the holders of outstanding shares having not less than ninety percent of the votes entitled to be cast at a meeting at which all shares entitled to vote on the action were present and voted, and are delivered to the corporation for inclusion in the minutes or filing with the corporate records.

2. Except in the case of a corporation that has a class of equity securities registered pursuant to section 12 of the federal Securities Exchange Act of 1934, the articles of incorporation may provide that any action required or permitted by this chapter to be taken at a shareholders' meeting may be taken without a meeting, and without prior notice, if consents in writing setting forth the action so taken are signed by the holders of outstanding shares having not less than the minimum number of votes that would be required to authorize or take the action at a meeting at which all shares entitled to vote on the action were present and voted. However, if a corporation's articles of incorporation authorize shareholders to cumulate their votes when electing directors pursuant to section 490.728, directors shall not be elected by less than unanimous written consent. A written consent must bear the date of signature of the shareholder who signs the consent and be delivered to the corporation for filing by the corporation with the minutes or corporate records.

3. If not otherwise fixed under section 490.707 and if prior action by the board of directors is not required respecting the action to be taken without a meeting, the record date for determining the shareholders entitled to take action without a meeting shall be the first date on which a signed written consent is delivered to the corporation. If not otherwise fixed under section 490.707, and if prior action by the board of directors is required respecting the action to be taken without a meeting, the record date shall be the close of business on the day the resolution of the board of directors taking such prior action is adopted. No written consent shall be effective to take the corporate action referred to therein unless, within sixty days of the earliest date on which a consent delivered to the corporation as required by this section was signed, written consents signed by sufficient shareholders to take the action have been delivered to the corporation. A written consent may be revoked by a writing to that effect delivered to the corporation before unrevoked written consents sufficient in number to take the corporate action have been delivered to the corporation.

4. A consent signed pursuant to the provisions of this section has the effect of a vote taken at a meeting and may be described as such in any document. Unless the articles of incorporation, bylaws, or a resolution of the board of directors provides for a reasonable delay to permit tabulation of written consents, the action taken by written consent shall be effective when written consents signed by sufficient shareholders to take the action have been delivered to the corporation.

5. *a.* If this chapter requires that notice of a proposed action be given to nonvoting shareholders and the action is to be taken by written consent of the voting shareholders, the corporation shall give its nonvoting shareholders written notice of the action not more than ten days after any of the following:

(1) Written consents sufficient to take the action have been delivered to the corporation.

(2) Such later date that tabulation of consents is completed pursuant to an authorization under subsection 4.

b. The notice must reasonably describe the action taken and contain or be accompanied by the same material that, under any provision of this chapter, would have been required to be sent to nonvoting shareholders in a notice of a meeting at which the proposed action would have been submitted to the shareholders for action.

6. *a.* If action is taken by less than unanimous written consent of the voting shareholders, the corporation shall give its nonconsenting voting shareholders written notice of the action not more than ten days after any of the following:

(1) Written consents sufficient to take the action have been delivered to the corporation.

(2) Such later date that tabulation of consents is completed pursuant to an authorization under subsection 4.

b. The notice must reasonably describe the action taken and contain or be accompanied

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by the same material that, under any provision of this chapter, would have been required to be sent to voting shareholders in a notice of a meeting at which the action would have been submitted to the shareholders for action.

7. The notice requirements in subsections 5 and 6 shall not delay the effectiveness of actions taken by written consent, and a failure to comply with such notice requirements shall not invalidate actions taken by written consent, provided that this subsection shall not be deemed to limit judicial power to fashion any appropriate remedy in favor of a shareholder adversely affected by a failure to give such notice within the required time period.

89 Acts, ch 288, §56; 2002 Acts, ch 1154, §15, 125; 2013 Acts, ch 31, §11, 82; 2021 Acts, ch 165, §61, 230

Referred to in §490.701, 490.803, 490.1320, 490.1340

490.705 Notice of meeting.

1. A corporation shall notify shareholders of the date, time, and place of each annual and special shareholders' meeting no fewer than ten nor more than sixty days before the meeting date. If the board of directors has authorized participation by means of remote communication pursuant to section 490.709 for holders of any class or series of shares, the notice to the holders of such class or series of shares must describe the means of remote communication to be used. The notice must include the record date for determining the shareholders entitled to vote at the meeting, if such date is different from the record date for determining shareholders entitled to notice of the meeting. Unless this chapter or the articles of incorporation require otherwise, the corporation is required to give notice only to shareholders entitled to vote at the meeting as of the record date for determining the shareholders entitled to notice of the meeting.

2. Unless this chapter or the articles of incorporation require otherwise, the notice of an annual meeting of shareholders need not include a description of the purpose or purposes for which the meeting is called.

3. Notice of a special meeting of shareholders must include a description of the purpose or purposes for which the meeting is called.

4. If not otherwise fixed under section 490.703 or 490.707, the record date for determining shareholders entitled to notice of and to vote at an annual or special shareholders' meeting is the day before the first notice is delivered to shareholders.

5. Unless the bylaws require otherwise, if an annual or special shareholders' meeting is adjourned to a different date, time, or place, if any, notice need not be given of the new date, time, or place, if any, if the new date, time, or place, if any, is announced at the meeting before adjournment. However, if a new record date for the adjourned meeting is or must be fixed under section 490.707, notice of the adjourned meeting shall be given under this section to shareholders entitled to vote at such adjourned meeting as of the record date fixed for notice of such adjourned meeting.

89 Acts, ch 288, §57; 2013 Acts, ch 31, §12, 82; 2021 Acts, ch 165, §62, 230

Referred to in §490.702

490.706 Waiver of notice.

1. A shareholder may waive any notice required by this chapter, or the articles of incorporation or bylaws, before or after the date and time stated in the notice. The waiver must be in writing, be signed by the shareholder entitled to the notice, and be delivered to the corporation for filing by the corporation with the minutes or corporate records.

2. A shareholder's attendance at a meeting does all of the following:

a. Waives objection to lack of notice or defective notice of the meeting, unless the shareholder at the beginning of the meeting objects to holding the meeting or transacting business at the meeting.

b. Waives objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the shareholder objects to considering the matter when it is presented.

89 Acts, ch 288, §58; 2021 Acts, ch 165, §63, 230

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490.707 Record date for meeting.

1. The bylaws may fix or provide the manner of fixing the record date or dates for one or more voting groups to determine the shareholders entitled to notice of a shareholders' meeting, to demand a special meeting, to vote, or to take any other action. If the bylaws do not fix or provide for fixing a record date, the board of directors may fix the record date.

2. A record date fixed under this section shall not be more than seventy days before the meeting or action requiring a determination of shareholders and shall not be retroactive.

3. A determination of shareholders entitled to notice of or to vote at a shareholders' meeting is effective for any adjournment of the meeting unless the board of directors fixes a new record date or dates, which it shall do if the meeting is adjourned to a date more than one hundred twenty days after the date fixed for the original meeting.

4. If a court orders a meeting adjourned to a date more than one hundred twenty days after the date fixed for the original meeting, it may provide that the original record date or dates continue in effect or it may fix a new record date or dates.

5. The record date or dates for a shareholders' meeting fixed by or in the manner provided in the bylaws or by the board of directors shall be the record date for determining shareholders entitled both to notice of and to vote at the shareholders' meeting unless, in the case of a record date fixed by the board of directors and to the extent not prohibited by the bylaws, the board, at the time it fixes the record date for shareholders entitled to notice of the meeting, fixes a later record date on or before the date of the meeting to determine the shareholders entitled to vote at the meeting.

89 Acts, ch 288, §59; 2013 Acts, ch 31, §13, 82; 2021 Acts, ch 165, §64, 230

Referred to in §490.702, 490.704, 490.705, 490.720

490.708 Conduct of meeting.

1. At each meeting of shareholders, a chair shall preside. The chair shall be appointed as provided in the bylaws or, in the absence of such provision, by the board of directors.

2. The chair, unless the articles of incorporation or bylaws provide otherwise, shall determine the order of business and shall have the authority to establish rules for the conduct of the meeting.

3. Any rules adopted for, and the conduct of, the meeting shall be fair to shareholders.

4. The chair of the meeting shall announce at the meeting when the polls close for each matter voted upon. If no announcement is made, the polls shall be deemed to have closed upon the final adjournment of the meeting. After the polls close, no ballots, proxies, or votes nor any revocations or changes to such ballots, proxies, or votes may be accepted.

2002 Acts, ch 1154, §16, 125; 2021 Acts, ch 165, §65, 230

490.709 Remote participation in shareholders' meetings.

1. Shareholders of any class or series of shares may participate in any meeting of shareholders by means of remote communication to the extent the board of directors authorizes such participation for such class or series. Participation as a shareholder by means of remote communication shall be subject to such guidelines and procedures as the board of directors adopts, and shall be in conformity with subsection 2.

2. Shareholders participating in a shareholders' meeting by means of remote communication shall be deemed present and may vote at such a meeting if the corporation has implemented reasonable measures to do all of the following:

a. Verify that each person participating remotely as a shareholder is a shareholder.

b. Provide such shareholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the shareholders, including an opportunity to communicate, and to read or hear the proceedings of the meeting, substantially concurrently with such proceedings.

3. Unless the bylaws require the meeting of shareholders to be held at a place, the board of directors may determine that any meeting of shareholders shall not be held at any place and

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shall instead be held solely by means of remote communication, but only if the corporation implements the measures specified in subsection 2.

2013 Acts, ch 31, §14, 82; 2021 Acts, ch 165, §66, 230
Referred to in §490.701, 490.702, 490.705

490.710 through 490.719 Reserved.

PART 2

VOTING

490.720 List of shareholders for meeting.

1. After fixing a record date for a meeting, a corporation shall prepare an alphabetical list of the names of all the shareholders who are entitled to notice of the shareholders' meeting. If the board of directors fixes a different record date under section 490.707, subsection 5, to determine the shareholders entitled to vote at the meeting, a corporation also shall prepare an alphabetical list of the names of all the shareholders who are entitled to vote at the meeting. The list must be arranged by voting group, and within each voting group by class or series of shares, and contain the address of, and number and class or series of shares held by, each shareholder and, if the notice or other communications regarding the meeting has been or will be sent by the corporation to a shareholder by electronic mail or other electronic transmission, the electronic mail or other electronic transmission address of that shareholder.

2. *a.* The list of shareholders entitled to notice shall be available for inspection by any shareholder, beginning two business days after notice of the meeting is given for which the list was prepared and continuing through the meeting. The list of shareholders for notice shall be made available via any of the following:

(1) At the corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held.

(2) On a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting. The list of shareholders entitled to vote shall be similarly available for inspection promptly after the record date for voting. In the event that the corporation determines to make the list available on an electronic network, the corporation may take reasonable steps to ensure that such information is available only to shareholders of the corporation.

b. A shareholder, or the shareholder's agent or attorney, is entitled on written demand to inspect and, subject to the requirements of section 490.1602, subsection 3, to copy a list of shareholders, during regular business hours and at the shareholder's expense, during the period it is available for inspection. A corporation may satisfy the shareholder's right to copy a list of shareholders by furnishing a copy in the manner described in section 490.1603, subsection 2. A shareholder and the shareholder's agent or attorney who inspects or is furnished a copy of a list of shareholders under this subsection or under subsection 3 or who copies the list under this subsection may use the information on that list only for purposes related to the meeting and its subject matter and must keep the information on that list confidential.

3. If the meeting is to be held at a place, the corporation shall make the list of shareholders entitled to vote available at the meeting and any adjournment, and any shareholder, or the shareholder's agent or attorney, is entitled to inspect the list at any time during the meeting and any adjournment. If the meeting is to be held solely by means of remote communication, then such list shall also be available for such inspection during the meeting and any adjournment on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting. The corporation may satisfy its obligation to make such list available for inspection during a meeting by furnishing a copy of the list in the manner described in section 490.1603, subsection 2, to the shareholders prior to the meeting.

4. If the corporation refuses to allow a shareholder, or the shareholder's agent or

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attorney, to inspect a list of shareholders before or at the meeting or any adjournment, or copy a list as permitted by subsection 2, the district court of the county where a corporation's principal office or, if none in this state, its registered office, is located, on application of the shareholder, may summarily order the inspection or copying at the corporation's expense and may postpone the meeting for which the list was prepared until the inspection or copying is complete.

5. Refusal or failure to prepare or make available the list of shareholders does not affect the validity of action taken at the meeting.

89 Acts, ch 288, §60; 91 Acts, ch 211, §4; 2013 Acts, ch 31, §15, 82; 2021 Acts, ch 165, §67, 230; 2022 Acts, ch 1058, §3

Referred to in §490.1602

490.721 Voting entitlement of shares.

1. Except as provided in subsections 2 and 4 or unless the articles of incorporation provide otherwise, each outstanding share, regardless of class or series, is entitled to one vote on each matter voted on at a shareholders' meeting. Only shares are entitled to vote.

2. Shares of a corporation are not entitled to vote if they are owned by or otherwise belong to the corporation directly, or indirectly through an entity of which a majority of the voting power is held directly or indirectly by the corporation or which is otherwise controlled by the corporation.

3. Shares held by the corporation in a fiduciary capacity for the benefit of any person are entitled to vote unless they are held for the benefit of, or otherwise belong to, the corporation directly, or indirectly through an entity of which a majority of the voting power is held directly or indirectly by the corporation or which is otherwise controlled by the corporation.

4. Redeemable shares are not entitled to vote after delivery of written notice of redemption is effective and a sum sufficient to redeem the shares has been deposited with a bank, trust company, or other financial institution under an irrevocable obligation to pay the holders the redemption price on surrender of the shares.

5. As used in this section, "*voting power*" means the current power to vote in the election of directors of a corporation or to elect, select, or appoint governors of another entity.

89 Acts, ch 288, §61; 2021 Acts, ch 165, §68, 230

490.722 Proxies.

1. A shareholder may vote the shareholder's shares in person or by proxy.

2. A shareholder, or the shareholder's agent or attorney in fact, may appoint a proxy to vote or otherwise act for the shareholder by signing an appointment form, or by an electronic transmission. An electronic transmission must contain or be accompanied by information from which the recipient can determine the date of the transmission and that the transmission was authorized by the sender or the sender's agent or attorney in fact.

3. An appointment of a proxy is effective when a signed appointment form or an electronic transmission of the appointment is received by the inspector of election or the officer or agent of the corporation authorized to count votes. An appointment is valid for the term provided in the appointment form, and, if no term is provided, is valid for eleven months unless the appointment is irrevocable under subsection 4.

4. An appointment of a proxy is revocable unless the appointment form or electronic transmission states that it is irrevocable and the appointment is coupled with an interest. Appointments coupled with an interest include, but are not limited to, the appointment of any of the following:

a. A pledgee.

b. A person who purchased or agreed to purchase the shares.

c. A creditor of the corporation who extended the corporation credit under terms requiring the appointment.

d. An employee of the corporation whose employment contract requires the appointment.

e. A party to a voting agreement created under section 490.731.

5. The death or incapacity of the shareholder appointing a proxy does not affect the right of the corporation to accept the proxy's authority unless notice of the death or incapacity

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is received by the secretary or other officer or agent authorized to tabulate votes before the proxy exercises the proxy's authority under the appointment.

6. An appointment made irrevocable under subsection 4 is revoked when the interest with which it is coupled is extinguished.

7. Unless it otherwise provides, an appointment made irrevocable under subsection 4 continues in effect after a transfer of the shares and a transferee takes subject to the appointment, except that a transferee for value of shares subject to an irrevocable appointment may revoke the appointment if the transferee did not know of its existence when acquiring the shares and the existence of the irrevocable appointment was not noted conspicuously on the certificate representing the shares or on the information statement for shares without certificates.

8. Subject to section 490.724 and to any express limitation on the proxy's authority stated in the appointment form or electronic transmission, a corporation is entitled to accept the proxy's vote or other action as that of the shareholder making the appointment.

89 Acts, ch 288, §62; 2002 Acts, ch 1154, §17, 125; 2013 Acts, ch 31, §16, 82; 2021 Acts, ch 165, §69, 230

Referred to in §490.724, 490.729

490.723 Shares held by intermediaries and nominees.

1. A corporation's board of directors may establish a procedure under which a person on whose behalf shares are registered in the name of an intermediary or nominee may elect to be treated by the corporation as the record shareholder by filing with the corporation a beneficial ownership certificate. The terms, conditions, and limitations of this treatment shall be specified in the procedure. To the extent such person is treated under such procedure as having rights or privileges that the record shareholder otherwise would have, the record shareholder shall not have those rights or privileges.

2. The procedure must specify all of the following:

a. The types of intermediaries or nominees to which it applies.

b. The rights or privileges that the corporation recognizes in a person with respect to whom a beneficial ownership certificate is filed.

c. The manner in which the procedure is selected which must include that the beneficial ownership certificate be signed or assented to by or on behalf of the record shareholder and the person on whose behalf the shares are held.

d. The information that must be provided when the procedure is selected.

e. The period for which selection of the procedure is effective.

f. Requirements for notice to the corporation with respect to the arrangement.

g. The form and contents of the beneficial ownership certificate.

3. The procedure may specify any other aspects of the rights and duties created by the filing of a beneficial ownership certificate.

89 Acts, ch 288, §63; 2021 Acts, ch 165, §70, 230

Referred to in §490.140

490.724 Acceptance of votes and other instruments.

1. If the name signed on a vote, ballot, consent, waiver, shareholder demand, or proxy appointment corresponds to the name of a shareholder, the corporation, if acting in good faith, is entitled to accept the vote, ballot, consent, waiver, shareholder demand, or proxy appointment and give it effect as the act of the shareholder.

2. If the name signed on a vote, ballot, consent, waiver, shareholder demand, or proxy appointment does not correspond to the name of its shareholder, the corporation, if acting in good faith, is nevertheless entitled to accept the vote, ballot, consent, waiver, shareholder demand, or proxy appointment and give it effect as the act of the shareholder if any of the following applies:

a. The shareholder is an entity and the name signed purports to be that of an officer or agent of the entity.

b. The name signed purports to be that of an administrator, executor, guardian, or conservator representing the shareholder and, if the corporation requests, evidence of

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fiduciary status acceptable to the corporation has been presented with respect to the vote, ballot, consent, waiver, shareholder demand, or proxy appointment.

c. The name signed purports to be that of a receiver or trustee in bankruptcy of the shareholder and, if the corporation requests, evidence of this status acceptable to the corporation has been presented with respect to the vote, ballot, consent, waiver, shareholder demand, or proxy appointment.

d. The name signed purports to be that of a pledgee, beneficial owner, or attorney in fact of the shareholder and, if the corporation requests, evidence acceptable to the corporation of the signatory's authority to sign for the shareholder has been presented with respect to the vote, ballot, consent, waiver, shareholder demand, or proxy appointment.

e. Two or more persons are the shareholder as co-tenants or fiduciaries and the name signed purports to be the name of at least one of the co-owners and the person signing appears to be acting on behalf of all the co-owners.

3. The corporation is entitled to reject a vote, ballot, consent, waiver, shareholder demand, or proxy appointment if the person authorized to accept or reject such instrument, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the shareholder.

4. Neither the corporation or any person authorized by it, nor an inspector of election appointed under section 490.729, that accepts or rejects a vote, ballot, consent, waiver, shareholder demand, or proxy appointment in good faith and in accordance with the standards of this section or section 490.722, subsection 2, is liable in damages to the shareholder for the consequences of the acceptance or rejection.

5. Corporate action based on the acceptance or rejection of a vote, ballot, consent, waiver, shareholder demand, or proxy appointment under this section is valid unless a court of competent jurisdiction determines otherwise.

6. If an inspector of election has been appointed under section 490.729, the inspector of election also has the authority to request information and make determinations under subsections 1, 2, and 3. Any determination made by the inspector of election under those subsections is controlling.

89 Acts, ch 288, §64; 2002 Acts, ch 1154, §18, 125; 2003 Acts, ch 44, §81; 2013 Acts, ch 31, §17, 82; 2021 Acts, ch 165, §71, 230

Referred to in §490.722, 490.729

490.725 Quorum and voting requirements for voting groups.

1. Shares entitled to vote as a separate voting group may take action on a matter at a meeting only if a quorum of those shares exists with respect to that matter. Unless the articles of incorporation or bylaws provide otherwise, shares representing a majority of the votes entitled to be cast on the matter by the voting group constitutes a quorum of that voting group for action on that matter. Whenever this chapter requires a particular quorum for a specified action, the articles of incorporation shall not provide for a lower quorum.

2. Once a share is represented for any purpose at a meeting, it is deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or must be fixed for that adjourned meeting.

3. If a quorum exists, action on a matter, other than the election of directors, by a voting group is approved if the votes cast within the voting group favoring the action exceed the votes cast opposing the action, unless the articles of incorporation require a greater number of affirmative votes.

4. An amendment of the articles of incorporation adding, changing, or deleting a quorum or voting requirement for a voting group greater than specified in subsection 1 or 3 is governed by section 490.727.

5. The election of directors is governed by section 490.728.

6. Whenever a provision of this chapter provides for voting of classes or series as separate voting groups, the rules provided in section 490.1004, subsection 3, for amendments of the articles of incorporation apply to that provision.

89 Acts, ch 288, §65; 2021 Acts, ch 165, §72, 230

Referred to in §490.726

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490.726 Action by single or multiple voting groups.

1. If the articles of incorporation or this chapter provide for voting by a single voting group on a matter, action on that matter is taken when voted upon by that voting group as provided in section 490.725.

2. If the articles of incorporation or this chapter provide for voting by two or more voting groups on a matter, action on that matter is taken only when voted upon by each of those voting groups counted separately as provided in section 490.725. Action may be taken by different voting groups on a matter at different times.

89 Acts, ch 288, §66; 2021 Acts, ch 165, §73, 230

490.727 Modifying quorum or voting requirements.

An amendment to the articles of incorporation or bylaws that adds, changes, or deletes a quorum or voting requirement shall meet the same quorum requirement and be adopted by the same vote and voting groups required to take action under the quorum and voting requirements then in effect or proposed to be adopted, whichever is greater.

89 Acts, ch 288, §67; 2002 Acts, ch 1154, §19, 125; 2003 Acts, ch 44, §82; 2021 Acts, ch 165, §74, 230

Referred to in §490.725

490.728 Voting for directors — cumulative voting.

1. Unless otherwise provided in the articles of incorporation, directors are elected by a plurality of the votes cast by the shares entitled to vote in the election at a meeting at which a quorum is present.

2. Shareholders do not have a right to cumulate their votes for directors unless the articles of incorporation so provide.

3. A statement included in the articles of incorporation that "[all] [a designated voting group of] shareholders are entitled to cumulate their votes for directors", or words of similar import, means that the shareholders designated are entitled to multiply the number of votes they are entitled to cast by the number of directors for whom they are entitled to vote and cast the product for a single candidate or distribute the product among two or more candidates.

4. Shares otherwise entitled to vote cumulatively shall not be voted cumulatively at a particular meeting unless any of the following applies:

a. The meeting notice or proxy statement accompanying the notice states conspicuously that cumulative voting is authorized.

b. A shareholder who has the right to cumulate the shareholder's votes gives notice to the corporation not less than forty-eight hours before the time set for the meeting of the shareholder's intent to cumulate votes during the meeting, and if one shareholder gives this notice all other shareholders in the same voting group participating in the election are entitled to cumulate their votes without giving further notice.

89 Acts, ch 288, §68; 90 Acts, ch 1205, §25; 2002 Acts, ch 1154, §20, 125; 2013 Acts, ch 31, §18, 82; 2014 Acts, ch 1092, §104, 105; 2021 Acts, ch 165, §75, 230

Referred to in §490.704, 490.725, 490.1022

490.729 Inspectors of election.

1. A corporation that has a class of equity securities registered pursuant to section 12 of the federal Securities Exchange Act of 1934 shall, and any other corporation may, appoint one or more inspectors to act at a meeting of shareholders in connection with determining voting results. Each inspector shall verify in writing that the inspector will faithfully execute the duties of inspector with strict impartiality and according to the best of the inspector's ability. An inspector may be an officer or employee of the corporation. The inspectors may appoint or retain other persons to assist the inspectors in the performance of the duties of inspector under subsection 2, and may rely on information provided by such persons and other persons, including those appointed to tabulate votes, unless the inspectors believe reliance is unwarranted.

2. The inspectors shall do all of the following:

a. Ascertain the number of shares outstanding and the voting power of each.

b. Determine the shares represented at a meeting.

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c. Determine the validity of proxy appointments and ballots.

d. Count all votes.

e. Make a written report of the results.

3. In performing their duties, the inspectors may examine any of the following:

a. The proxy appointment forms and any other information provided in accordance with section 490.722, subsection 2.

b. Any envelope or related writing submitted with those appointment forms.

c. Any ballots.

d. Any evidence or other information specified in section 490.724.

e. The relevant books and records of the corporation relating to its shareholders and their entitlement to vote, including any securities position list provided by a depository clearing agency.

4. *a.* The inspectors also may consider other information that they believe is relevant and reliable for the purpose of performing any of the duties assigned to them pursuant to subsection 2, including for all of the following purposes:

(1) Evaluating inconsistent, incomplete, or erroneous information.

(2) Reconciling information submitted on behalf of banks, brokers, their nominees, or similar persons that indicates more votes being cast than a proxy authorized by the record shareholder is entitled to cast.

b. If the inspectors consider other information allowed by this subsection, they shall in their report under subsection 2 specify the information considered by them, including the purpose or purposes for which the information was considered, the person or persons from whom they obtained the information, when the information was obtained, the means by which the information was obtained, and the basis for the inspectors' belief that such information is relevant and reliable.

5. Determinations of law by the inspectors of election are subject to de novo review by a court in a proceeding under section 490.749 or other judicial proceeding.

2002 Acts, ch 1154, §21, 125; 2021 Acts, ch 165, §76, 230

Referred to in §490.724, 490.1022

PART 3

VOTING TRUSTS AND AGREEMENTS

490.730 Voting trusts.

1. One or more shareholders may create a voting trust, conferring on a trustee the right to vote or otherwise act for them, by signing an agreement setting out the provisions of the trust, which may include anything consistent with its purpose, and transferring their shares to the trustee. When a voting trust agreement is signed, the trustee shall prepare a list of the names and addresses of all voting trust beneficial owners, together with the number and class of shares each transferred to the trust, and deliver copies of the list and agreement to the corporation at its principal office.

2. A voting trust becomes effective on the date the first shares subject to the trust are registered in the trustee's name.

3. Limits, if any, on the duration of a voting trust shall be as set forth in the voting trust. A voting trust that became effective between December 31, 1989, and June 30, 2014, both dates inclusive, is governed by the provisions of this section concerning duration then in effect, unless the voting trust is amended to provide otherwise by unanimous agreement of the parties to the voting trust.

89 Acts, ch 288, §69; 2014 Acts, ch 1024, §1; 2021 Acts, ch 165, §77, 230

Referred to in §490.140, 490.731

490.731 Voting agreement.

1. Two or more shareholders may provide for the manner in which they will vote their shares by signing an agreement for that purpose. A voting agreement created under this section is not subject to the provisions of section 490.730.

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2. A voting agreement created under this section is specifically enforceable.

89 Acts, ch 288, §70; 2021 Acts, ch 165, §78, 230

Referred to in §490.722

490.732 Shareholder agreement.

1. An agreement among the shareholders of a corporation that complies with this section is effective among the shareholders and the corporation even though it is inconsistent with one or more other provisions of this chapter in that it does any of the following:

a. Eliminates the board of directors or restricts the discretion or powers of the board of directors.

b. Governs the authorization or making of distributions, regardless of whether they are in proportion to ownership of shares, subject to the limitations in section 490.640.

c. Establishes who shall be directors or officers of the corporation, or their terms of office or manner of selection or removal.

d. Governs, in general or in regard to specific matters, the exercise or division of voting power by or between the shareholders and directors or by or among any of them, including use of weighted voting rights or director proxies.

e. Establishes the terms and conditions of any agreement for the transfer or use of property or the provision of services between the corporation and any shareholder, director, officer, or employee of the corporation, or among any of them.

f. Transfers to one or more shareholders or other persons all or part of the authority to exercise the corporate powers or to manage the business and affairs of the corporation, including the resolution of any issue about which there exists a deadlock among directors or shareholders.

g. Requires dissolution of the corporation at the request of one or more of the shareholders or upon the occurrence of a specified event or contingency.

h. Otherwise governs the exercise of the corporate powers or the management of the business and affairs of the corporation or the relationship among the shareholders, the directors, and the corporation, or among any of them, and is not contrary to public policy.

2. An agreement authorized by this section shall satisfy all of the following requirements:

a. Be as set forth in any of the following:

(1) The articles of incorporation or bylaws and approved by all persons who are shareholders at the time of the agreement.

(2) A written agreement that is signed by all persons who are shareholders at the time of the agreement and is made known to the corporation.

b. Be subject to amendment only by all persons who are shareholders at the time of the amendment, unless the agreement provides otherwise.

3. The existence of an agreement authorized by this section shall be noted conspicuously on the front or back of each certificate for outstanding shares or on the information statement required by section 490.626, subsection 2. If at the time of the agreement the corporation has shares outstanding represented by certificates, the corporation shall recall the outstanding certificates and issue substitute certificates that comply with this subsection. The failure to note the existence of the agreement on the certificate or information statement shall not affect the validity of the agreement or any action taken pursuant to it. Any purchaser of shares who, at the time of purchase, did not have knowledge of the existence of the agreement shall be entitled to rescission of the purchase. A purchaser shall be deemed to have knowledge of the existence of the agreement if its existence is noted on the certificate or information statement for the shares in compliance with this subsection and, if the shares are not represented by a certificate, the information statement is delivered to the purchaser at or before the time of purchase of the shares. An action to enforce the right of rescission authorized by this subsection shall be commenced within the earlier of ninety days after discovery of the existence of the agreement or two years after the time of purchase of the shares.

4. If the agreement ceases to be effective for any reason, the board of directors may, if the agreement is contained or referred to in the corporation's articles of incorporation or bylaws,

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adopt an amendment to the articles of incorporation or bylaws, without shareholder action, to delete the agreement and any references to it.

5. An agreement authorized by this section that limits the discretion or powers of the board of directors shall relieve the directors of, and impose upon the person or persons in whom such discretion or powers are vested, liability for acts or omissions imposed by law on directors to the extent that the discretion or powers of the directors are limited by the agreement.

6. The existence or performance of an agreement authorized by this section shall not be a ground for imposing personal liability on any shareholder for the acts or debts of the corporation even if the agreement or its performance treats the corporation as if it were a partnership or results in failure to observe the corporate formalities otherwise applicable to the matters governed by the agreement.

7. Incorporators or subscribers for shares may act as shareholders with respect to an agreement authorized by this section if no shares have been issued when the agreement is made.

8. Limits, if any, on the duration of an agreement authorized by this section must be set forth in the agreement. An agreement that became effective between January 1, 2003, and June 30, 2014, both dates inclusive, unless the agreement provided otherwise, remains governed by the provisions of this section concerning duration then in effect.

2002 Acts, ch 1154, §22, 125; 2002 Acts, ch 1175, §88; 2013 Acts, ch 31, §19, 82; 2014 Acts, ch 1024, §2, 3; 2017 Acts, ch 54, §76; 2021 Acts, ch 165, §79, 230

Referred to in §490.801

490.733 through 490.739 Reserved.

PART 4

DERIVATIVE PROCEEDINGS

Referred to in §490.809, 490.1706

490.740 Part definitions.

As used in this part:

1. *"Derivative proceeding"* means a civil suit in the right of a domestic corporation or, to the extent provided in section 490.747, in the right of a foreign corporation.

2. *"Shareholder"* means a record shareholder, a beneficial shareholder, and an unrestricted voting trust beneficial owner.

89 Acts, ch 288, §71; 2002 Acts, ch 1154, §23, 125; 2021 Acts, ch 165, §80, 230

490.741 Standing.

A shareholder shall not commence or maintain a derivative proceeding unless the shareholder satisfies both of the following:

1. Was a shareholder of the corporation at the time of the act or omission complained of or became a shareholder through transfer by operation of law from one who was a shareholder at that time.

2. Fairly and adequately represents the interests of the corporation in enforcing the right of the corporation.

2002 Acts, ch 1154, §24, 125

Referred to in §490.809

490.742 Demand.

A shareholder shall not commence a derivative proceeding until both of the following have occurred:

1. A written demand has been made upon the corporation to take suitable action.

2. Ninety days have expired from the date delivery of the demand was made, unless the shareholder has earlier been notified that the demand has been rejected by the corporation

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or unless irreparable injury to the corporation would result by waiting for the expiration of the ninety-day period.

2002 Acts, ch 1154, §25, 125; 2013 Acts, ch 31, §20, 82

490.743 Stay of proceedings.

If the corporation commences an inquiry into the allegations made in the demand or complaint, the court may stay any derivative proceeding for such period as the court deems appropriate.

2002 Acts, ch 1154, §26, 125; 2021 Acts, ch 165, §81, 230

Referred to in §490.747

490.744 Dismissal.

1. A derivative proceeding shall be dismissed by the court on motion by the corporation if one of the groups specified in subsection 2 or 5 has determined in good faith, after conducting a reasonable inquiry upon which its conclusions are based, that the maintenance of the derivative proceeding is not in the best interests of the corporation. A corporation moving to dismiss on this basis shall submit in support of the motion a short and concise statement of the reasons for its determination.

2. Unless a panel is appointed pursuant to subsection 5, the determination in subsection 1 shall be made by any of the following:

a. A majority vote of qualified directors present at a meeting of the board of directors if the qualified directors constitute a quorum.

b. A majority vote of a committee consisting of two or more qualified directors appointed by majority vote of qualified directors present at a meeting of the board of directors, regardless of whether such qualified directors constitute a quorum.

3. *a.* If a derivative proceeding is commenced after a determination has been made rejecting a demand by a shareholder, the complaint shall allege with particularity facts establishing any of the following:

(1) That a majority of the board of directors did not consist of qualified directors at the time the determination was made.

(2) That the requirements of subsection 1 have not been met.

b. All discovery and other proceedings shall be stayed during the pendency of any motion to dismiss unless the court finds upon the motion of any party that particularized discovery is necessary to preserve evidence or prevent undue prejudice to that party.

4. If a majority of the board of directors consisted of qualified directors at the time the determination was made, the plaintiff shall have the burden of proving that the requirements of subsection 1 have not been met; if not, the corporation shall have the burden of proving that the requirements of subsection 1 have been met.

5. Upon motion by the corporation, the court may appoint a panel of one or more individuals to make a determination whether the maintenance of the derivative proceeding is in the best interests of the corporation. In such case, the plaintiff shall have the burden of proving that the requirements of subsection 1 have not been met.

2002 Acts, ch 1154, §27, 125; 2012 Acts, ch 1023, §157; 2013 Acts, ch 31, §21, 82; 2021 Acts, ch 165, §82, 230

Referred to in §490.143

490.745 Discontinuance or settlement.

A derivative proceeding shall not be discontinued or settled without the court's approval. If the court determines that a proposed discontinuance or settlement will substantially affect the interests of the corporation's shareholders or a class or series of shareholders, the court shall direct that notice be given to the shareholders affected.

2002 Acts, ch 1154, §28, 125; 2021 Acts, ch 165, §83, 230

Referred to in §490.747

490.746 Payment of expenses.

On termination of the derivative proceeding, the court may do any of the following:

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1. Order the corporation to pay the plaintiff's expenses incurred in the proceeding if it finds that the proceeding has resulted in a substantial benefit to the corporation.

2. Order the plaintiff to pay any defendant's expenses incurred in defending the proceeding if it finds that the proceeding was commenced or maintained without reasonable cause or for an improper purpose.

3. Order a party to pay an opposing party's expenses incurred because of the filing of a pleading, motion, or other paper, if it finds that any of the following apply:

a. The pleading, motion, or other paper was not well grounded in fact, after reasonable inquiry, or warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

b. The pleading, motion, or other paper was interposed for an improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of litigation.

2002 Acts, ch 1154, §29, 125; 2013 Acts, ch 31, §22, 82; 2021 Acts, ch 165, §84, 230
Referred to in §490.747

490.747 Applicability to foreign corporations.

In any derivative proceeding in the right of a foreign corporation, the matters covered by this part shall be governed by the laws of the jurisdiction of incorporation of the foreign corporation except for sections 490.743, 490.745, and 490.746.

2002 Acts, ch 1154, §30, 125
Referred to in §490.740

PART 5

JUDICIAL PROCEEDINGS

490.748 Shareholder action to appoint custodian or receiver.

1. The district court of the county where a corporation's principal office or, if none in this state, its registered office is located may appoint one or more persons to be custodians, or, if the corporation is insolvent, to be receivers, of and for a corporation in a proceeding by a shareholder where it is established that any of the following applies:

a. The directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock, and irreparable injury to the corporation is threatened or being suffered.

b. The directors or those in control of the corporation are acting fraudulently and irreparable injury to the corporation is threatened or being suffered.

2. *a.* The district court may issue injunctions, appoint a temporary custodian or temporary receiver with all the powers and duties the district court directs, take other action to preserve the corporate assets wherever located, and carry on the business of the corporation until a full hearing is held.

b. The district court shall hold a full hearing, after notifying all parties to the proceeding and any interested persons designated by the district court, before appointing a custodian or receiver.

c. The district court has jurisdiction over the corporation and all of its property, wherever located.

3. The district court may appoint an individual or domestic or registered foreign corporation as a custodian or receiver and may require the custodian or receiver to post bond, with or without sureties, in an amount the district court directs.

4. The district court shall describe the powers and duties of the custodian or receiver in its appointing order, which may be amended from time to time. Among other powers, all of the following apply:

a. A custodian may exercise all of the powers of the corporation, through or in place of its board of directors, to the extent necessary to manage the business and affairs of the corporation.

b. A receiver may do any of the following:

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(1) Dispose of all or any part of the assets of the corporation wherever located, at a public or private sale, if authorized by the district court.

(2) Sue and defend in the receiver's own name as receiver in all courts of this state.

5. The district court during a custodianship may redesignate the custodian a receiver, and during a receivership may redesignate the receiver a custodian, if doing so is in the best interests of the corporation.

6. The district court from time to time during the custodianship or receivership may order compensation paid and expense disbursements or reimbursements made to the custodian or receiver from the assets of the corporation or proceeds from the sale of its assets.

7. As used in this section, "*shareholder*" means a record shareholder, a beneficial shareholder, and an unrestricted voting trust beneficial owner.

2013 Acts, ch 31, §23, 82; 2021 Acts, ch 165, §85, 230; 2022 Acts, ch 1058, §11

490.749 Judicial determination of corporate offices and review of elections and shareholder votes.

1. Upon application of or in a proceeding commenced by a person specified in subsection 2, the district court of the county where the corporation's principal office or, if none in this state, its registered office is located may determine all of the following:

a. The result or validity of the election, appointment, removal, or resignation of a director or officer of the corporation.

b. The right of an individual to hold the office of director or officer of the corporation.

c. The result or validity of any vote by the shareholders of the corporation.

d. The right of a director to membership on a committee of the board of directors.

e. The right of a person to nominate or an individual to be nominated as a candidate for election or appointment as a director of the corporation, and any right under a bylaw adopted pursuant to section 490.206, subsection 3, or any comparable right under any provision of the articles of incorporation, contract, or applicable law.

2. An application or proceeding pursuant to subsection 1 may be filed or commenced by any of the following persons:

a. The corporation.

b. Any record shareholder, beneficial shareholder, or unrestricted voting trust beneficial owner of the corporation.

c. A director of the corporation, an individual claiming the office of director, or a director whose membership on a committee of the board of directors is contested, in each case who is seeking a determination of a right to such office or membership.

d. An officer of the corporation or an individual claiming to be an officer of the corporation, in each case who is seeking a determination of a right to such office.

e. A person claiming a right covered by subsection 1, paragraph "*e*", and who is seeking a determination of such right.

3. In connection with any application or proceeding under subsection 1, the following shall be named as defendants, unless such person made the application or commenced the proceeding:

a. The corporation.

b. Any individual whose right to office or membership on a committee of the board of directors is contested.

c. Any individual claiming the office or membership at issue.

d. Any person claiming a right covered by subsection 1, paragraph "*e*", that is at issue.

4. In connection with any application or proceeding under subsection 1, service of process may be made upon each of the persons specified in subsection 3, by any of the following:

a. Service of process on the corporation addressed to such person in any manner provided by statute of this state or by rule of the applicable court for service on the corporation.

b. Service of process on the person in any manner provided by statute of this state or by rule of the applicable court.

5. When service of process is made upon a person other than the corporation by service upon the corporation pursuant to subsection 4, paragraph "*a*", the plaintiff and the corporation or its registered agent shall promptly provide written notice of such service,

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together with copies of all process and the application or complaint, to the person at the person's last known residence or business address, or as permitted by statute of this state or by rule of the applicable court.

6. In connection with any application or proceeding under subsection 1, the court shall dispose of the application or proceeding on an expedited basis and also may do any of the following:

a. Order such additional or further notice as the court deems proper under the circumstances.

b. Order that additional persons be joined as parties to the proceeding if the court determines that such joinder is necessary for a just adjudication of matters before the court.

c. Order an election or meeting be held in accordance with the provisions of section 490.703, subsection 2, or otherwise.

d. Appoint a master to conduct an election or meeting.

e. Enter temporary, preliminary, or permanent injunctive relief.

f. Resolve solely for the purpose of this proceeding any legal or factual issues necessary for the resolution of any of the matters specified in subsection 1, including the right and power of persons claiming to own shares to vote at any meeting of the shareholders.

g. Order such other relief as the court determines is equitable, just, and proper.

7. It is not necessary to make shareholders a party to a proceeding or application pursuant to this section unless the shareholder is a required defendant under subsection 3, paragraph *"d"*, relief is sought against the shareholder individually, or the court orders joinder pursuant to subsection 6, paragraph *"b"*.

8. Nothing in this section limits, restricts, or abolishes the subject matter jurisdiction or powers of the court as existed before January 1, 2022, and an application or proceeding pursuant to this section is not the exclusive remedy or proceeding available with respect to the matters specified in subsection 1.

2021 Acts, ch 165, §86, 230; 2022 Acts, ch 1021, §145
Referred to in §490.729

490.750 through 490.800 Reserved.

SUBCHAPTER VIII

DIRECTORS AND OFFICERS

Referred to in §490.1405

PART 1

BOARD OF DIRECTORS

490.801 Requirement for and functions of board of directors.

1. Except as may be provided in an agreement authorized under section 490.732, each corporation shall have a board of directors.

2. Except as may be provided in an agreement authorized under section 490.732, and subject to any limitation in the articles of incorporation permitted by section 490.202, subsection 2, all corporate powers shall be exercised by or under the authority of the board of directors, and the business and affairs of the corporation shall be managed by or under the direction, and subject to the oversight, of the board of directors.

89 Acts, ch 288, §72; 2002 Acts, ch 1154, §31, 125; 2013 Acts, ch 31, §24, 82; 2021 Acts, ch 165, §87, 230
Referred to in §490.825

490.802 Qualifications of directors.

1. The articles of incorporation or bylaws may prescribe qualifications for directors or for

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nominees for directors. Qualifications must be reasonable as applied to the corporation and be lawful.

2. A requirement that is based on a past, prospective, or current action, or expression of opinion, by a nominee or director that could limit the ability of a nominee or director to discharge his or her duties as a director is not a permissible qualification under this section. Notwithstanding the foregoing, qualifications may include not being or having been subject to specified criminal, civil, or regulatory sanctions or not having been removed as a director by judicial action or for cause.

3. A director need not be a resident of this state or a shareholder unless the articles of incorporation or bylaws so prescribe.

4. A qualification for nomination for director prescribed before a person's nomination shall apply to such person at the time of nomination. A qualification for nomination for director prescribed after a person's nomination shall not apply to such person with respect to such nomination.

5. A qualification for director prescribed before a director has been elected or appointed may apply only at the time an individual becomes a director or may apply during a director's term. A qualification prescribed after a director has been elected or appointed shall not apply to that director before the end of that director's term.

89 Acts, ch 288, §73; 2021 Acts, ch 165, §88, 230

490.803 Number and election of directors.

1. A board of directors shall consist of one or more individuals, with the number specified in or fixed in accordance with the articles of incorporation or bylaws.

2. The number of directors may be increased or decreased from time to time by amendment to, or in the manner provided in, the articles of incorporation or bylaws.

3. Directors are elected at the first annual shareholders' meeting and at each annual shareholders' meeting thereafter unless elected by written consent in lieu of an annual meeting as permitted by section 490.704 or unless their terms are staggered under section 490.806.

89 Acts, ch 288, §74; 91 Acts, ch 211, §5; 2002 Acts, ch 1154, §32, 125; 2011 Acts, ch 2, §3, 10; 2018 Acts, ch 1015, §1; 2019 Acts, ch 59, §174; 2021 Acts, ch 165, §89, 230

490.804 Election of directors by certain classes of series of shares.

If the articles of incorporation or action by the board of directors pursuant to section 490.602 authorize dividing the shares into classes or series, the articles of incorporation may also authorize the election of all or a specified number of directors by the holders of one or more authorized classes or series of shares. A class or series, or multiple classes or series, of shares entitled to elect one or more directors is a separate voting group for purposes of the election of directors.

89 Acts, ch 288, §75; 2021 Acts, ch 165, §90, 230

490.805 Terms of directors generally.

1. The terms of the initial directors of a corporation expire at the first shareholders' meeting at which directors are elected.

2. *a.* The terms of all other directors expire at the next, or if their terms are staggered in accordance with section 490.806, at the applicable second or third, annual shareholders' meeting following their election.

b. Paragraph "*a*" does not apply in any of the following circumstances:

(1) To the extent provided in section 490.1022 if a bylaw electing to be governed by that section is in effect.

(2) A shorter term is specified in the articles of incorporation in the event of a director nominee failing to receive a specified vote for election.

3. A decrease in the number of directors does not shorten an incumbent director's term.

4. The term of a director elected to fill a vacancy expires at the next shareholders' meeting at which directors are elected.

5. Except to the extent otherwise provided in the articles of incorporation or under section

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490.1022, if a bylaw electing to be governed by that section is in effect, despite the expiration of a director's term, the director continues to serve until the director's successor is elected and qualifies or there is a decrease in the number of directors.

89 Acts, ch 288, §76; 2011 Acts, ch 2, §4, 10; 2018 Acts, ch 1015, §2; 2021 Acts, ch 165, §91, 230

490.806 Staggered terms for directors.

The articles of incorporation may provide for staggering the terms of directors by dividing the total number of directors into two or three groups, with each group containing one-half or one-third of the total, as near as may be practicable. In that event, the terms of directors in the first group expire at the first annual shareholders' meeting after their election, the terms of the second group expire at the second annual shareholders' meeting after their election, and the terms of the third group, if any, expire at the third annual shareholders' meeting after their election. At each annual shareholders' meeting held thereafter, directors shall be elected for a term of two years or three years, as the case may be, to succeed those whose terms expire.

89 Acts, ch 288, §77; 2011 Acts, ch 2, §5, 10; 2018 Acts, ch 1015, §3; 2021 Acts, ch 165, §92, 230

Referred to in §490.803, 490.805

490.806A Public corporations — staggered terms. Repealed by its own terms; 2018 Acts, ch 1015, §4.

490.806B Public corporations — nonstaggered terms. Repealed by its own terms; 2018 Acts, ch 1015, §5.

490.807 Resignation of directors.

1. A director may resign at any time by delivering a written notice of resignation to the board of directors or its chair, or to the secretary.

2. A resignation is effective as provided in section 490.141, subsection 9, unless the resignation provides for a delayed effectiveness, including effectiveness determined upon a future event or events. A resignation that is conditioned upon failing to receive a specified vote for election as a director may provide that it is irrevocable.

89 Acts, ch 288, §78; 2013 Acts, ch 31, §25, 82; 2021 Acts, ch 165, §93, 230

Referred to in §490.810

490.808 Removal of directors by shareholders.

1. The shareholders may remove one or more directors with or without cause unless the articles of incorporation provide that directors may be removed only for cause.

2. If a director is elected by a voting group of shareholders, only the shareholders of that voting group may participate in the vote to remove that director.

3. A director may be removed if the number of votes cast to remove exceeds the number of votes cast not to remove the director, except to the extent the articles of incorporation or bylaws require a greater number. However, if cumulative voting is authorized, a director shall not be removed if, in the case of a meeting, the number of votes sufficient to elect the director under cumulative voting is voted against removal and, if action is taken by less than unanimous written consent, voting shareholders entitled to the number of votes sufficient to elect the director under cumulative voting do not consent to the removal.

4. A director may be removed by the shareholders only at a meeting called for the purpose of removing the director, and the meeting notice must state that removal of the director is a purpose of the meeting.

89 Acts, ch 288, §79; 91 Acts, ch 211, §6; 2021 Acts, ch 165, §94, 230

490.809 Removal of directors by judicial proceeding.

1. The district court of the county where a corporation's principal office or, if none in this state, its registered office is located may remove a director from office or may order other relief, including barring the director from reelection for a period prescribed by the court, in

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a proceeding commenced by or in the right of the corporation if the court finds that all of the following apply:

a. The director engaged in fraudulent conduct with respect to the corporation or its shareholders, grossly abused the position of director, or intentionally inflicted harm on the corporation.

b. Considering the director's course of conduct and the inadequacy of other available remedies, removal or such other relief would be in the best interest of the corporation.

2. A shareholder proceeding on behalf of the corporation under subsection 1 shall comply with all of the requirements of subchapter VII, part 4, except section 490.741, subsection 1.

89 Acts, ch 288, §80; 2002 Acts, ch 1154, §33, 125; 2019 Acts, ch 24, §104; 2021 Acts, ch 165, §95, 230

490.810 Vacancy on board of directors.

1. Unless the articles of incorporation provide otherwise, if a vacancy occurs on a board of directors, including a vacancy resulting from an increase in the number of directors, the vacancy may be filled in any of the following manners:

a. The shareholders may fill the vacancy.

b. The board of directors may fill the vacancy.

c. If the directors remaining in office are less than a quorum, they may fill the vacancy by the affirmative vote of a majority of all the directors remaining in office.

2. If the vacant office was held by a director elected by a voting group of shareholders, only the holders of shares of that voting group are entitled to vote to fill the vacancy if it is filled by the shareholders, and only the remaining directors elected by that voting group, even if less than a quorum, are entitled to fill the vacancy if it is filled by the directors.

3. A vacancy that will occur at a specific later date, by reason of a resignation effective at a later date under section 490.807, subsection 2, or otherwise, may be filled before the vacancy occurs but the new director shall not take office until the vacancy occurs.

89 Acts, ch 288, §81; 2011 Acts, ch 2, §7, 10; 2013 Acts, ch 31, §26, 82; 2018 Acts, ch 1015, §6; 2021 Acts, ch 165, §96, 230

Referred to in §490.1022

490.811 Compensation of directors.

Unless the articles of incorporation or bylaws provide otherwise, the board of directors may fix the compensation of directors.

89 Acts, ch 288, §82

490.812 through 490.819 Reserved.

PART 2

MEETINGS AND ACTION OF THE BOARD

490.820 Meetings.

1. The board of directors may hold regular or special meetings in or out of this state.

2. Unless restricted by the articles of incorporation or bylaws, any director may participate in any meeting of the board of directors through the use of any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

89 Acts, ch 288, §83; 2021 Acts, ch 165, §97, 230

Referred to in §490.825

490.821 Action without meeting.

1. Except to the extent that the articles of incorporation or bylaws require that action by the board of directors be taken at a meeting, action required or permitted by this chapter to

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be taken by the board of directors may be taken without a meeting if each director signs a consent describing the action to be taken and delivers it to the corporation.

2. Action taken under this section is the act of the board of directors when one or more consents signed by all the directors are delivered to the corporation. The consent may specify the time at which the action taken is to be effective. A director's consent may be withdrawn by a revocation signed by the director and delivered to the corporation before delivery to the corporation of unrevoked written consents signed by all the directors.

3. A consent signed under this section has the effect of action taken at a meeting of the board of directors and may be described as such in any document.

89 Acts, ch 288, §84; 2002 Acts, ch 1154, §34, 125; 2021 Acts, ch 165, §98, 230
Referred to in §490.825

490.822 Notice of meeting.

1. Unless the articles of incorporation or bylaws provide otherwise, regular meetings of the board of directors may be held without notice of the date, time, place, or purpose of the meeting.

2. Unless the articles of incorporation or bylaws provide for a longer or shorter period, special meetings of the board of directors shall be preceded by at least two days' notice of the date, time, and place of the meeting. The notice need not describe the purpose of the special meeting unless required by the articles of incorporation or bylaws.

89 Acts, ch 288, §85; 2021 Acts, ch 165, §99, 230
Referred to in §490.825

490.823 Waiver of notice.

1. A director may waive any notice required by this chapter, the articles of incorporation, or the bylaws before or after the date and time stated in the notice. Except as provided by subsection 2, the waiver must be in writing, signed by the director entitled to the notice, and delivered to the corporation for filing by the corporation with the minutes or corporate records.

2. A director's attendance at or participation in a meeting waives any required notice to the director of the meeting unless all of the following apply:

a. The director at the beginning of the meeting, or promptly upon arrival, objects to holding the meeting or transacting business at the meeting.

b. The director does not, after objecting, vote for or assent to action taken at the meeting.

89 Acts, ch 288, §86; 2021 Acts, ch 165, §100, 230
Referred to in §490.825

490.824 Quorum and voting.

1. Unless the articles of incorporation or bylaws provide for a greater or lesser number, or unless otherwise expressly provided in this chapter, a quorum of a board of directors consists of a majority of the number of directors specified in or fixed in accordance with the articles of incorporation or bylaws.

2. The quorum of the board of directors specified in or fixed in accordance with the articles of incorporation or bylaws shall not consist of less than one-third of the specified or fixed number of directors.

3. If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board of directors unless the articles of incorporation or bylaws require the vote of a greater number of directors or unless otherwise expressly provided in this chapter.

4. *a.* A director who is present at a meeting of the board of directors or a committee when corporate action is taken is deemed to have assented to the action taken unless one or more of the following occurs:

(1) The director objects at the beginning of the meeting, or promptly upon arrival, to holding it or transacting business at the meeting.

(2) The dissent or abstention from the action taken is entered in the minutes of the meeting.

(3) The director delivers written notice of the director's dissent or abstention to the

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presiding officer of the meeting before its adjournment or to the corporation immediately after adjournment of the meeting.

b. The right of dissent or abstention is not available to a director who votes in favor of the action taken.

89 Acts, ch 288, §87; 2002 Acts, ch 1154, §35, 125; 2012 Acts, ch 1023, §157; 2021 Acts, ch 165, §101, 230

Referred to in §490.825, 490.853

490.825 Committees of the board.

1. Unless this chapter, the articles of incorporation, or the bylaws provide otherwise, a board of directors may establish one or more board committees composed exclusively of one or more directors to perform functions of the board of directors.

2. *a.* The establishment of a board committee and appointment of members to it shall be approved by the greater of the following:

(1) A majority of all the directors in office when the action is taken.

(2) The number of directors required by the articles of incorporation or bylaws to take action under section 490.824.

b. Paragraph "*a*" applies unless, in either case, this chapter or the articles of incorporation provide otherwise.

3. Sections 490.820 through 490.824 apply to board committees and their members.

4. A board committee may exercise the powers of the board of directors under section 490.801, to the extent specified by the board of directors or in the articles of incorporation or bylaws, except that a board committee shall not do any of the following:

a. Authorize or approve distributions, except according to a formula or method, or within limits, prescribed by the board of directors.

b. Approve or propose to shareholders action that this chapter requires be approved by shareholders.

c. Fill vacancies on the board of directors or, subject to subsection 5, on any board committees.

d. Adopt, amend, or repeal bylaws.

5. The board of directors may appoint one or more directors as alternate members of any board committee to replace any absent or disqualified member during the member's absence or disqualification. If the articles of incorporation, the bylaws, or the resolution creating the board committee so provide, the member or members present at any board committee meeting and not disqualified from voting may, by unanimous action, appoint another director to act in place of an absent or disqualified member during that member's absence or disqualification.

89 Acts, ch 288, §88; 2002 Acts, ch 1154, §36, 125; 2003 Acts, ch 108, §90; 2021 Acts, ch 165, §102, 230

Referred to in §490.1601, 490.1602

490.826 Submission of matters for shareholder vote.

A corporation may agree to submit a matter to a vote of its shareholders even if, after approving the matter, the board of directors determines it no longer recommends the matter.

2013 Acts, ch 31, §27, 82

Referred to in §490.921, 490.932, 490.1003, 490.1104, 490.1202, 490.1402

490.827 through 490.829 Reserved.

PART 3

DIRECTORS

490.830 Standards of conduct for directors.

1. Each member of the board of directors, when discharging the duties of a director, shall act in conformity with all of the following:

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a. In good faith.

b. In a manner the director reasonably believes to be in the best interests of the corporation.

2. The members of the board of directors or a board committee, when becoming informed in connection with their decision-making function or devoting attention to their oversight function, shall discharge their duties with the care that a person in a like position would reasonably believe appropriate under similar circumstances.

3. In discharging board or board committee duties, a director shall disclose, or cause to be disclosed, to the other board or committee members information which the director knows is not already known by them but known by the director to be material to the discharge of their decision-making or oversight functions, except that disclosure is not required to the extent that the director reasonably believes that doing so would violate a duty imposed under law, a legally enforceable obligation of confidentiality, or a professional ethics rule.

4. In discharging board or board committee duties, a director who does not have knowledge that makes reliance unwarranted is entitled to rely on the performance by any of the persons specified in subsection 6, paragraph *"a"* or *"c"*, to whom the board may have delegated, formally or informally by course of conduct, the authority or duty to perform one or more of the board's functions that are delegable under applicable law.

5. In discharging board or board committee duties, a director who does not have knowledge that makes reliance unwarranted is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by any of the persons specified in subsection 6.

6. A director is entitled to rely, in accordance with subsection 4 or 5, on any of the following:

a. One or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the functions performed or the information, opinions, reports, or statements provided.

b. Legal counsel, public accountants, or other persons retained by the corporation as to matters involving skills or expertise the director reasonably believes are any of the following:

(1) Matters within the particular person's professional or expert competence.

(2) Matters as to which the particular person merits confidence.

c. A board committee of which the director is not a member if the director reasonably believes the committee merits confidence.

89 Acts, ch 288, §89; 2002 Acts, ch 1154, §37, 125; 2013 Acts, ch 31, §28, 82; 2021 Acts, ch 165, §103, 230

Referred to in §490.832, 491.16A

490.831 Standards of liability for directors.

1. A director shall not be liable to the corporation or its shareholders for any decision to take or not to take action, or any failure to take any action, as a director, unless the party asserting liability in a proceeding establishes all of the following:

a. No defense interposed by the director based on any of the following precludes liability:

(1) A provision in the articles of incorporation authorized by section 490.202, subsection 2, paragraph *"d"* or *"f"*.

(2) The protection afforded by section 490.861 for action taken in compliance with section 490.862 or section 490.863.

(3) The protection afforded by section 490.870.

b. That the challenged conduct consisted or was the result of any of the following:

(1) Action not in good faith.

(2) A decision that satisfies any of the following:

(a) That which the director did not reasonably believe to be in the best interests of the corporation.

(b) As to which the director was not informed to an extent the director reasonably believed appropriate in the circumstances.

(3) A lack of objectivity due to the director's familial, financial, or business relationship with, or a lack of independence due to the director's domination or control by, another person

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having a material interest in the challenged conduct, which also meets all of the following criteria:

(a) Which relationship or which domination or control could reasonably be expected to have affected the director's judgment respecting the challenged conduct in a manner adverse to the corporation.

(b) After a reasonable expectation to such effect has been established, the director shall not have established that the challenged conduct was reasonably believed by the director to be in the best interests of the corporation.

(4) A sustained failure of the director to devote attention to ongoing oversight of the business and affairs of the corporation, or a failure to devote timely attention, by making, or causing to be made, appropriate inquiry, when particular facts and circumstances of significant concern materialize that would alert a reasonably attentive director to the need for such inquiry.

(5) Receipt of a financial benefit to which the director was not entitled or any other breach of the director's duties to deal fairly with the corporation and its shareholders that is actionable under applicable law.

2. *a.* The party seeking to hold the director liable for money damages shall also have the burden of establishing all of the following:

(1) That harm to the corporation or its shareholders has been suffered.

(2) The harm suffered was proximately caused by the director's challenged conduct.

b. A party seeking to hold the director liable for other money payment under a legal remedy, such as compensation for the unauthorized use of corporate assets, shall also have whatever persuasion burden may be called for to establish that the payment sought is appropriate in the circumstances.

c. A party seeking to hold the director liable for other money payment under an equitable remedy, such as profit recovery by or disgorgement to the corporation, shall also have whatever persuasion burden may be called for to establish that the equitable remedy sought is appropriate in the circumstances.

3. This section shall not do any of the following:

a. In any instance where fairness is at issue, such as consideration of the fairness of a transaction to the corporation under section 490.861, subsection 2, paragraph "c", alter the burden of proving the fact or lack of fairness otherwise applicable.

b. Alter the fact or lack of liability of a director under another section of this chapter, such as the provisions governing the consequences of an unlawful distribution under section 490.832 or a transactional interest under section 490.861.

c. Affect any rights to which the corporation or a shareholder may be entitled under another statute of this state or the United States.

89 Acts, ch 288, §90; 2002 Acts, ch 1154, §38, 125; 2003 Acts, ch 44, §83; 2008 Acts, ch 1015, §2; 2009 Acts, ch 133, §164; 2013 Acts, ch 31, §29, 30, 82; 2021 Acts, ch 165, §104, 230

Referred to in §490.842, 491.16A

490.832 Directors' liability for unlawful distributions.

1. A director who votes for or assents to a distribution in excess of what may be authorized and made pursuant to section 490.640, subsection 1, or section 490.1409, subsection 1, is personally liable to the corporation for the amount of the distribution that exceeds what could have been distributed without violating section 490.640, subsection 1, or section 490.1409, subsection 1, if the party asserting liability establishes that when taking the action the director did not comply with section 490.830.

2. A director held liable under subsection 1 for an unlawful distribution is entitled to all of the following:

a. Contribution from every other director who could be held liable under subsection 1 for the unlawful distribution.

b. Recoupment from each shareholder of the pro rata portion of the amount of the unlawful distribution the shareholder accepted, knowing the distribution was made in violation of section 490.640, subsection 1, or section 490.1409, subsection 1.

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3. *a.* A proceeding to enforce the liability of a director under subsection 1 is barred unless it is commenced within two years after any of the following:

(1) The date on which the effect of the distribution was measured under section 490.640, subsection 5 or 8.

(2) The date as of which the violation of section 490.640, subsection 1, occurred as the consequence of disregard of a restriction in the articles of incorporation.

(3) The date on which the distribution of assets to shareholders under section 490.1409, subsection 1, was made.

b. A proceeding to enforce contribution or recoupment under subsection 2 is barred unless it is commenced within one year after the liability of the claimant has been finally adjudicated under subsection 1.

89 Acts, ch 288, §92
CS89, §490.833
2002 Acts, ch 1154, §40, 125; 2021 Acts, ch 165, §105, 216, 230
C2022, §490.832
Referred to in §490.202, 490.831, 491.16A

490.833 Liability for unlawful distribution. Transferred to §490.832; 2021 Acts, ch 165, §105, 216, 230.

490.834 through 490.839 Reserved.

PART 4

OFFICERS

490.840 Officers.

1. A corporation has the officers described in its bylaws or appointed by the board of directors in accordance with the bylaws.

2. The board of directors may elect individuals to fill one or more offices of the corporation. An officer may appoint one or more officers if authorized by the bylaws or the board of directors.

3. The bylaws or the board of directors shall assign to an officer responsibility for maintaining and authenticating the records of the corporation required to be kept under section 490.1601, subsection 1.

4. The same individual may simultaneously hold more than one office in a corporation.

89 Acts, ch 288, §93; 2002 Acts, ch 1154, §41, 125; 2021 Acts, ch 165, §106, 230
Referred to in §490.140, 491.16A

490.841 Functions of officers.

Each officer has the authority and shall perform the functions set forth in the bylaws or, to the extent consistent with the bylaws, the functions prescribed by the board of directors or by direction of an officer authorized by the board of directors to prescribe the functions of other officers.

89 Acts, ch 288, §94; 2013 Acts, ch 31, §31, 82
Referred to in §491.16A

490.842 Standards of conduct for officers.

1. An officer, when performing in such capacity, has the duty to act in conformity with all of the following:

a. In good faith.

b. With the care that a person in a like position would reasonably exercise under similar circumstances.

c. In a manner the officer reasonably believes to be in the best interests of the corporation.

2. The duty of an officer includes the obligation to do all of the following:

a. Inform the superior officer to whom, or the board of directors or the board committee

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to which, the officer reports of information about the affairs of the corporation known to the officer, within the scope of the officer's functions, and known to the officer to be material to such superior officer, board, or committee.

b. Inform the officer's superior officer, or another appropriate person within the corporation, or the board of directors, or a board committee, of any actual or probable material violation of law involving the corporation or material breach of duty to the corporation by an officer, employee, or agent of the corporation, that the officer believes has occurred or is likely to occur.

3. In discharging the officer's duties, an officer who does not have knowledge that makes reliance unwarranted is entitled to rely on any of the following:

a. The performance of properly delegated responsibilities by one or more employees of the corporation whom the officer reasonably believes to be reliable and competent in performing the responsibilities delegated.

b. Information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by one or more employees of the corporation whom the officer reasonably believes to be reliable and competent in the matters presented or by legal counsel, public accountants, or other persons retained by the corporation as to matters involving skills or expertise the officer reasonably believes are any of the following:

(1) Matters within the particular person's professional or expert competence.

(2) Matters as to which the particular person merits confidence.

4. An officer shall not be liable to the corporation or its shareholders for any decision to take or not to take action, or any failure to take any action, as an officer, if the duties of the office are performed in compliance with this section. Whether an officer who does not comply with this section shall have liability will depend in such instance on applicable law, including those principles of section 490.831 that have relevance.

89 Acts, ch 288, §95; 2002 Acts, ch 1154, §42, 125; 2013 Acts, ch 31, §32, 82; 2021 Acts, ch 165, §107, 230

Referred to in §491.16A

490.843 Resignation and removal of officers.

1. An officer may resign at any time by delivering a written notice to the board of directors, or its chair, or to the appointing officer or the secretary. A resignation is effective as provided in section 490.141, subsection 9, unless the notice provides for a delayed effectiveness, including effectiveness determined upon a future event or events. If effectiveness of a resignation is stated to be delayed and the board of directors or the appointing officer accepts the delay, the board of directors or the appointing officer may fill the pending vacancy before the delayed effectiveness but the new officer shall not take office until the vacancy occurs.

2. An officer may be removed at any time with or without cause by any of the following:

a. The board of directors.

b. The appointing officer, unless the bylaws or the board of directors provide otherwise.

c. Any other officer if authorized by the bylaws or the board of directors.

3. As used in this section, "*appointing officer*" means the officer, including any successor to that officer, who appointed the officer resigning or being removed.

89 Acts, ch 288, §96; 91 Acts, ch 211, §7; 2002 Acts, ch 1154, §43, 125; 2021 Acts, ch 165, §108, 230

490.844 Contract rights of officers.

1. The election or appointment of an officer does not itself create contract rights.

2. An officer's removal does not affect the officer's contract rights, if any, with the corporation. An officer's resignation does not affect the corporation's contract rights, if any, with the officer.

89 Acts, ch 288, §97; 2021 Acts, ch 165, §109, 230

490.845 through 490.849 Reserved.

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PART 5

INDEMNIFICATION AND ADVANCE FOR EXPENSES

490.850 Part definitions.

As used in this part:

1. *"Corporation"* includes any domestic or foreign predecessor entity of a corporation in a merger.

2. *"Director"* or *"officer"* means an individual who is or was a director or officer, respectively, of a corporation or who, while a director or officer of the corporation, is or was serving at the corporation's request as a director, officer, manager, partner, trustee, employee, or agent of another entity or employee benefit plan. A director or officer is considered to be serving an employee benefit plan at the corporation's request if the individual's duties to the corporation also impose duties on, or otherwise involve services by, the individual to the plan or to participants in or beneficiaries of the plan. *"Director"* or *"officer"* includes, unless the context requires otherwise, the estate or personal representative of a director or officer.

3. *"Liability"* means the obligation to pay a judgment, settlement, penalty, fine, including an excise tax assessed with respect to an employee benefit plan, or expenses incurred with respect to a proceeding.

4. *a. "Official capacity"* means the following:

(1) When used with respect to a director, the office of director in a corporation.

(2) When used with respect to an officer, as contemplated in section 490.856, the office in a corporation held by the officer.

b. "Official capacity" does not include service for any other domestic or foreign corporation or any joint venture, trust, employee benefit plan, or other entity.

5. *"Party"* means an individual who was, is, or is threatened to be made a defendant or respondent in a proceeding.

6. *"Proceeding"* means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, arbitrative, or investigative and whether formal or informal.

89 Acts, ch 288, §98; 2002 Acts, ch 1154, §44, 125; 2005 Acts, ch 19, §72; 2013 Acts, ch 30, §116; 2013 Acts, ch 31, §33 – 35, 82; 2021 Acts, ch 165, §110, 230

Referred to in §490.202, 491.3, 491.16, 497.34, 498.36, 499.59A, 508C.16, 524.801

490.851 Permissible indemnification.

1. Except as otherwise provided in this section, a corporation may indemnify an individual who is a party to a proceeding because the individual is a director against liability incurred in the proceeding if any of the following apply:

a. All of the following apply:

(1) The director's conduct was in good faith.

(2) The director reasonably believed:

(a) In the case of conduct in an official capacity, that the director's conduct was in the best interests of the corporation.

(b) In all other cases, that the director's conduct was at least not opposed to the best interests of the corporation.

(3) In the case of any criminal proceeding, the director had no reasonable cause to believe the director's conduct was unlawful.

b. The director engaged in conduct for which broader indemnification has been made permissible or obligatory under a provision of the articles of incorporation, as authorized by section 490.202, subsection 2, paragraph *"e"*.

2. A director's conduct with respect to an employee benefit plan for a purpose the director reasonably believed to be in the interests of the participants in, and the beneficiaries of, the plan is conduct that satisfies the requirement of subsection 1, paragraph *"a"*, subparagraph (2), subparagraph division (b).

3. The termination of a proceeding by judgment, order, settlement, or conviction, or upon

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a plea of nolo contendere or its equivalent, is not, of itself, determinative that the director did not meet the relevant standard of conduct described in this section.

4. Unless ordered by a court under section 490.854, subsection 1, paragraph "*c*", a corporation shall not indemnify a director in any of the following circumstances:

a. In connection with a proceeding by or in the right of the corporation, except for expenses incurred in connection with the proceeding if it is determined that the director has met the relevant standard of conduct under subsection 1.

b. In connection with any proceeding with respect to conduct for which the director was adjudged liable on the basis of receiving a financial benefit to which the director was not entitled, regardless of whether it involved action in the director's official capacity.

89 Acts, ch 288, §99; 2002 Acts, ch 1154, §45, 125; 2003 Acts, ch 44, §84, 116; 2021 Acts, ch 165, §111, 230

Referred to in §490.854, 490.855, 490.858, 491.3, 491.16, 497.34, 498.36, 499.59A, 508C.16, 524.801

490.852 Mandatory indemnification.

A corporation shall indemnify a director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the director was a party because the director is or was a director of the corporation against expenses incurred by the director in connection with the proceeding.

89 Acts, ch 288, §100; 2002 Acts, ch 1154, §46, 125; 2021 Acts, ch 165, §112, 230

Referred to in §490.853, 490.854, 490.856, 491.3, 491.16, 497.34, 498.36, 499.59A, 508C.16, 524.801

490.853 Advance for expenses.

1. A corporation may, before final disposition of a proceeding, advance funds to pay for or reimburse expenses incurred in connection with the proceeding by an individual who is a party to the proceeding because that individual is a director, if the director delivers to the corporation a signed written undertaking of the director to repay any funds advanced and all of the following apply:

a. The director is not entitled to mandatory indemnification under section 490.852.

b. It is ultimately determined under section 490.854 or 490.855 that the director is not entitled to indemnification.

2. The undertaking required by subsection 1 must be an unlimited general obligation of the director but need not be secured and may be accepted without reference to the financial ability of the director to make repayment.

3. Authorizations under this section shall be made by any of the following:

a. By the board of directors as follows:

(1) If there are two or more qualified directors, by a majority vote of all of the qualified directors, a majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a committee consisting solely of two or more qualified directors appointed by such a vote.

(2) If there are fewer than two qualified directors, by the vote necessary for action by the board of directors in accordance with section 490.824, subsection 3, in which authorization directors who are not qualified directors may participate.

b. By the shareholders, but shares owned by or voted under the control of a director who at the time is not a qualified director shall not be voted on the authorization.

89 Acts, ch 288, §101; 2002 Acts, ch 1154, §47, 125; 2002 Acts, ch 1175, §89; 2013 Acts, ch 31, §36, 82; 2021 Acts, ch 165, §113, 230

Referred to in §490.143, 490.854, 490.858, 491.3, 491.16, 497.34, 498.36, 499.59A, 508C.16, 524.801

490.854 Court-ordered indemnification and advance for expenses.

1. A person who is a party to a proceeding because the person is a director may apply for indemnification or an advance for expenses to the court conducting the proceeding or to another court of competent jurisdiction. After receipt of an application and after giving any notice it considers necessary, the court shall do any of the following:

a. Order indemnification if the court determines that the director is entitled to mandatory indemnification under section 490.852.

b. Order indemnification or advance for expenses if the court determines that the director

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is entitled to indemnification or advance for expenses pursuant to a provision authorized by section 490.858, subsection 1.

c. (1) Order indemnification or advance for expenses if the court determines, in view of all the relevant circumstances, that it is fair and reasonable to do any of the following:

(a) Indemnify the director.

(b) Advance expenses to the director.

(2) The court shall order indemnification or advance for expenses, even if in the case of subparagraph (1), subparagraph division (a) or (b), the director has not met the relevant standard of conduct set forth in section 490.851, subsection 1, failed to comply with section 490.853 or was adjudged liable in a proceeding referred to in section 490.851, subsection 4, paragraph *"a"* or *"b"*. However, if the director was adjudged so liable the director's indemnification shall be limited to expenses incurred in connection with the proceeding.

2. If the court determines that the director is entitled to indemnification under subsection 1, paragraph *"a"*, or to indemnification or advance for expenses under subsection 1, paragraph *"b"*, it shall also order the corporation to pay the director's expenses incurred in connection with obtaining court-ordered indemnification or advance for expenses. If the court determines that the director is entitled to indemnification or advance for expenses under subsection 1, paragraph *"c"*, it may also order the corporation to pay the director's expenses to obtain court-ordered indemnification or advance for expenses.

89 Acts, ch 288, §102; 2002 Acts, ch 1154, §48, 125; 2021 Acts, ch 165, §114, 230

Referred to in §490.851, 490.853, 490.856, 491.3, 491.16, 497.34, 498.36, 499.59A, 508C.16, 524.801

490.855 Determination and authorization of indemnification.

1. A corporation shall not indemnify a director under section 490.851 unless authorized for a specific proceeding after a determination has been made that indemnification is permissible because the director has met the relevant standard of conduct set forth in section 490.851.

2. The determination shall be made by any of the following:

a. If there are two or more qualified directors, by the board of directors by a majority vote of all the qualified directors, a majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a committee of two or more qualified directors appointed by such a vote.

b. By special legal counsel selected in one of the following manners:

(1) In the manner prescribed in paragraph *"a"*.

(2) If there are fewer than two qualified directors, selected by the board of directors, in which selection directors who are not qualified directors may participate.

c. By the shareholders, but shares owned by or voted under the control of a director who at the time is not a qualified director shall not be voted on the determination.

3. Authorization of indemnification shall be made in the same manner as the determination that indemnification is permissible, except that if there are fewer than two qualified directors or if the determination is made by special legal counsel, authorization of indemnification shall be made by those entitled to select special legal counsel under subsection 2, paragraph *"b"*, subparagraph (2).

89 Acts, ch 288, §103; 2002 Acts, ch 1154, §49, 125; 2013 Acts, ch 31, §37, 82; 2021 Acts, ch 165, §115, 230

Referred to in §490.143, 490.853, 490.858, 491.3, 491.16, 497.34, 498.36, 499.59A, 508C.16, 524.801

490.856 Indemnification of officers.

1. A corporation may indemnify and advance expenses under this part to an officer who is a party to a proceeding because the person is an officer, according to all of the following:

a. To the same extent as a director.

b. If the person is an officer but not a director, to such further extent as may be provided by the articles of incorporation or bylaws, or by a resolution adopted or a contract approved by the board of directors or shareholders, except for any of the following:

(1) Liability in connection with a proceeding by or in the right of the corporation other than for expenses incurred in connection with the proceeding.

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(2) Liability arising out of conduct that constitutes any of the following:
(a) Receipt by the officer of a financial benefit to which the officer is not entitled.
(b) An intentional infliction of harm on the corporation or the shareholders.
(c) An intentional violation of criminal law.

2. The provisions of subsection 1, paragraph *"b"*, shall apply to an officer who is also a director, if the officer is made a party to the proceeding based on an act or omission solely as an officer.

3. An officer who is not a director is entitled to mandatory indemnification under section 490.852, and may apply to a court under section 490.854 for indemnification or an advance for expenses, in each case to the same extent to which a director may be entitled to indemnification or advance for expenses under those sections.

89 Acts, ch 288, §104; 2002 Acts, ch 1154, §50, 125; 2003 Acts, ch 44, §85; 2021 Acts, ch 165, §116, 230
Referred to in §490.850, 491.3, 491.16, 497.34, 498.36, 499.59A, 508C.16, 524.801

490.857 Insurance.

A corporation may purchase and maintain insurance on behalf of an individual who is a director or officer of the corporation, or who, while a director or officer of the corporation, serves at the corporation's request as a director, officer, partner, trustee, employee, or agent of another domestic or foreign corporation, or a joint venture, trust, employee benefit plan, or other entity, against liability asserted against or incurred by the individual in that capacity or arising from the individual's status as a director or officer, regardless of whether the corporation would have power to indemnify or advance expenses to the individual against the same liability under this part.

89 Acts, ch 288, §105; 2002 Acts, ch 1154, §51, 125; 2021 Acts, ch 165, §117, 230
Referred to in §491.3, 491.16, 497.34, 498.36, 499.59A, 508C.16, 524.801

490.858 Variation by corporate action — application of part.

1. A corporation may, by a provision in its articles of incorporation or bylaws or in a resolution adopted or a contract approved by the board of directors or shareholders, obligate itself in advance of the act or omission giving rise to a proceeding to provide indemnification in accordance with section 490.851 or advance funds to pay for or reimburse expenses in accordance with section 490.853. Any such obligatory provision shall be deemed to satisfy the requirements for authorization referred to in section 490.853, subsection 3, and in section 490.855, subsection 3. Any such provision that obligates the corporation to provide indemnification to the fullest extent permitted by law shall be deemed to obligate the corporation to advance funds to pay for or reimburse expenses in accordance with section 490.853 to the fullest extent permitted by law, unless the provision expressly provides otherwise.

2. A right of indemnification or to advances for expenses created by this part or under subsection 1 and in effect at the time of an act or omission shall not be eliminated or impaired with respect to such act or omission by an amendment of the articles of incorporation or bylaws or a resolution of the board of directors or shareholders, adopted after the occurrence of such act or omission, unless, in the case of a right created under subsection 1, the provision creating such right and in effect at the time of such act or omission explicitly authorizes such elimination or impairment after such act or omission has occurred.

3. Any provision pursuant to subsection 1 shall not obligate the corporation to indemnify or advance expenses to a director of a predecessor of the corporation, pertaining to conduct with respect to the predecessor, unless otherwise expressly provided. Any provision for indemnification or advance for expenses in the articles of incorporation, or bylaws, or a resolution of the board of directors or shareholders of a predecessor of the corporation in a merger or in a contract to which the predecessor is a party, existing at the time the merger takes effect, shall be governed by section 490.1107, subsection 1, paragraph *"d"*.

4. Subject to subsection 2, a corporation may, by a provision in its articles of incorporation, limit any of the rights to indemnification or advance for expenses created by or pursuant to this part.

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5. This part does not limit a corporation's power to pay or reimburse expenses incurred by a director or an officer in connection with appearing as a witness in a proceeding at a time when the director or officer is not a party.

6. This part does not limit a corporation's power to indemnify, advance expenses to, or provide or maintain insurance on behalf of an employee or agent.

89 Acts, ch 288, §106; 2002 Acts, ch 1154, §52, 125; 2013 Acts, ch 31, §38, 39, 82; 2019 Acts, ch 24, §104; 2021 Acts, ch 165, §118, 230

Referred to in §490.854, 491.3, 491.16, 497.34, 498.36, 499.59A, 508C.16, 524.801

490.859 Exclusivity of part.

A corporation may provide indemnification or advance expenses to a director or an officer only as permitted by this part.

2002 Acts, ch 1154, §53, 125

Referred to in §491.3, 491.16, 497.34, 498.36, 499.59A, 508C.16, 524.801

PART 6

DIRECTOR'S CONFLICTING INTEREST TRANSACTIONS

490.860 Part definitions.

As used in this part, unless otherwise specified:

1. *"Control"*, including the term *"controlled by"*, means any of the following:

a. Having the power, directly or indirectly, to elect or remove a majority of the members of the board of directors or other governing body of an entity, whether through the ownership of voting shares or interests, by contract, or otherwise.

b. Being subject to a majority of the risk of loss from the entity's activities or entitled to receive a majority of the entity's residual returns.

2. *"Director's conflicting interest transaction"* means a transaction effected or proposed to be effected by the corporation, or by an entity controlled by the corporation, to which, or respecting which, any of the following applies:

a. To which, at the relevant time, the director is a party.

b. Respecting which, at the relevant time, the director had knowledge and a material financial interest known to the director.

c. Respecting which, at the relevant time, the director knew that a related person was a party or had a material financial interest.

3. *"Fair to the corporation"* means, for purposes of section 490.861, subsection 2, paragraph *"c"*, that the transaction as a whole was beneficial to the corporation, taking into appropriate account whether it was all of the following:

a. Fair in terms of the director's dealings with the corporation.

b. Comparable to what might have been obtainable in an arm's length transaction, given the consideration paid or received by the corporation.

4. *"Material financial interest"* means a financial interest in a transaction that would reasonably be expected to impair the objectivity of the director's judgment when participating in action on the authorization of the transaction.

5. *"Related person"* means any of the following:

a. The individual's spouse.

b. A child, stepchild, grandchild, parent, stepparent, grandparent, sibling, stepsibling, half sibling, aunt, uncle, niece, or nephew, or spouse of any such person, of the individual or of the individual's spouse.

c. A natural person living in the same home as the individual.

d. An entity, other than the corporation or an entity controlled by the corporation, controlled by the individual or any person specified in this subsection.

e. Any of the following:

(1) A domestic or foreign business or nonprofit corporation, other than the corporation or an entity controlled by the corporation, of which the individual is a director.

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(2) A domestic or foreign unincorporated entity of which the individual is a general partner or a member of the governing body.

(3) A domestic or foreign individual, trust, or estate for whom or of which the individual is a trustee, guardian, personal representative, or like fiduciary.

f. A person that is, or an entity that is controlled by, an employer of the individual.

6. *"Relevant time"* means the following:

a. The time at which directors' action respecting the transaction is taken in compliance with section 490.862.

b. If the transaction is not brought before the board of directors or a board committee for action under section 490.862, at the time the corporation or an entity controlled by the corporation becomes legally obligated to consummate the transaction.

7. *"Required disclosure"* means disclosure of all of the following:

a. The existence and nature of the director's conflicting interest.

b. All facts known to the director respecting the subject matter of the transaction that a director free of such conflicting interest would reasonably believe to be material in deciding whether to proceed with the transaction.

2013 Acts, ch 31, §40, 82; 2014 Acts, ch 1092, §106; 2021 Acts, ch 165, §119, 230
Referred to in §490.202, 490.862, 490.863, 490.870, 491.16A

490.861 Judicial action.

1. A transaction effected or proposed to be effected by the corporation, or by an entity controlled by the corporation, shall not be the subject of equitable relief, or give rise to an award of damages or other sanctions against a director of the corporation, in a proceeding by a shareholder or by or in the right of the corporation, on the ground that the director has an interest respecting the transaction, if it is not a director's conflicting interest transaction.

2. A director's conflicting interest transaction shall not be the subject of equitable relief, or give rise to an award of damages or other sanctions against a director of the corporation, in a proceeding by a shareholder or by or in the right of the corporation, on the ground that the director has an interest respecting the transaction, if any of the following apply:

a. Directors' action respecting the transaction was taken in compliance with section 490.862 at any time.

b. Shareholders' action respecting the transaction was taken in compliance with section 490.863 at any time.

c. The transaction, judged according to the circumstances at the relevant time, is established to have been fair to the corporation.

2013 Acts, ch 31, §41, 82; 2021 Acts, ch 165, §120, 230
Referred to in §490.831, 490.860, 490.862, 490.863, 491.16A

490.862 Directors' action.

1. Directors' action respecting a director's conflicting interest transaction is effective for purposes of section 490.861, subsection 2, paragraph *"a"*, if the transaction has been authorized by the affirmative vote of a majority, but no fewer than two, of the qualified directors who voted on the transaction, after required disclosure by the conflicted director of information not already known by such qualified directors, or after modified disclosure in compliance with subsection 2, provided that all of the following apply:

a. The qualified directors have deliberated and voted outside the presence of and without the participation by any other director.

b. Where the action has been taken by a board committee, all members of the committee were qualified directors, and any of the following apply:

(1) The committee was composed of all the qualified directors on the board of directors.

(2) The members of the committee were appointed by the affirmative vote of a majority of the qualified directors on the board of directors.

2. Notwithstanding subsection 1, when a transaction is a director's conflicting interest transaction only because a related person described in section 490.860, subsection 5, paragraph *"e"* or *"f"*, is a party to or has a material financial interest in the transaction, the conflicted director is not obligated to make required disclosure to the extent that the

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director reasonably believes that doing so would violate a duty imposed under law, a legally enforceable obligation of confidentiality, or a professional ethics rule, provided that the conflicted director discloses to the qualified directors voting on the transaction all of the following:

a. All information required to be disclosed that is not so violative.

b. The existence and nature of the director's conflicting interest.

c. The nature of the conflicted director's duty not to disclose the confidential information.

3. A majority, but no fewer than two, of all the qualified directors on the board of directors, or on the board committee, constitutes a quorum for purposes of action that complies with this section.

4. Where directors' action under this section does not satisfy a quorum or voting requirement applicable to the authorization of the transaction by reason of the articles of incorporation or bylaws, or a provision of law, independent action to satisfy those authorization requirements shall be taken by the board of directors or a board committee, in which action directors who are not qualified directors may participate.

2013 Acts, ch 31, §42, 82; 2021 Acts, ch 165, §121, 230
Referred to in §490.143, 490.202, 490.831, 490.860, 490.861, 490.870, 490.1301, 490.1340, 491.16A

490.863 Shareholders' action.

1. *a.* Shareholders' action respecting a director's conflicting interest transaction is effective for purposes of section 490.861, subsection 2, paragraph *"b"*, if a majority of the votes cast by the holders of all qualified shares are in favor of the transaction after all of the following occur:

(1) Notice to shareholders describing the action to be taken respecting the transaction.

(2) Provision to the corporation of the information referred to in subsection 2.

(3) Communication to the shareholders entitled to vote on the transaction of the information that is the subject of required disclosure, to the extent the information is not known by them.

b. In the case of shareholders' action at a meeting, the shareholders entitled to vote shall be determined as of the record date for notice of the meeting.

2. A director who has a conflicting interest respecting the transaction shall, before the shareholders' vote, inform the secretary or other officer or agent of the corporation authorized to tabulate votes, in writing, of the number of shares that the director knows are not qualified shares under subsection 3, and the identity of the holders of those shares.

3. As used in this section:

a. "Holder" means and *"held by"* refers to shares held by a record shareholder, a beneficial shareholder, or an unrestricted voting trust beneficial owner.

b. "Qualified shares" means all shares entitled to be voted with respect to the transaction except for shares that the secretary or other officer or agent of the corporation authorized to tabulate votes either knows, or under subsection 2 is notified, are held by any of the following:

(1) A director who has a conflicting interest respecting the transaction.

(2) A related person of the director, excluding a person described in section 490.860, subsection 5, paragraph *"f"*.

4. A majority of the votes entitled to be cast by the holders of all qualified shares constitutes a quorum for purposes of compliance with this section. Subject to the provisions of subsection 5, shareholders' action that otherwise complies with this section is not affected by the presence of holders, or by the voting, of shares that are not qualified shares.

5. If a shareholders' vote does not comply with subsection 1 solely because of a director's failure to comply with subsection 2, and if the director establishes that the failure was not intended to influence and did not in fact determine the outcome of the vote, the court may take such action respecting the transaction and the director, and may give such effect, if any, to the shareholders' vote, as the court considers appropriate in the circumstances.

6. Where shareholders' action under this section does not satisfy a quorum or voting requirement applicable to the authorization of the transaction by reason of the articles of incorporation or bylaws, or a provision of law, independent action to satisfy those

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authorization requirements shall be taken by the shareholders, in which action shares that are not qualified shares may participate.

2013 Acts, ch 31, §43, 82; 2013 Acts, ch 140, §71; 2021 Acts, ch 165, §122, 230
Referred to in §490.831, 490.861, 490.870, 490.1340, 491.16A

490.864 through 490.869 Reserved.

PART 7

BUSINESS OPPORTUNITIES

490.870 Business opportunities.

1. If a director or officer pursues or takes advantage of a business opportunity directly, or indirectly through or on behalf of another person, that action shall not be the subject of equitable relief, or give rise to an award of damages or other sanctions against the director, officer, or other person, in a proceeding by or in the right of the corporation on the ground that the opportunity should have first been offered to the corporation, if any of the following apply:

a. Before the director, officer, or other person becomes legally obligated respecting the opportunity, the director or officer brings it to the attention of the corporation and any of the following apply:

(1) Action by qualified directors disclaiming the corporation's interest in the opportunity is taken in compliance with the same procedures as are set forth in section 490.862.

(2) Shareholders' action disclaiming the corporation's interest in the opportunity is taken in compliance with the procedures set forth in section 490.863, in either case as if the decision being made concerned a director's conflicting interest transaction; except that, rather than making required disclosure as defined in section 490.860, the director or officer shall have made prior disclosure to those acting on behalf of the corporation of all material facts concerning the business opportunity known to the director or officer.

b. The duty to offer the corporation the business opportunity has been limited or eliminated pursuant to a provision of the articles of incorporation adopted, and where required, made effective by action of qualified directors, in accordance with section 490.202, subsection 2, paragraph *"f"*.

2. In any proceeding seeking equitable relief or other remedies based upon an alleged improper pursuit or taking advantage of a business opportunity by a director or officer, directly, or indirectly through or on behalf of another person, the fact that the director or officer did not employ the procedure described in subsection 1, paragraph *"a"*, subparagraph (1) or (2), before pursuing or taking advantage of the opportunity shall not create an implication that the opportunity should have been first presented to the corporation or alter the burden of proof otherwise applicable to establish that the director or officer breached a duty to the corporation in the circumstances.

2008 Acts, ch 1015, §3; 2013 Acts, ch 31, §44, 82; 2021 Acts, ch 165, §123, 230
Referred to in §490.143, 490.831, 491.16A

490.871 through 490.900 Reserved.

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SUBCHAPTER IX

DOMESTICATION AND CONVERSION

Referred to in §490.1340

PART 1

PRELIMINARY PROVISIONS

490.901 Subchapter definitions.

1. As used in this subchapter:

a. *"Conversion"* means a transaction pursuant to part 3.

b. *"Converted entity"* means the converting entity as it continues in existence after a conversion.

c. *"Converting entity"* means the domestic corporation that approves a plan of conversion pursuant to section 490.932 or the domestic or foreign eligible entity that approves a conversion pursuant to the organic law of the eligible entity.

d. *"Domesticated corporation"* means the domesticating corporation as it continues in existence after a domestication.

e. *"Domesticating corporation"* means the domestic corporation that approves a plan of domestication pursuant to section 490.921 or the foreign corporation that approves a domestication pursuant to the organic law of the foreign corporation.

f. *"Domestication"* means a transaction pursuant to part 2.

g. *"Protected agreement"* means any of the following:

(1) A document evidencing indebtedness of a domestic corporation or eligible entity and any related agreement in effect immediately before the enactment date.

(2) An agreement that is binding on a domestic corporation or eligible entity immediately before the enactment date.

(3) The articles of incorporation or bylaws of a domestic corporation or the organic rules of a domestic eligible entity, in each case in effect immediately before the enactment date.

(4) An agreement that is binding on any of the shareholders, members, interest holders, directors, or other governors of a domestic corporation or eligible entity, in their capacities as such, immediately before the enactment date.

2. As used in subsection 1 and sections 490.920 and 490.930, *"enactment date"* means January 1, 2022, as it relates to domestications and January 1, 2009, as it relates to conversions.

2021 Acts, ch 165, §124, 216, 230

Former section 490.901 amended effective June 8, 2021, and repealed pursuant to its own terms effective January 1, 2022; 2021 Acts, ch 165, §263, 266; see §490.209

490.902 Excluded transactions.

This subchapter shall not be used to effect a transaction that converts a company organized on the mutual principle to one organized on the basis of share ownership.

2021 Acts, ch 165, §125, 230

Former section 490.902 stricken effective January 1, 2022, by 2021 Acts, ch 165, §125, 230; see §490.905

490.903 Required approvals.

If a domestic or foreign corporation or eligible entity shall not be a party to a merger without the approval of the superintendent of banking, the commissioner of insurance, or the Iowa utilities commission, and the applicable statutes or regulations do not specifically deal with transactions under this subchapter but do require such approval for mergers, a corporation or eligible entity shall not be a party to a transaction under this subchapter without the prior approval of that agency or official.

2021 Acts, ch 165, §126, 230; 2022 Acts, ch 1032, §109, 112; 2024 Acts, ch 1170, §369

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490.904 Relationship of subchapter to other laws.

A transaction effected under this subchapter shall not create or impair a right, duty, or obligation of a person under the statutory law of this state other than this subchapter relating to a change in control, business combination, control-share acquisition, or similar transaction involving a domesticating or converting domestic corporation, unless the approval of the plan of domestication or conversion is by a vote of the shareholders or the board of directors which would be sufficient to create or impair the right, duty, or obligation directly under that law.

2021 Acts, ch 165, §127, 230

490.905 Foreign insurance companies becoming domestic.

1. The secretary of state, upon a corporation complying with this section and upon the filing of articles of incorporation and upon receipt of the fees as provided in this chapter, shall issue an acknowledgment of receipt of document as of the date of the filing of the articles of incorporation with the secretary of state. The acknowledgment of receipt of document shall state on its face that it is issued in accordance with this section. The secretary of state shall then notify the appropriate officer of the state or country of the corporation's last domicile that the corporation is now a domestic corporation domiciled in this state. This section applies to life insurance companies, to insurance companies doing business under chapter 515, and to captive companies doing business under chapter 521J.

2. A corporation becoming domiciled in this state under subsection 1 shall not be required to comply with any other requirements under this subchapter.

2021 Acts, ch 165, §128, 230; 2026 Acts, ch 1113, §3

Referred to in §508.12, 515.78, 515E.3A

Subsection 1 amended

490.906 through 490.919 Reserved.

PART 2

DOMESTICATION

Referred to in §490.901

490.920 Domestication.

1. By complying with the provisions of this part applicable to foreign corporations, a foreign corporation may become a domestic corporation if the domestication is permitted by the organic law of the foreign corporation.

2. By complying with the provisions of this part, a domestic corporation may become a foreign corporation pursuant to a plan of domestication if the domestication is permitted by the organic law of the foreign corporation.

3. The plan of domestication must include all of the following:

a. The name of the domesticating corporation.

b. The name and jurisdiction of formation of the domesticated corporation.

c. The manner and basis of reclassifying the shares of the domesticating corporation into shares or other securities, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing.

d. The proposed articles of incorporation and bylaws of the domesticated corporation.

e. The other terms and conditions of the domestication.

4. In addition to the requirements of subsection 3, a plan of domestication may contain any other provision not prohibited by law.

5. The terms of a plan of domestication may be made dependent upon facts objectively ascertainable outside the plan in accordance with section 490.120, subsection 11.

6. If a protected agreement of a domestic domesticating corporation in effect immediately before the domestication becomes effective contains a provision applying to a merger of the corporation and the agreement does not refer to a domestication of the corporation, the

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provision applies to a domestication of the corporation as if the domestication were a merger until such time as the provision is first amended after the enactment date.

2021 Acts, ch 165, §129, 230
Referred to in §490.901, 490.1302

490.921 Action on a plan of domestication.

In the case of a domestication of a domestic corporation into a foreign jurisdiction, the plan of domestication shall be adopted in the following manner:

1. The plan of domestication shall first be adopted by the board of directors.

2. *a.* The plan of domestication shall then be approved by the shareholders. In submitting the plan of domestication to the shareholders for approval, the board of directors shall recommend that the shareholders approve the plan, unless any of the following applies:

(1) The board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation.

(2) Section 490.826 applies.

b. If paragraph *"a"*, subparagraph (1) or (2) applies, the board shall inform the shareholders of the basis for its so proceeding.

3. The board of directors may set conditions for approval of the plan of domestication by the shareholders or the effectiveness of the plan of domestication.

4. If the approval of the shareholders is to be given at a meeting, the corporation shall notify each shareholder, regardless of whether entitled to vote, of the meeting of shareholders at which the plan of domestication is to be submitted for approval. The notice must state that the purpose, or one of the purposes, of the meeting is to consider the plan of domestication and must contain or be accompanied by a copy or summary of the plan. The notice must include or be accompanied by a copy of the articles of incorporation and the bylaws as they will be in effect immediately after the domestication.

5. Unless the articles of incorporation, bylaws, or the board of directors acting pursuant to subsection 3, require a greater vote or a greater quorum, approval of the plan of domestication requires all of the following:

a. The approval of the shareholders at a meeting at which a quorum exists consisting of a majority of the votes entitled to be cast on the plan.

b. Except as provided in subsection 6, the approval of each class or series of shares voting as a separate voting group at a meeting at which a quorum of the voting group exists consisting of a majority of the votes entitled to be cast on the plan by that voting group.

6. The articles of incorporation may expressly limit or eliminate the separate voting rights provided in subsection 5, paragraph *"b"*, as to any class or series of shares, except when the articles of incorporation of the foreign corporation resulting from the domestication include what would be in effect an amendment that would entitle the class or series to vote as a separate group under section 490.1004 if it were a proposed amendment of the articles of incorporation of the domestic domesticating corporation.

7. If as a result of a domestication one or more shareholders of a domestic domesticating corporation would become subject to interest holder liability, approval of the plan of domestication shall require the signing in connection with the domestication, by each such shareholder, of a separate written consent to become subject to such interest holder liability, unless in the case of a shareholder that already has interest holder liability with respect to the domesticating corporation, the terms and conditions of the interest holder liability with respect to the domesticated corporation are substantially identical to those of the existing interest holder liability, other than for changes that eliminate or reduce such interest holder liability.

2021 Acts, ch 165, §130, 230
Referred to in §490.901

490.922 Articles of domestication — effectiveness.

1. After a plan of domestication of a domestic corporation has been adopted and approved as required by this chapter, or a foreign corporation that is the domesticating corporation has

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approved a domestication as required under its organic law, articles of domestication shall be signed by the domesticating corporation. The articles must set forth all of the following:

a. The name of the domesticating corporation and its jurisdiction of formation.

b. The name and jurisdiction of formation of the domesticated corporation.

c. If the domesticating corporation is a domestic corporation, a statement that the plan of domestication was approved in accordance with this subchapter or, if the domesticating corporation is a foreign corporation, a statement that the domestication was approved in accordance with its organic law.

2. If the domesticated corporation is a domestic corporation, the articles of domestication must attach articles of incorporation of the domesticated corporation that satisfy the requirements of section 490.202. Provisions that would not be required to be included in restated articles of incorporation may be omitted from the articles of incorporation attached to the articles of domestication.

3. The articles of domestication shall be delivered to the secretary of state for filing, and shall take effect at the effective date determined in accordance with section 490.123.

4. If the domesticated corporation is a domestic corporation, the domestication becomes effective when the articles of domestication are effective. If the domesticated corporation is a foreign corporation, the domestication becomes effective on the later of the following:

a. The date and time provided by the organic law of the domesticated corporation.

b. When the articles of domestication are effective.

5. If the domesticating corporation is a registered foreign corporation, its registration statement shall be canceled automatically when the domestication becomes effective.

2021 Acts, ch 165, §131, 230; 2022 Acts, ch 1058, §12

490.923 Amendment of plan of domestication — abandonment.

1. A plan of domestication of a domestic corporation may be amended by any of the following manners:

a. In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended.

b. In the manner provided in the plan, except that a shareholder that was entitled to vote on or consent to approval of the plan is entitled to vote on or consent to any amendment of the plan that will change any of the following:

(1) The amount or kind of shares or other securities, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing, to be received by any of the shareholders of the domesticating corporation under the plan.

(2) The articles of incorporation or bylaws of the domesticated corporation that will be in effect immediately after the domestication becomes effective, except for changes that do not require approval of the shareholders of the domesticated corporation under its organic law or its proposed articles of incorporation or bylaws as set forth in the plan.

(3) Any of the other terms or conditions of the plan, if the change would adversely affect the shareholder in any material respect.

2. After a plan of domestication has been adopted and approved by a domestic corporation as required by this part, and before the articles of domestication have become effective, the plan may be abandoned by the corporation without action by its shareholders in accordance with any procedures set forth in the plan or, if no such procedures are set forth in the plan, in the manner determined by the board of directors.

3. If a domestication is abandoned after the articles of domestication have been delivered to the secretary of state for filing but before the articles of domestication have become effective, articles of abandonment, signed by the domesticating corporation, must be delivered to the secretary of state for filing before the articles of domestication become effective. The articles of abandonment take effect upon filing, and the domestication shall be deemed abandoned and shall not become effective. The articles of abandonment must contain all of the following:

a. The name of the domesticating corporation.

b. The date on which the articles of domestication were filed by the secretary of state.

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c. A statement that the domestication has been abandoned in accordance with this section.
2021 Acts, ch 165, §132, 230

490.924 Effect of domestication.

1. When a domestication becomes effective all of the following apply:

a. All property owned by, and every contract right possessed by, the domesticating corporation are the property and contract rights of the domesticated corporation without transfer, reversion, or impairment.

b. All debts, obligations, and other liabilities of the domesticating corporation are the debts, obligations, and other liabilities of the domesticated corporation.

c. The name of the domesticated corporation may but need not be substituted for the name of the domesticating corporation in any pending proceeding.

d. The articles of incorporation and bylaws of the domesticated corporation become effective.

e. The shares of the domesticating corporation are reclassified into shares or other securities, obligations, rights to acquire shares or other securities, cash, or other property in accordance with the terms of the domestication, and the shareholders of the domesticating corporation are entitled only to the rights provided to them by those terms and to any appraisal rights they may have under the organic law of the domesticating corporation.

f. The domesticated corporation is all of the following:

(1) Incorporated under and subject to the organic law of the domesticated corporation.

(2) The same corporation without interruption as the domesticating corporation.

(3) Deemed to have been incorporated on the date the domesticating corporation was originally incorporated.

2. When a domestication of a domestic corporation into a foreign jurisdiction becomes effective, the domesticated corporation is deemed to have done all of the following:

a. Appointed the secretary of state as its agent for service of process in a proceeding to enforce the rights of shareholders who exercise appraisal rights in connection with the domestication.

b. Agreed that it will promptly pay the amount, if any, to which such shareholders are entitled under subchapter XIII.

3. Except as otherwise provided in the organic law or organic rules of a domesticating foreign corporation, the interest holder liability of a shareholder in a foreign corporation that is domesticated into this state who had interest holder liability in respect of such domesticating corporation before the domestication becomes effective shall be as follows:

a. The domestication does not discharge that prior interest holder liability with respect to any interest holder liabilities that arose before the domestication becomes effective.

b. The provisions of the organic law of the domesticating corporation shall continue to apply to the collection or discharge of any interest holder liabilities preserved by paragraph *"a"*, as if the domestication had not occurred.

c. The shareholder shall have such rights of contribution from other persons as are provided by the organic law of the domesticating corporation with respect to any interest holder liabilities preserved by paragraph *"a"*, as if the domestication had not occurred.

d. The shareholder shall not, by reason of such prior interest holder liability, have interest holder liability with respect to any interest holder liabilities that are incurred after the domestication becomes effective.

4. A shareholder who becomes subject to interest holder liability in respect of the domesticated corporation as a result of the domestication shall have such interest holder liability only in respect of interest holder liabilities that arise after the domestication becomes effective.

5. A domestication does not constitute or cause the dissolution of the domesticating corporation.

6. Property held for charitable purposes under the laws of this state by a domestic or foreign corporation immediately before a domestication shall not, as a result of the transaction, be diverted from the objects for which it was donated, granted, devised, or

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otherwise transferred except and to the extent permitted by or pursuant to the laws of this state addressing cy pres or dealing with nondiversion of charitable assets.

7. A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance which is made to the domesticating corporation and which takes effect or remains payable after the domestication inures to the domesticated corporation.

8. A trust obligation that would govern property if transferred to the domesticating corporation applies to property that is transferred to the domesticated corporation after the domestication takes effect.

2021 Acts, ch 165, §133, 230

490.925 through 490.929 Reserved.

PART 3

CONVERSION

Referred to in §490.901

490.930 Conversion.

1. By complying with this subchapter, a domestic corporation may become any of the following:

a. A domestic eligible entity.

b. A foreign eligible entity if the conversion is permitted by the organic law of the foreign entity.

2. By complying with this part and applicable provisions of its organic law, a domestic eligible entity may become a domestic corporation. If procedures for the approval of a conversion are not provided by the organic law or organic rules of a domestic eligible entity, the conversion shall be adopted and approved in the same manner as a merger of that eligible entity. If the organic law or organic rules of a domestic eligible entity do not provide procedures for the approval of either a conversion or a merger, a plan of conversion may nonetheless be adopted and approved by the unanimous consent of all the interest holders of such eligible entity. In either such case, the conversion thereafter may be effected as provided in the other provisions of this part; and for purposes of applying this subchapter in such a case all of the following apply:

a. The eligible entity, its members or interest holders, eligible interests and organic rules taken together, shall be deemed to be a domestic business corporation, shareholders, shares and articles of incorporation, respectively and vice versa, as the context may require.

b. If the business and affairs of the eligible entity are managed by a person or persons that are not identical to the members or interest holders, that person or persons shall be deemed to be the board of directors.

3. By complying with the provisions of this part applicable to foreign entities, a foreign eligible entity may become a domestic corporation if the organic law of the foreign eligible entity permits it to become a business corporation in another jurisdiction.

4. If a protected agreement of a domestic converting corporation in effect immediately before the conversion becomes effective contains a provision applying to a merger of the corporation that is a converting entity and the agreement does not refer to a conversion of the corporation, the provision applies to a conversion of the corporation as if the conversion were a merger, until such time as the provision is first amended after the enactment date.

2021 Acts, ch 165, §134, 230

Referred to in §490.901, 490.1302

490.931 Plan of conversion.

1. A domestic corporation may convert to a domestic or foreign eligible entity under this part by approving a plan of conversion. The plan of conversion must include all of the following:

a. The name of the converting corporation.

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b. The name, jurisdiction of formation, and type of entity of the converted entity.

c. The manner and basis of converting the shares of the domestic corporation into eligible interests or other securities, obligations, rights to acquire eligible interests or other securities, cash, other property, or any combination of the foregoing.

d. The other terms and conditions of the conversion.

e. The full text, as it will be in effect immediately after the conversion becomes effective, of the organic rules of the converted entity which are to be in writing.

2. In addition to the requirements of subsection 1, a plan of conversion may contain any other provision not prohibited by law.

3. The terms of a plan of conversion may be made dependent upon facts objectively ascertainable outside the plan in accordance with section 490.120, subsection 11.

2021 Acts, ch 165, §135, 230

490.932 Action on a plan of conversion.

In the case of a conversion of a domestic corporation to a domestic or foreign eligible entity, the plan of conversion shall be adopted in the following manner:

1. The plan of conversion shall first be adopted by the board of directors.

2. *a.* The plan of conversion shall then be approved by the shareholders. In submitting the plan of conversion to the shareholders for their approval, the board of directors must recommend that the shareholders approve the plan, unless any of the following applies:

(1) The board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation.

(2) Section 490.826 applies.

b. If paragraph "*a*", subparagraph (1) or (2) applies, the board of directors shall inform the shareholders of the basis for its so proceeding.

3. The board of directors may set conditions for approval of the plan of conversion by the shareholders or the effectiveness of the plan of conversion.

4. If the approval of the shareholders is to be given at a meeting, the corporation shall notify each shareholder, regardless of whether entitled to vote, of the meeting of shareholders at which the plan of conversion is to be submitted for approval. The notice must state that the purpose, or one of the purposes, of the meeting is to consider the plan of conversion and must contain or be accompanied by a copy or summary of the plan. The notice must include or be accompanied by a copy of the organic rules of the converted entity which are to be in writing as they will be in effect immediately after the conversion.

5. Unless the articles of incorporation, bylaws, or the board of directors acting pursuant to subsection 3, require a greater vote or a greater quorum, approval of the plan of conversion requires all of the following:

a. The approval of the shareholders at a meeting at which a quorum exists consisting of a majority of the votes entitled to be cast on the plan.

b. Except as provided in subsection 6, the approval of each class or series of shares voting as a separate voting group at a meeting at which a quorum of the voting group exists consisting of a majority of the votes entitled to be cast on the plan by that voting group.

6. If as a result of the conversion one or more shareholders of the converting domestic corporation would become subject to interest holder liability, approval of the plan of conversion shall require the signing in connection with the transaction, by each such shareholder, of a separate written consent to become subject to such interest holder liability.

2021 Acts, ch 165, §136, 230

Referred to in §490.901

490.933 Articles of conversion — effectiveness.

1. Articles of conversion shall be signed by the converting entity after either a plan of conversion of a domestic corporation has been adopted and approved as required by this chapter or a domestic or foreign eligible entity that is the converting entity has approved a conversion as required under its organic law. The articles of conversion must do all of the following:

a. State the name, jurisdiction of formation, and type of entity of the converting entity.

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b. State the name, jurisdiction of formation, and type of entity of the converted entity.

c. (1) If the converting entity is a domestic corporation, state that the plan of conversion was approved in accordance with this part.

(2) If the converting entity is an eligible entity, state that the conversion was approved by the eligible entity in accordance with its organic law.

(3) If the converting entity is a domestic eligible entity the organic law of which does not provide for approval of the conversion, state that the conversion was approved by the domestic eligible entity in accordance with this part.

d. (1) If the converted entity is a domestic business corporation, or a domestic nonprofit corporation or filing entity, have attached the public organic record of the converted entity, except that provisions that would not be required to be included in a restated public organic record may be omitted.

(2) If the converted entity is a domestic limited liability partnership, have attached the filing required to become a limited liability partnership.

2. If the converted entity is a domestic corporation, its articles of incorporation must satisfy the requirements of section 490.202, except that provisions that would not be required to be included in restated articles of incorporation may be omitted from the articles of incorporation. If the converted entity is a domestic eligible entity, its public organic record, if any, must satisfy the requirements of the organic law of this state, except that the public organic record does not need to be signed.

3. The articles of conversion shall be delivered to the secretary of state for filing, and shall take effect at the effective date determined in accordance with section 490.123.

4. If a converted entity is a domestic entity, the conversion becomes effective when the articles of conversion are effective. With respect to a conversion in which the converted entity is a foreign eligible entity, the conversion itself shall become effective at the later of the following:

a. The date and time provided by the organic law of that eligible entity.

b. When the articles of conversion become effective.

5. Articles of conversion under this section may be combined with any required conversion filing under the organic law of a domestic eligible entity that is the converting entity or converted entity if the combined filing satisfies the requirements of both this section and the other organic law.

6. If the converting entity is a foreign eligible entity that is registered to do business in this state under a provision of law similar to subchapter XV, its registration statement or other type of foreign qualification shall be canceled automatically on the effective date of its conversion.

2021 Acts, ch 165, §137, 230

490.934 Amendment of plan of conversion — abandonment.

1. A plan of conversion of a converting entity that is a domestic corporation may be amended in any of the following manners:

a. In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended.

b. In the manner provided in the plan, except that shareholders that were entitled to vote on or consent to approval of the plan are entitled to vote on or consent to any amendment of the plan that will change any of the following:

(1) The amount or kind of eligible interests or other securities, obligations, rights to acquire eligible interests or other securities, cash, other property, or any combination of the foregoing, to be received by any of the shareholders of the converting corporation under the plan.

(2) The organic rules of the converted entity that will be in effect immediately after the conversion becomes effective, except for changes that do not require approval of the eligible interest holders of the converted entity under its organic law or organic rules.

(3) Any other terms or conditions of the plan, if the change would adversely affect such shareholders in any material respect.

2. After a plan of conversion has been approved by a converting entity that is a domestic

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corporation in the manner required by this part and before the articles of conversion become effective, the plan may be abandoned by the corporation without action by its shareholders in accordance with any procedures set forth in the plan or, if no such procedures are set forth in the plan, in the manner determined by the board of directors.

3. If a conversion is abandoned after the articles of conversion have been delivered to the secretary of state for filing and before the articles of conversion become effective, articles of abandonment, signed by the converting entity, must be delivered to the secretary of state for filing before the articles of conversion become effective. The articles of abandonment take effect on filing, and the conversion is abandoned and does not become effective. The articles of abandonment must contain all of the following:

a. The name of the converting entity.

b. The date on which the articles of conversion were filed by the secretary of state.

c. A statement that the conversion has been abandoned in accordance with this section.

2021 Acts, ch 165, §138, 230

490.935 Effect of conversion.

1. When a conversion becomes effective all of the following shall apply:

a. All property owned by, and every contract right possessed by, the converting entity remain the property and contract rights of the converted entity without transfer, reversion, or impairment.

b. All debts, obligations, and other liabilities of the converting entity remain the debts, obligations, and other liabilities of the converted entity.

c. The name of the converted entity may but need not be substituted for the name of the converting entity in any pending action or proceeding.

d. If the converted entity is a filing entity or a domestic business corporation or a domestic or foreign nonprofit corporation, its public organic record and its private organic rules become effective.

e. If the converted entity is a nonfiling entity, its private organic rules become effective.

f. If the converted entity is a limited liability partnership, the filing required to become a limited liability partnership and its private organic rules become effective.

g. The shares or eligible interests of the converting entity are reclassified into shares, eligible interests or other securities, obligations, rights to acquire shares, eligible interests or other securities, cash, or other property in accordance with the terms of the conversion, and the shareholders or interest holders of the converting entity are entitled only to the rights provided to them by those terms and to any appraisal rights they may have under the organic law of the converting entity.

h. The converted entity is all of the following:

(1) Incorporated or organized under and subject to the organic law of the converted entity.

(2) The same entity without interruption as the converting entity.

(3) Deemed to have been incorporated or otherwise organized on the date that the converting entity was originally incorporated or organized.

2. When a conversion of a domestic corporation to a foreign eligible entity becomes effective, the converted entity is deemed to have done all of the following:

a. Appointed the secretary of state as its agent for service of process in a proceeding to enforce the rights of shareholders who exercise appraisal rights in connection with the conversion.

b. Agreed that it will promptly pay the amount, if any, to which such shareholders are entitled under subchapter XIII.

3. Except as otherwise provided in the articles of incorporation of a domestic corporation or the organic law or organic rules of a foreign corporation or a domestic or foreign eligible entity, a shareholder or eligible interest holder who becomes subject to interest holder liability in respect of a domestic corporation or eligible entity as a result of the conversion shall have such interest holder liability only in respect of interest holder liabilities that arise after the conversion becomes effective.

4. Except as otherwise provided in the organic law or the organic rules of the eligible entity, the interest holder liability of an interest holder in a converting eligible entity that

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converts to a domestic corporation who had interest holder liability in respect of such converting eligible entity before the conversion becomes effective shall be as follows:

a. The conversion does not discharge that prior interest holder liability with respect to any interest holder liabilities that arose before the conversion became effective.

b. The provisions of the organic law of the eligible entity shall continue to apply to the collection or discharge of any interest holder liabilities preserved by paragraph "*a*", as if the conversion had not occurred.

c. The eligible interest holder shall have such rights of contribution from other persons as are provided by the organic law of the eligible entity with respect to any interest holder liabilities preserved by paragraph "*a*", as if the conversion had not occurred.

d. The eligible interest holder shall not, by reason of such prior interest holder liability, have interest holder liability with respect to any interest holder liabilities that arise after the conversion becomes effective.

5. A conversion does not require the converting entity to wind up its affairs and does not constitute or cause the dissolution or termination of the entity.

6. Property held for charitable purposes under the laws of this state by a corporation or a domestic or foreign eligible entity immediately before a conversion shall not, as a result of the transaction, be diverted from the objects for which it was donated, granted, devised, or otherwise transferred except and to the extent permitted by or pursuant to the laws of this state addressing cy pres or dealing with nondiversion of charitable assets.

7. A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance which is made to the converting entity and which takes effect or remains payable after the conversion inures to the converted entity.

8. A trust obligation that would govern property if transferred to the converting entity applies to property that is transferred to the converted entity after the conversion takes effect.

2021 Acts, ch 165, §139, 230

490.936 through 490.1000 Reserved.

SUBCHAPTER X

AMENDMENT OF ARTICLES OF INCORPORATION AND BYLAWS

Referred to in §490.146, 490.148, 490.1340

PART 1

AMENDMENT OF ARTICLES OF INCORPORATION

490.1001 Amendment of articles of incorporation — authority to amend.

1. A corporation may amend its articles of incorporation at any time to add or change a provision that is required or permitted in the articles of incorporation as of the effective date of the amendment or to delete a provision that is not required to be contained in the articles of incorporation.

2. A shareholder of the corporation does not have a vested property right resulting from any provision in the articles of incorporation, including provisions relating to management, control, capital structure, dividend entitlement, or purpose or duration of the corporation.

89 Acts, ch 288, §109; 2002 Acts, ch 1154, §54, 125

490.1002 Amendment before issuance of shares.

If a corporation has not yet issued shares, its board of directors, or its incorporators if it has no board of directors, may adopt one or more amendments to the corporation's articles of incorporation.

89 Acts, ch 288, §110; 2002 Acts, ch 1154, §55, 125

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490.1003 Amendment by board of directors and shareholders.

If a corporation has issued shares, an amendment to the articles of incorporation shall be adopted in the following manner:

1. The proposed amendment shall first be adopted by the board of directors.

2. *a.* Except as provided in sections 490.1005, 490.1007, and 490.1008, the amendment shall then be approved by the shareholders. In submitting the proposed amendment to the shareholders for approval, the board of directors shall recommend that the shareholders approve the amendment, unless any of the following applies:

(1) The board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation.

(2) Section 490.826 applies.

b. If paragraph *"a"*, subparagraph (1) or (2) applies, the board must inform the shareholders of the basis for its so proceeding.

3. The board of directors may set conditions for the approval of the amendment by the shareholders or the effectiveness of the amendment.

4. If the amendment is required to be approved by the shareholders, and the approval is to be given at a meeting, the corporation shall notify each shareholder, regardless of whether entitled to vote, of the meeting of shareholders at which the amendment is to be submitted for approval. The notice must state that the purpose, or one of the purposes, of the meeting is to consider the amendment. The notice must contain or be accompanied by a copy of the amendment.

5. Unless the articles of incorporation or bylaws, or the board of directors acting pursuant to subsection 3, require a greater vote or a greater quorum, approval of the amendment requires the approval of the shareholders at a meeting at which a quorum consisting of a majority of the votes entitled to be cast on the amendment exists, and, if any class or series of shares is entitled to vote as a separate group on the amendment, except as provided in section 490.1004, subsection 3, the approval of each such separate voting group at a meeting at which a quorum of the voting group exists consisting of a majority of the votes entitled to be cast on the amendment by that voting group.

6. *a.* If as a result of an amendment of the articles of incorporation one or more shareholders of a domestic corporation would become subject to new interest holder liability, approval of the amendment requires the signing in connection with the amendment, by each such shareholder, of a separate written consent to become subject to such new interest holder liability.

b. Paragraph *"a"* does not apply in the case of a shareholder that already has interest holder liability and the terms and conditions of the new interest holder liability are any of the following:

(1) Substantially identical to those of the existing interest holder liability.

(2) Substantially identical to those of the existing interest holder liability, other than changes that eliminate or reduce such interest holder liability.

7. As used in subsection 6 and section 490.1009, *"new interest holder liability"* means interest holder liability of a person resulting from an amendment of the articles of incorporation if any of the following applies:

a. The person did not have interest holder liability before the amendment becomes effective.

b. The person had interest holder liability before the amendment becomes effective, the terms and conditions of which are changed when the amendment becomes effective.

89 Acts, ch 288, §111; 2002 Acts, ch 1154, §56, 125; 2002 Acts, ch 1175, §90; 2013 Acts, ch 31, §45, 82; 2021 Acts, ch 165, §140, 230

Referred to in §490.1004, 490.1007

490.1004 Voting on amendments by voting groups.

1. The holders of the outstanding shares of a class are entitled to vote as a separate voting group, if shareholder voting is otherwise required by this chapter, on a proposed amendment to the articles of incorporation if the amendment would do any of the following:

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a. Effect an exchange or reclassification of all or part of the shares of the class into shares of another class.

b. Effect an exchange or reclassification, or create the right of exchange, of all or part of the shares of another class into shares of the class.

c. Change the rights, preferences, or limitations of all or part of the shares of the class.

d. Change the shares of all or part of the class into a different number of shares of the same class.

e. Create a new class of shares having rights or preferences with respect to distributions that are prior or superior to the shares of the class.

f. Increase the rights, preferences, or number of authorized shares of any class that, after giving effect to the amendment, have rights or preferences with respect to distributions that are prior or superior to the shares of the class.

g. Limit or deny an existing preemptive right of all or part of the shares of the class.

h. Cancel or otherwise affect rights to distributions that have accumulated but not yet been authorized on all or part of the shares of the class.

2. If a proposed amendment would affect a series of a class of shares in one or more of the ways described in subsection 1, the holders of shares of that series are entitled to vote as a separate voting group on the proposed amendment.

3. If a proposed amendment that entitles the holders of two or more classes or series of shares to vote as separate voting groups under this section would affect those two or more classes or series in the same or a substantially similar way, the holders of shares of all the classes or series so affected shall vote together as a single voting group on the proposed amendment, unless otherwise provided in the articles of incorporation or added as a condition by the board of directors pursuant to section 490.1003, subsection 3.

4. A class or series of shares is entitled to the voting rights granted by this section even if the articles of incorporation provide that the shares are nonvoting shares.

89 Acts, ch 288, §112; 2002 Acts, ch 1154, §57, 125; 2021 Acts, ch 165, §141, 230
Referred to in §490.725, 490.921, 490.1003, 490.1104

490.1005 Amendment by board of directors.

Unless the articles of incorporation provide otherwise, a corporation's board of directors may adopt amendments to the corporation's articles of incorporation without shareholder approval for any of the following purposes:

1. To extend the duration of the corporation if it was incorporated at a time when limited duration was required by law.

2. To delete the names and addresses of the initial directors.

3. To delete the name and address of the initial registered agent or registered office, if a statement of change is on file with the secretary of state.

4. If the corporation has only one class of shares outstanding:

a. To change each issued and unissued authorized share of the class into a greater number of whole shares of that class.

b. To increase the number of authorized shares of the class to the extent necessary to permit the issuance of shares as a share dividend.

5. To change the corporate name by substituting the word "corporation", "incorporated", "company", "limited", or the abbreviation "corp.", "inc.", "co.", or "ltd.", for a similar word or abbreviation in the name, or by adding, deleting, or changing a geographical attribution for the name.

6. To reflect a reduction in authorized shares, as a result of the operation of section 490.631, subsection 2, when the corporation has acquired its own shares and the articles of incorporation prohibit the reissue of the acquired shares.

7. To delete a class of shares from the articles of incorporation, as a result of the operation of section 490.631, subsection 2, when there are no remaining shares of the class because the corporation has acquired all shares of the class and the articles of incorporation prohibit the reissue of the acquired shares.

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8. To make any change expressly permitted by section 490.602, subsection 1 or 2, to be made without shareholder approval.

89 Acts, ch 288, §113; 2002 Acts, ch 1154, §58, 125; 2007 Acts, ch 140, §7
Referred to in §490.1003, 490.1102, 490.1104

490.1005A Public corporation — amendment by board of directors. Repealed by its own terms; 2018 Acts, ch 1015, §7.

490.1006 Articles of amendment.

1. After an amendment to the articles of incorporation has been adopted and approved in the manner required by this chapter and by the articles of incorporation, the corporation shall deliver to the secretary of state, for filing, articles of amendment, which must set forth all of the following:

a. The name of the corporation.

b. The text of each amendment adopted, or the information required by section 490.120, subsection 11, paragraph *"e"*.

c. If an amendment provides for an exchange, reclassification, or cancellation of issued shares, provisions for implementing the amendment, if not contained in the amendment itself, which may be made dependent upon facts objectively ascertainable outside the articles of amendment in accordance with section 490.120, subsection 11, paragraph *"e"*.

d. The date of each amendment's adoption.

e. For an amendment, the following:

(1) If it was adopted by the incorporators or board of directors without shareholder approval, a statement that the amendment was duly adopted by the incorporators or by the board of directors, as the case may be, and that shareholder approval was not required.

(2) If it required approval by the shareholders, a statement that the amendment was duly approved by the shareholders in the manner required by this chapter and by the articles of incorporation.

(3) If being filed pursuant to section 490.120, subsection 11, paragraph *"e"*, a statement to that effect.

2. Articles of amendment shall take effect at the effective date determined in accordance with section 490.123.

89 Acts, ch 288, §114; 2002 Acts, ch 1154, §59, 125; 2007 Acts, ch 140, §8; 2021 Acts, ch 165, §142, 230
Referred to in §490.1007

490.1007 Restated articles of incorporation.

1. A corporation's board of directors may restate its articles of incorporation at any time, without shareholder approval, to consolidate all amendments into a single document.

2. If the restated articles include one or more new amendments that require shareholder approval, the amendments shall be adopted and approved as provided in section 490.1003.

3. A corporation that restates its articles of incorporation shall deliver to the secretary of state for filing articles of restatement setting forth all of the following:

a. The name of the corporation.

b. The text of the restated articles of incorporation.

c. A statement that the restated articles consolidate all amendments into a single document.

d. If a new amendment is included in the restated articles, the statements required under section 490.1006 with respect to the new amendment.

4. Duly adopted restated articles of incorporation supersede the original articles of incorporation and all amendments to the articles of incorporation.

5. The secretary of state may certify restated articles of incorporation as the articles of incorporation currently in effect, without including the statements required by subsection 3, paragraph *"d"*.

89 Acts, ch 288, §115; 2002 Acts, ch 1154, §60, 125; 2021 Acts, ch 165, §143, 230
Referred to in §490.1003

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490.1008 Amendment pursuant to reorganization.

1. A corporation's articles of incorporation may be amended without action by the board of directors or shareholders to carry out a plan of reorganization ordered or decreed by a court of competent jurisdiction under the authority of law of the United States.

2. The individual or individuals designated by the court shall deliver to the secretary of state for filing articles of amendment setting forth all of the following:

a. The name of the corporation.

b. The text of each amendment approved by the court.

c. The date of the court's order or decree approving the articles of amendment.

d. The title of the reorganization proceeding in which the order or decree was entered.

e. A statement that the court had jurisdiction of the proceeding under federal statute.

3. This section does not apply after entry of a final decree in the reorganization proceeding even though the court retains jurisdiction of the proceeding for limited purposes unrelated to consummation of the reorganization plan.

89 Acts, ch 288, §116; 2002 Acts, ch 1154, §61, 125
Referred to in §490.1003

490.1009 Effect of amendment.

1. An amendment to the articles of incorporation does not affect a cause of action existing against or in favor of the corporation, a proceeding to which the corporation is a party, or the existing rights of persons other than the shareholders. An amendment changing a corporation's name does not affect a proceeding brought by or against the corporation in its former name.

2. A shareholder who becomes subject to new interest holder liability in respect of the corporation as a result of an amendment to the articles of incorporation shall have that new interest holder liability only in respect of interest holder liabilities that arise after the amendment becomes effective.

3. Except as otherwise provided in the articles of incorporation of the corporation, the interest holder liability of a shareholder who had interest holder liability in respect of the corporation before the amendment becomes effective and has new interest holder liability after the amendment becomes effective shall be as follows:

a. The amendment does not discharge that prior interest holder liability with respect to any interest holder liabilities that arose before the amendment becomes effective.

b. The provisions of the articles of incorporation of the corporation relating to interest holder liability as in effect immediately prior to the amendment shall continue to apply to the collection or discharge of any interest holder liabilities preserved by paragraph *"a"*, as if the amendment had not occurred.

c. The shareholder shall have such rights of contribution from other persons as are provided by the articles of incorporation relating to interest holder liability as in effect immediately prior to the amendment with respect to any interest holder liabilities preserved by paragraph *"a"*, as if the amendment had not occurred.

d. The shareholder shall not, by reason of such prior interest holder liability, have interest holder liability with respect to any interest holder liabilities that arise after the amendment becomes effective.

89 Acts, ch 288, §117; 2002 Acts, ch 1154, §62, 125; 2021 Acts, ch 165, §144, 230
Referred to in §490.1003

490.1010 through 490.1019 Reserved.

PART 2

AMENDMENT OF BYLAWS

490.1020 Authority to amend.

1. A corporation's shareholders may amend or repeal the corporation's bylaws.

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2. A corporation's board of directors may amend or repeal the corporation's bylaws unless any of the following apply:

a. The articles of incorporation, section 490.1021, or, if applicable, section 490.1022, reserve that power exclusively to the shareholders in whole or part.

b. Except as provided in section 490.206, subsection 4, the shareholders in amending, repealing, or adopting a bylaw expressly provide that the board of directors shall not amend, repeal, or adopt that bylaw.

3. A shareholder of the corporation does not have a vested property right resulting from any provision in the bylaws.

89 Acts, ch 288, §118; 2002 Acts, ch 1154, §63, 125; 2021 Acts, ch 165, §145, 230
Referred to in §490.206

490.1021 Bylaw increasing quorum or voting requirement for directors.

1. A bylaw that increases a quorum or voting requirement for the board of directors or that requires a meeting of shareholders to be held at a place may be amended or repealed as follows:

a. If originally adopted by the shareholders, only by the shareholders, unless the bylaw otherwise provides.

b. If adopted by the board of directors, either by the shareholders or by the board of directors.

2. A bylaw adopted or amended by the shareholders that increases a quorum or voting requirement for the board of directors may provide that it can be amended or repealed only by a specified vote of either the shareholders or the board of directors.

3. Action by the board of directors under subsection 1 to amend or repeal a bylaw that changes a quorum or voting requirement for the board of directors shall meet the same quorum requirement and be adopted by the same vote required to take action under the quorum and voting requirement then in effect or proposed to be adopted, whichever is greater.

89 Acts, ch 288, §119; 2002 Acts, ch 1154, §64, 125; 2021 Acts, ch 165, §146, 230
Referred to in §490.1020

490.1022 Bylaw provisions relating to the election of directors.

1. Unless the articles of incorporation specifically prohibit the adoption of a bylaw pursuant to this section, alter the vote specified in section 490.728, subsection 1, or provide for cumulative voting, a corporation may elect in its bylaws to be governed in the election of directors as follows:

a. Each vote entitled to be cast may be voted for or against up to that number of candidates that is equal to the number of directors to be elected, or a shareholder may indicate an abstention, but without cumulating the votes.

b. To be elected, a nominee shall have received a plurality of the votes cast by holders of shares entitled to vote in the election at a meeting at which a quorum is present, provided that a nominee who is elected but receives more votes against than for election shall serve as a director for a term that shall terminate on the date that is the earlier of the following:

(1) (a) Ninety days from the date on which the voting results are determined pursuant to section 490.729, subsection 2, paragraph *"e"*.

(b) The date on which an individual is selected by the board of directors to fill the office held by such director, which selection shall be deemed to constitute the filling of a vacancy by the board to which section 490.810 applies.

(2) Subject to paragraph "*c*" of this subsection, a nominee who is elected but receives more votes against than for election shall not serve as a director beyond the ninety-day period provided in subparagraph (1), subparagraph division (a).

c. The board of directors may select any qualified individual to fill the office held by a director who received more votes against than for election.

2. *a.* Subsection 1 does not apply to an election of directors by a voting group if any of the fo1lowing applies:

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(1) At the expiration of the time fixed under a provision requiring advance notification of director candidates.

(2) Absent such a provision, at a time fixed by the board of directors which is not more than fourteen days before notice is given of the meeting at which the election is to occur, there are more candidates for election by the voting group than the number of directors to be elected, one or more of whom are properly proposed by shareholders.

b. An individual shall not be considered a candidate for purposes of paragraph *"a"*, if the board of directors determines before the notice of meeting is given that such individual's candidacy does not create a bona fide election contest.

3. A bylaw electing to be governed by this section may be repealed under any of the following circumstances:

a. If originally adopted by the shareholders, only by the shareholders, unless the bylaw otherwise provides.

b. If adopted by the board of directors, by the board of directors or the shareholders.

2021 Acts, ch 165, §147, 230

Referred to in §490.805, 490.1020

490.1023 through 490.1100 Reserved.

SUBCHAPTER XI

MERGERS AND SHARE EXCHANGES

Referred to in §15E.208, 490.1340, 499.69A

490.1101 Subchapter definitions.

As used in this subchapter:

1. *"Acquired entity"* means the domestic or foreign corporation or eligible entity that will have all of one or more classes or series of its shares or eligible interests acquired in a share exchange.

2. *"Acquiring entity"* means the domestic or foreign corporation or eligible entity that will acquire all of one or more classes or series of shares or eligible interests of the acquired entity in a share exchange.

3. *"New interest holder liability"* means interest holder liability of a person, resulting from a merger or share exchange, that is any of the following:

a. In respect of an entity which is different from the entity in which the person held shares or eligible interests immediately before the merger or share exchange became effective.

b. In respect of the same entity as the one in which the person held shares or eligible interests immediately before the merger or share exchange became effective if any of the following apply:

(1) The person did not have interest holder liability immediately before the merger or share exchange became effective.

(2) The person had interest holder liability immediately before the merger or share exchange became effective, the terms and conditions of which were changed when the merger or share exchange became effective.

4. *"Party to a merger"* means any domestic or foreign corporation or eligible entity that will merge under a plan of merger but does not include a survivor created by the merger.

5. *"Survivor"* in a merger means the domestic or foreign corporation or eligible entity into which one or more other corporations or eligible entities are merged.

89 Acts, ch 288, §121; 97 Acts, ch 117, §3; 97 Acts, ch 171, §12; 2002 Acts, ch 1154, §65, 125; 2008 Acts, ch 1162, §117, 155; 2019 Acts, ch 24, §104; 2021 Acts, ch 165, §148, 230

490.1102 Merger.

1. By complying with this subchapter, all of the following apply:

a. One or more domestic business corporations may merge with one or more domestic or foreign business corporations or eligible entities pursuant to a plan of merger, resulting in a survivor.

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b. Two or more foreign business corporations or domestic or foreign eligible entities may merge, resulting in a survivor that is a domestic business corporation created in the merger.

2. By complying with the provisions of this subchapter applicable to foreign entities, a foreign business corporation or a foreign eligible entity may be a party to a merger with a domestic business corporation, or may be created as the survivor in a merger in which a domestic business corporation is a party, but only if the merger is permitted by the organic law of the foreign business corporation or eligible entity.

3. If the organic law or organic rules of a domestic eligible entity do not provide procedures for the approval of a merger, a plan of merger may nonetheless be adopted and approved by the unanimous consent of all of the interest holders of such eligible entity, and the merger may thereafter by effected as provided in the other provisions of this subchapter; and for the purposes of applying this subchapter in such a case all of the following shall apply:

a. The eligible entity, its members or interest holders, eligible interests and articles of incorporation or other organic rules taken together shall be deemed to be a domestic business corporation, shareholders, shares and articles of incorporation, respectively and vice versa as the context may require.

b. If the business and affairs of the eligible entity are managed by a person or persons that are not identical to the members or interest holders, that group shall be deemed to be the board of directors.

4. The plan of merger must include all of the following:

a. As to each party to the merger, its name, jurisdiction of formation, and type of entity.

b. The survivor's name, jurisdiction of formation, and type of entity, and, if the survivor is to be created in the merger, a statement to that effect.

c. The terms and conditions of the merger.

d. The manner and basis of converting the shares of each merging domestic or foreign business corporation and eligible interests of each merging domestic or foreign eligible entity into shares or other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, other property, or any combination of the foregoing.

e. The articles of incorporation of any domestic or foreign business or nonprofit corporation, or the public organic record of any domestic or foreign unincorporated entity, to be created by the merger, or if a new domestic or foreign business or nonprofit corporation or unincorporated entity is not to be created by the merger, any amendments to the survivor's articles of incorporation or other public organic record.

f. Any other provisions required by the laws under which any party to the merger is organized or by which it is governed, or by the articles of incorporation or organic rules of any such party.

5. In addition to the requirements of subsection 4, a plan of merger may contain any other provision not prohibited by law.

6. Terms of a plan of merger may be made dependent on facts objectively ascertainable outside the plan in accordance with section 490.120, subsection 11.

7. A plan of merger may be amended only with the consent of each party to the merger, except as provided in the plan. A domestic party to a merger may approve an amendment to a plan in any of the following manners:

a. In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended.

b. In the manner provided in the plan, except that shareholders, members, or interest holders that were entitled to vote on or consent to approval of the plan are entitled to vote on or consent to any amendment of the plan that will change any of the following:

(1) The amount or kind of shares or other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, or other property to be received under the plan by the shareholders, members, or interest holders of any party to the merger.

(2) The articles of incorporation of any domestic or foreign business or nonprofit corporation, or the organic rules of any unincorporated entity, that will be the survivor of the merger, except for changes permitted by section 490.1005 or by comparable provisions of

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the organic law of any such foreign corporation or domestic or foreign nonprofit corporation or unincorporated entity.

(3) Any of the other terms or conditions of the plan if the change would adversely affect such shareholders, members, or interest holders in any material respect.

89 Acts, ch 288, §122; 97 Acts, ch 117, §4; 2002 Acts, ch 1154, §66, 125; 2007 Acts, ch 140, §9; 2021 Acts, ch 165, §149, 230

Referred to in §490.140, 490.1106, 499.69A, 508B.2, 515G.2

490.1103 Share exchange.

1. By complying with this subchapter all of the following apply:

a. A domestic corporation may acquire all of the shares of one or more classes or series of shares of another domestic or foreign corporation, or all of the eligible interests of one or more classes or series of interests of a domestic or foreign eligible entity, in exchange for shares or other securities, eligible interests, obligations, rights to acquire shares or other securities or eligible interests, cash, other property, or any combination of the foregoing, pursuant to a plan of share exchange.

b. All of the shares of one or more classes or series of shares of a domestic corporation may be acquired by another domestic or foreign corporation or eligible entity, in exchange for shares or other securities, eligible interests, obligations, rights to acquire shares or other securities or eligible interests, cash, other property, or any combination of the foregoing, pursuant to a plan of share exchange.

2. A foreign corporation or eligible entity may be the acquired entity in a share exchange only if the share exchange is permitted by the organic law of that corporation or other entity.

3. If the organic law or organic rules of a domestic eligible entity do not provide procedures for the approval of a share exchange, a plan of share exchange may be adopted and approved, and the share exchange effected, in accordance with the procedures, if any, for a merger. If the organic law or organic rules of a domestic eligible entity do not provide procedures for the approval of either a share exchange or a merger, a plan of share exchange may nonetheless be adopted and approved by the unanimous consent of all of the interest holders of such eligible entity whose interests will be exchanged under the plan of share exchange, and the share exchange may thereafter be effected as provided in the other provisions of this subchapter; and for purposes of applying this subchapter in such a case all of the following apply:

a. The eligible entity, its interest holders, interests, and articles of incorporation or other organic rules taken together shall be deemed to be a domestic business corporation, shareholders, shares and articles of incorporation, respectively and vice versa as the context may require.

b. If the business and affairs of the eligible entity are managed by a person or persons that are not identical to the members or interest holders, that person or those persons shall be deemed to be the board of directors.

4. The plan of share exchange must include all of the following:

a. The name of each domestic or foreign corporation or other eligible entity the shares or eligible interests of which will be acquired and the name of the domestic or foreign corporation or eligible entity that will acquire those shares or eligible interests.

b. The terms and conditions of the share exchange.

c. The manner and basis of exchanging shares of a domestic or foreign corporation or eligible interests in a domestic or foreign eligible entity the shares or eligible interests of which will be acquired under the share exchange for shares or other securities, eligible interests, obligations, rights to acquire shares, other securities, or eligible interests, cash, other property, or any combination of the foregoing.

d. Any other provisions required by the organic law governing the acquired entity or its articles of incorporation or organic rules.

5. The terms of a plan of share exchange may be made dependent on facts objectively ascertainable outside the plan in accordance with section 490.120, subsection 11.

6. A plan of share exchange may be amended only with the consent of each party to

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the share exchange, except as provided in the plan. A domestic entity may approve an amendment to a plan in any of the following manners:

a. In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended.

b. In the manner provided in the plan, except that shareholders, members, or interest holders that were entitled to vote on or consent to approval of the plan are entitled to vote on or consent to any amendment of the plan that will change any of the following:

(1) The amount or kind of shares or other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, or other property to be received under the plan by the shareholders, members, or interest holders of the acquired entity.

(2) Any of the other terms or conditions of the plan if the change would adversely affect such shareholders, members, or interest holders in any material respect.

89 Acts, ch 288, §123; 2002 Acts, ch 1154, §67, 125; 2007 Acts, ch 140, §10; 2021 Acts, ch 165, §150, 230

Referred to in §490.140, 490.1106

490.1104 Action on a plan of merger or share exchange.

In the case of a domestic corporation that is a party to a merger or the acquired entity in a share exchange, the plan of merger or share exchange shall be adopted in the following manner:

1. The plan of merger or share exchange shall first be adopted by the board of directors.

2. *a.* Except as provided in subsections 8, 10, and 12, and in section 490.1105, the plan of merger or share exchange shall then be approved by the shareholders. In submitting the plan of merger or share exchange to the shareholders for approval, the board of directors shall recommend that the shareholders approve the plan, or, in the case of an offer referred to in subsection 10, paragraph *"b"*, that the shareholders tender their shares to the offeror in response to the offer, unless any of the following apply:

(1) The board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation.

(2) Section 490.826 applies.

b. If either paragraph *"a"*, subparagraph (1) or (2), applies, the board shall inform the shareholders of the basis for its so proceeding.

3. The board of directors may set conditions for the approval of the plan of merger or share exchange by the shareholders or the effectiveness of the plan of merger or share exchange.

4. If the plan of merger or share exchange is required to be approved by the shareholders, and if the approval is to be given at a meeting, the corporation shall notify each shareholder, regardless of whether entitled to vote, of the meeting of shareholders at which the plan is to be submitted for approval. The notice must state that the purpose, or one of the purposes, of the meeting is to consider the plan and must contain or be accompanied by a copy or summary of the plan. If the corporation is to be merged into an existing foreign or domestic corporation or eligible entity, the notice must also include or be accompanied by a copy or summary of the articles of incorporation and bylaws or the organic rules of that corporation or eligible entity. If the corporation is to be merged with a domestic or foreign corporation or eligible entity and a new domestic or foreign corporation or eligible entity is to be created pursuant to the merger, the notice must include or be accompanied by a copy or a summary of the articles of incorporation and bylaws or the organic rules of the new corporation or eligible entity.

5. Unless the articles of incorporation, bylaws, or the board of directors acting pursuant to subsection 3, require a greater vote or a greater quorum, approval of the plan of merger or share exchange requires the approval of the shareholders at a meeting at which a quorum exists consisting of a majority of the votes entitled to be cast on the plan, and, if any class or series of shares is entitled to vote as a separate group on the plan of merger or share exchange, the approval of each such separate voting group at a meeting at which a quorum of the voting group is present consisting of a majority of the votes entitled to be cast on the merger or share exchange by that voting group.

6. Subject to subsection 7, separate voting by voting groups is required for each of the following:

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a. On a plan of merger, by each class or series of shares that are any of the following:

(1) To be converted under the plan of merger into shares, other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, other property, or any combination of the foregoing.

(2) Entitled to vote as a separate group on a provision in the plan that constitutes a proposed amendment to the articles of incorporation of a surviving corporation that requires action by separate voting groups under section 490.1004.

b. On a plan of share exchange, by each class or series of shares included in the exchange, with each class or series constituting a separate voting group.

c. On a plan of merger or share exchange, if the voting group is entitled under the articles of incorporation to vote as a voting group to approve a plan of merger or share exchange, respectively.

7. The articles of incorporation may expressly limit or eliminate the separate voting rights provided in subsection 6, paragraph *"a"*, subparagraph (1), and subsection 6, paragraph *"b"*, as to any class or series of shares, except when all of the following apply:

a. The plan of merger or share exchange includes what is or would be in effect an amendment subject to subsection 6, paragraph *"a"*, subparagraph (2).

b. The plan of merger or share exchange will not effect a substantive business combination.

8. Unless the articles of incorporation otherwise provide, approval by the corporation's shareholders of a plan of merger is not required if all of the following conditions are satisfied:

a. The corporation will survive the merger.

b. Except for amendments permitted by section 490.1005, its articles of incorporation will not be changed.

c. Each shareholder of the corporation whose shares were outstanding immediately before the effective date of the merger or share exchange will hold the same number of shares, with identical preferences, rights, and limitations, immediately after the effective date of the merger.

d. The issuance in the merger of shares or other securities convertible into or rights exercisable for shares does not require a vote under section 490.621, subsection 6.

9. *a.* If, as a result of a merger or share exchange, one or more shareholders of a domestic corporation would become subject to new interest holder liability, approval of the plan of merger or share exchange requires the signing in connection with the transaction, by each such shareholder, of a separate written consent to become subject to such new interest holder liability.

b. Paragraph *"a"* does not apply in the case of a shareholder that already has interest holder liability with respect to such domestic corporation, if all of the following apply:

(1) The new interest holder liability is with respect to a domestic or foreign corporation, which may be a different or the same domestic corporation in which the person is a shareholder.

(2) The terms and conditions of the new interest holder liability are substantially identical to those of the existing interest holder liability, other than for changes that eliminate or reduce such interest holder liability.

10. Unless the articles of incorporation otherwise provide, approval by the shareholders of a plan of merger or share exchange is not required if all of the following apply:

a. The plan of merger or share exchange expressly permits or requires the merger or share exchange to be effected under this subsection and provides that, if the merger or share exchange is to be effected under this subsection, the merger or share exchange will be effected as soon as practicable following the satisfaction of the requirement set forth in paragraph *"f"*.

b. Another party to the merger, the acquiring entity in the share exchange, or a parent of another party to the merger or the acquiring entity in the share exchange, makes an offer to purchase, on the terms provided in the plan of merger or share exchange, any and all of the outstanding shares of the corporation that, absent this subsection, would be entitled to vote on the plan of merger or share exchange, except that the offer may exclude shares of the

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corporation that are owned at the commencement of the offer by the corporation, the offeror, or any parent of the offeror, or by any wholly owned subsidiary of any of the foregoing.

c. The offer discloses that the plan of merger or share exchange provides that the merger or share exchange will be effected as soon as practicable following the satisfaction of the requirement set forth in paragraph *"f"* and that the shares of the corporation that are not tendered in response to the offer will be treated as set forth in paragraph *"h"*.

d. The offer remains open for at least ten days.

e. The offeror purchases all shares properly tendered in response to the offer and not properly withdrawn.

f. The shares listed below are collectively entitled to cast at least the minimum number of votes on the merger or share exchange that, absent this subsection, would be required by this subchapter and by the articles of incorporation for the approval of the merger or share exchange by the shareholders and by any other voting group entitled to vote on the merger or share exchange at a meeting at which all shares entitled to vote on the approval were present and voted:

(1) Shares purchased by the offeror in accordance with the offer.

(2) Shares otherwise owned by the offeror or by any parent of the offeror or any wholly owned subsidiary of any of the foregoing.

(3) Shares subject to an agreement that they are to be transferred, contributed, or delivered to the offeror, any parent of the offeror, or any wholly owned subsidiary of any of the foregoing in exchange for shares or eligible interests in such offeror, parent, or subsidiary.

g. The offeror or a wholly owned subsidiary of the offeror merges with or into, or effects a share exchange in which it acquires shares of, the corporation.

h. Each outstanding share of each class or series of shares of the corporation that the offeror is offering to purchase in accordance with the offer, and that is not purchased in accordance with the offer, is to be converted in the merger into, or into the right to receive, or is to be exchanged in the share exchange for, or for the right to receive, the same amount and kind of securities, eligible interests, obligations, rights, cash, or other property to be paid or exchanged in accordance with the offer for each share of that class or series of shares that is tendered in response to the offer, except that shares of the corporation that are owned by the corporation or that are described in paragraph *"f"*, subparagraph (2) or (3), need not be converted into or exchanged for the consideration described in this paragraph *"h"*.

11. As used in subsection 10:

a. *"Offer"* means the offer referred to in subsection 10, paragraph *"b"*.

b. *"Offeror"* means the person making the offer.

c. *"Parent"* of an entity means a person that owns, directly or indirectly, through one or more wholly owned subsidiaries, all of the outstanding shares of or eligible interests in that entity.

d. Shares tendered in response to the offer shall be deemed to have been "purchased" in accordance with the offer at the earliest time as of which the following applies:

(1) The offeror has irrevocably accepted those shares for payment.

(2) Either of the following applies:

(a) In the case of shares represented by certificates, the offeror, or the offeror's designated depository or other agent, has physically received the certificates representing those shares.

(b) In the case of shares without certificates, those shares have been transferred into the account of the offeror or its designated depository or other agent, or an agent's message relating to those shares has been received by the offeror or its designated depository or other agent.

e. *"Wholly owned subsidiary"* of a person means an entity of or in which that person owns, directly or indirectly, through one or more wholly owned subsidiaries, all of the outstanding shares or eligible interests.

12. Unless the articles of incorporation otherwise provide, all of the following applies:

a. Approval of a plan of share exchange by the shareholders of a domestic corporation is not required if the corporation is the acquiring entity in the share exchange.

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b. Shares not to be exchanged under the plan of share exchange are not entitled to vote on the plan.

89 Acts, ch 288, §124; 2002 Acts, ch 1154, §68, 125; 2013 Acts, ch 31, §46, 82; 2021 Acts, ch 165, §151, 230

Referred to in §490.1105, 490.1302, 490.1320, 490.1321, 508B.2, 515G.2, 524.1402

490.1105 Merger between parent and subsidiary or between subsidiaries.

1. A domestic or foreign parent entity that owns shares of a domestic corporation which carry at least ninety percent of the voting power of each class and series of the outstanding shares of the subsidiary that has voting power may do any of the following:

a. Merge the subsidiary into itself, if it is a domestic or foreign corporation or eligible entity, or into another domestic or foreign corporation or eligible entity in which the parent entity owns at least ninety percent of the voting power of each class and series of the outstanding shares or eligible interests which have voting power.

b. Merge itself, if it is a domestic or foreign corporation or eligible entity, into such subsidiary, in either case without the approval of the board of directors or shareholders of the subsidiary, unless the articles of incorporation or organic rules of the parent entity or the articles of incorporation of the subsidiary corporation otherwise provide.

c. Section 490.1104, subsection 9, applies to a merger under this section. The articles of merger relating to a merger under this section do not need to be signed by the subsidiary.

2. A parent entity shall, within ten days after the effective date of a merger approved under subsection 1, notify each of the subsidiary's shareholders that the merger has become effective.

3. Except as provided in subsections 1 and 2, a merger between a parent entity and a domestic subsidiary corporation shall be governed by the provisions of this subchapter applicable to mergers generally.

89 Acts, ch 288, §125; 2002 Acts, ch 1154, §69, 125; 2019 Acts, ch 24, §104; 2021 Acts, ch 165, §152, 230

Referred to in §490.1104, 490.1106, 490.1110, 490.1301, 490.1302, 490.1320, 490.1322, 524.1408

490.1106 Articles of merger or share exchange.

1. After a plan of merger has been adopted and approved as required by this chapter, or if the merger is being effected under section 490.1102, subsection 1, paragraph *"b"*, the merger has been approved as required by the organic law governing the parties to the merger, then articles of merger shall be signed by each party to the merger except as provided in section 490.1105, subsection 1. The articles must set forth all of the following:

a. The name, jurisdiction of formation, and type of entity of each party to the merger.

b. The name, jurisdiction of formation, and type of entity of the survivor.

c. If the survivor of the merger is a domestic corporation and its articles of incorporation are amended, or if a new domestic corporation is created as a result of the merger, any of the following:

(1) The amendments to the survivor's articles of incorporation.

(2) The articles of incorporation of the new corporation.

d. If the survivor of the merger is a domestic eligible entity and its public organic record is amended, or if a new domestic eligible entity is created as a result of the merger, any of the following:

(1) The amendments to the public organic record of the survivor.

(2) The public organic record, if any, of the new eligible entity.

e. If the plan of merger required approval by the shareholders of a domestic corporation that is a party to the merger, a statement that the plan was duly approved by the shareholders and, if voting by any separate voting group was required, by each such separate voting group, in the manner required by this chapter and the articles of incorporation.

f. If the plan of merger or share exchange did not require approval by the shareholders of a domestic corporation that is a party to the merger, a statement to that effect.

g. As to each foreign corporation that is a party to the merger, a statement that the participation of the foreign corporation was duly authorized as required by its organic law.

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h. As to each domestic or foreign eligible entity that is a party to the merger, a statement that the merger was approved in accordance with its organic law or section 490.1102, subsection 3.

i. If the survivor is created by the merger and is a domestic limited liability partnership, the filing required to become a limited liability partnership, as an attachment.

2. After a plan of share exchange in which the acquired entity is a domestic corporation or eligible entity has been adopted and approved as required by this chapter, articles of share exchange shall be signed by the acquired entity and the acquiring entity. The articles shall set forth all of the following:

a. The name of the acquired entity.

b. The name, jurisdiction of formation, and type of entity of the domestic or foreign corporation or eligible entity that is the acquiring entity.

c. A statement that the plan of share exchange was duly approved by the acquired entity by all of the following:

(1) The required vote or consent of each class or series of shares or eligible interests included in the exchange.

(2) The required vote or consent of each other class or series of shares or eligible interests entitled to vote on approval of the exchange by the articles of incorporation or organic rules of the acquired entity or section 490.1103, subsection 3.

3. In addition to the requirements of subsection 1 or 2, articles of merger or share exchange may contain any other provision not prohibited by law.

4. The articles of merger or share exchange shall be delivered to the secretary of state for filing and, subject to subsection 5, the merger or share exchange shall take effect on the effective date determined in accordance with section 490.123.

5. With respect to a merger in which one or more foreign entities is a party or a foreign entity created by the merger is the survivor, the merger itself shall become effective at the later of the following:

a. When all documents required to be filed in foreign jurisdictions to effect the merger have become effective.

b. When the articles of merger take effect.

6. Articles of merger filed under this section may be combined with any filing required under the organic law governing any domestic eligible entity involved in the transaction if the combined filing satisfies the requirements of both this section and the other organic law.

89 Acts, ch 288, §126; 2002 Acts, ch 1154, §70, 125; 2013 Acts, ch 31, §47, 82; 2021 Acts, ch 165, §153, 230

Referred to in §499.69A

490.1107 Effect of merger or share exchange.

1. When a merger becomes effective, all of the following apply:

a. The domestic or foreign corporation or eligible entity that is designated in the plan of merger as the survivor continues or comes into existence, as the case may be.

b. The separate existence of every domestic or foreign corporation or eligible entity that is a party to the merger, other than the survivor, ceases.

c. All property owned by, and every contract right possessed by, each domestic or foreign corporation or eligible entity that is a party to the merger, other than the survivor, are the property and contract rights of the survivor without transfer, reversion, or impairment.

d. All debts, obligations, and other liabilities of each domestic or foreign corporation or eligible entity that is a party to the merger, other than the survivor, are debts, obligations, or liabilities of the survivor.

e. The name of the survivor may, but need not be, substituted in any pending proceeding for the name of any party to the merger whose separate existence ceased in the merger.

f. If the survivor is a domestic entity, the articles of incorporation and bylaws or the organic rules of the survivor are amended to the extent provided in the plan of merger.

g. The articles of incorporation and bylaws or the organic rules of a survivor that is a domestic entity and is created by the merger become effective.

h. The shares of each domestic or foreign corporation that is a party to the merger, and

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the eligible interests in an eligible entity that is a party to a merger, that are to be converted in accordance with the terms of the merger into shares, or other securities, eligible interests, obligations, rights to acquire shares, other securities, or eligible interests, cash, other property, or any combination of the foregoing, are converted, and the former holders of such shares or eligible interests are entitled only to the rights provided to them by those terms or to any rights they may have under subchapter XIII or the organic law governing the eligible entity or foreign corporation.

i. Except as provided by law or the terms of the merger, all the rights, privileges, franchises, and immunities of each entity that is a party to the merger, other than the survivor, are the rights, privileges, franchises, and immunities of the survivor.

j. If the survivor exists before the merger, all of the following apply:

(1) All the property and contract rights of the survivor remain its property and contract rights without transfer, reversion, or impairment.

(2) The survivor remains subject to all its debts, obligations, and other liabilities.

(3) Except as provided by law or the plan of merger, the survivor continues to hold all of its rights, privileges, franchises, and immunities.

2. When a share exchange becomes effective, the shares or eligible interests in the acquired entity that are to be exchanged for shares or other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, other property, or any combination of the foregoing, are entitled only to the rights provided to them in the plan of share exchange or to any rights they may have under subchapter XIII or under the organic law governing the acquired entity.

3. Except as otherwise provided in the articles of incorporation of a domestic corporation or the organic law governing or organic rules of a foreign corporation or a domestic or foreign eligible entity, the effect of a merger or share exchange on interest holder liability is as follows:

a. A person who becomes subject to new interest holder liability in respect of an entity as a result of a merger or share exchange shall have that new interest holder liability only in respect of interest holder liabilities that arise after the merger or share exchange becomes effective.

b. If a person had interest holder liability with respect to a party to the merger or the acquired entity before the merger or share exchange becomes effective with respect to shares or eligible interests of such party or acquired entity which were exchanged in the merger or share exchange, were canceled in the merger, or the terms and conditions of which relating to interest holder liability were amended pursuant to the merger, then all of the following apply:

(1) The merger or share exchange does not discharge that prior interest holder liability with respect to any interest holder liabilities that arose before the merger or share exchange becomes effective.

(2) The provisions of the organic law governing any entity for which the person had that prior interest holder liability shall continue to apply to the collection or discharge of any interest holder liabilities preserved by subparagraph (1), as if the merger or share exchange had not occurred.

(3) The person shall have such rights of contribution from other persons as are provided by the organic law governing the entity for which the person had that prior interest holder liability with respect to any interest holder liabilities preserved by subparagraph (1), as if the merger or share exchange had not occurred.

(4) The person shall not, by reason of such prior interest holder liability, have interest holder liability with respect to any interest holder liabilities that arise after the merger or share exchange becomes effective.

c. If a person has interest holder liability both before and after a merger becomes effective with unchanged terms and conditions with respect to the entity that is the survivor by reason of owning the same shares or eligible interests before and after the merger becomes effective, the merger has no effect on such interest holder liability.

d. A share exchange has no effect on interest holder liability related to shares or eligible interests of the acquired entity that were not exchanged in the share exchange.

4. Upon a merger becoming effective, a foreign corporation, or a foreign eligible entity, that is the survivor of the merger is deemed to have done all of the following:

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a. Appointed the secretary of state as its agent for service of process in a proceeding to enforce the rights of shareholders of each domestic corporation that is a party to the merger who exercise appraisal rights.

b. Agreed that it will promptly pay the amount, if any, to which such shareholders are entitled under subchapter XIII.

5. Except as provided in the organic law governing a party to a merger or in its articles of incorporation or organic rules, the merger does not give rise to any rights that an interest holder, governor, or third party would have upon a dissolution, liquidation, or winding up of that party. The merger does not require a party to the merger to wind up its affairs and does not constitute or cause its dissolution or termination.

6. Property held for a charitable purpose under the law of this state by a domestic or foreign corporation or eligible entity immediately before a merger becomes effective shall not, as a result of the transaction, be diverted from the objects for which it was donated, granted, devised, or otherwise transferred except and to the extent permitted by or pursuant to the laws of this state addressing cy pres or dealing with nondiversion of charitable assets.

7. A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance which is made to an entity that is a party to a merger that is not the survivor and which takes effect or remains payable after the merger inures to the survivor.

8. A trust obligation that would govern property if transferred to a nonsurviving entity applies to property that is transferred to the survivor after a merger becomes effective.

89 Acts, ch 288, §127; 2002 Acts, ch 1154, §71, 125; 2019 Acts, ch 24, §104; 2021 Acts, ch 165, §154, 230

Referred to in §490.858

490.1108 Abandonment of a merger or share exchange.

1. After a plan of merger or share exchange has been adopted and approved as required by this subchapter, and before articles of merger or share exchange have become effective, the plan may be abandoned by a domestic business corporation that is a party to the plan without action by its shareholders in accordance with any procedures set forth in the plan of merger or share exchange or, if no such procedures are set forth in the plan, in the manner determined by the board of directors.

2. If a merger or share exchange is abandoned under subsection 1 after articles of merger or share exchange have been delivered to the secretary of state for filing but before the merger or share exchange has become effective, a statement of abandonment signed by all the parties that signed the articles of merger or share exchange shall be delivered to the secretary of state for filing before the articles of merger or share exchange become effective. The statement shall take effect on filing and the merger or share exchange shall be deemed abandoned and shall not become effective. The statement of abandonment must contain all of the following:

a. The name of each party to the merger or the names of the acquiring and acquired entities in a share exchange.

b. The date on which the articles of merger or share exchange were filed by the secretary of state.

c. A statement that the merger or share exchange has been abandoned in accordance with this section.

89 Acts, ch 288, §128; 2002 Acts, ch 1154, §72, 125; 2013 Acts, ch 31, §48, 82; 2019 Acts, ch 24, §104; 2021 Acts, ch 165, §155, 230

490.1108A Consideration of acquisition proposals — community interests.

1. A director, in determining what is in the best interest of the corporation when considering a tender offer or proposal of acquisition, merger, consolidation, or similar proposal, may consider any or all of the following community interest factors, in addition to consideration of the effects of any action on shareholders:

a. The effects of the action on the corporation's employees, suppliers, creditors, and customers.

b. The effects of the action on the communities in which the corporation operates.

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c. The long-term as well as short-term interests of the corporation and its shareholders, including the possibility that these interests may be best served by the continued independence of the corporation.

2. If on the basis of the community interest factors described in subsection 1, the board of directors determines that a proposal or offer to acquire or merge the corporation is not in the best interests of the corporation, it may reject the proposal or offer. If the board of directors determines to reject any such proposal or offer, the board of directors has no obligation to facilitate, to remove any barriers to, or to refrain from impeding, the proposal or offer. Consideration of any or all of the community interest factors is not a violation of the business judgment rule or of any duty of the director to the shareholders, or a group of shareholders, even if the director reasonably determines that a community interest factor or factors outweigh the financial or other benefits to the corporation or a shareholder or group of shareholders.

2002 Acts, ch 1154, §73, 125
Referred to in §508B.13

490.1109 Qualified merger — corporation and cooperative association.

A corporation and a cooperative association organized under chapter 499 may merge as provided in section 499.69A.

97 Acts, ch 17, §1

490.1110 Business combinations with interested shareholders.

1. Notwithstanding any other provision of this chapter, a corporation shall not engage in any business combination with an interested shareholder for a period of three years following the time that the shareholder became an interested shareholder, unless any of the following apply:

a. Prior to the time the shareholder became an interested shareholder, the board of directors of the corporation approved either the business combination or the transaction which resulted in the shareholder becoming an interested shareholder.

b. Upon consummation of the transaction which resulted in the shareholder becoming an interested shareholder, the interested shareholder owned at least eighty-five percent of the voting stock of the corporation outstanding at the time the transaction commenced, excluding, for purposes of determining the number of shares outstanding, those shares owned by persons who are directors and officers, and by employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer.

c. At or subsequent to the time the shareholder became an interested shareholder, the business combination is approved by the board of directors and authorized at an annual or special meeting of shareholders by the affirmative vote of at least sixty-six and two-thirds percent of the outstanding voting stock which is not owned by the interested shareholder. Such approval shall not be by written consent.

2. *a.* This section does not apply in any of the following circumstances:

(1) The corporation does not have a class of voting stock that is listed on a national securities exchange, authorized for quotation on the national association of securities dealers automated quotations – national market system, or held of record by more than two thousand shareholders, unless any of the foregoing results from action taken, directly or indirectly, by an interested shareholder or from a transaction in which a person becomes an interested shareholder.

(2) The corporation's original articles of incorporation contain a provision expressly electing not to be governed by this section.

(3) The corporation, by action of its board of directors, adopts an amendment to its bylaws by no later than September 29, 1997, expressly electing not to be governed by this section, which amendment shall not be further amended by the board of directors.

(4) (a) The corporation, by action of its shareholders, adopts an amendment to its articles of incorporation or bylaws expressly electing not to be governed by this section, provided that, in addition to any other vote required by law, such amendment to the articles of incorporation

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or bylaws must be approved by the affirmative vote of a majority of the shares entitled to vote. An amendment adopted pursuant to this subparagraph is effective immediately in the case of a corporation that has never had a class of voting stock that falls within any of the three categories set out in subparagraph (1) and has not elected by a provision in its original articles of incorporation or any amendment to such articles to be governed by this section. In all other cases, an amendment adopted pursuant to this subparagraph is not effective until twelve months after the adoption of the amendment and does not apply to any business combination between the corporation and any person who became an interested shareholder of the corporation on or prior to such adoption.

(b) An amendment to the bylaws adopted pursuant to this subparagraph shall not be further amended by the board of directors.

(5) A shareholder becomes an interested shareholder inadvertently and both of the following apply:

(a) As soon as practicable the shareholder divests itself of ownership of sufficient shares so that the shareholder ceases to be an interested shareholder.

(b) The shareholder would not, at any time within the three-year period immediately prior to a business combination between the corporation and such shareholder, have been an interested shareholder but for the inadvertent acquisition of ownership.

(6) (a) The business combination is proposed prior to the consummation or abandonment of and subsequent to the earlier of the public announcement or the notice required in this subparagraph of a proposed transaction which satisfies all of the following:

(i) Constitutes a transaction described in subparagraph division (b).

(ii) Is with or by a person who either was not an interested shareholder during the previous three years or who became an interested shareholder with the approval of the corporation's board of directors or who became an interested shareholder during the time period described in subparagraph (7).

(iii) Is approved or not opposed by a majority of the members of the board of directors then in office who were directors prior to any person becoming an interested shareholder during the previous three years, or who were recommended for election or elected to succeed such directors by a majority of such directors.

(b) A proposed transaction under subparagraph division (a) is limited to the following:

(i) A merger of the corporation, other than a merger pursuant to section 490.1105.

(ii) A sale, lease, exchange, mortgage, pledge, transfer, or other disposition, in one or more transactions and whether as part of a dissolution or otherwise, of assets of the corporation or of any direct or indirect majority-owned subsidiary of the corporation, other than to a direct or indirect wholly owned subsidiary of the corporation or to the corporation itself, which has an aggregate market value equal to fifty percent or more of either the aggregate market value of all of the assets of the corporation determined on a consolidated basis, or the aggregate market value of all the outstanding stock of the corporation.

(iii) A proposed tender or exchange offer for fifty percent or more of the outstanding voting stock of the corporation.

(c) The corporation shall give no less than twenty days' notice to all interested shareholders prior to the consummation of any of the transactions described in subparagraph division (b), subparagraph subdivision (i) or (ii).

(7) The business combination is with an interested shareholder who becomes an interested shareholder of the corporation at a time when the corporation is not subject to this section pursuant to subparagraph (1), (2), (3), or (4).

b. Notwithstanding paragraph "*a*", subparagraphs (1) through (4), a corporation may elect under its original articles of incorporation or any amendment to such articles to be subject to this section. However, such amendment shall not apply to restrict a business combination between the corporation and an interested shareholder of the corporation if the interested shareholder became such prior to the effective date of the amendment.

3. As used in this section, unless the context otherwise requires:

a. "Affiliate" means a person that directly, or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, another person.

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b. "Associate", when used to indicate a relationship with a person, means any of the following:

(1) A corporation, partnership, unincorporated association, or other entity of which the person is a director, officer, or partner or is, directly or indirectly, the owner of twenty percent or more of any class of voting stock.

(2) A trust or other estate in which the person has at least a twenty percent beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity.

(3) A relative or spouse of the person, or any relative of the spouse, who has the same residence as the person.

c. "Business combination", with respect to a corporation and an interested shareholder of such corporation, means any of the following:

(1) A merger or consolidation of the corporation or any direct or indirect majority-owned subsidiary of the corporation with the interested shareholder, or with any other corporation, partnership, unincorporated association, or other entity if the merger or consolidation is caused by the interested shareholder and as a result of such merger the surviving entity is not subject to subsection 1.

(2) A sales, lease, exchange, mortgage, pledge, transfer, or other disposition, in one transaction or a series of transactions, except proportionately as a shareholder of such corporation, to or with the interested shareholder, whether as part of a dissolution or otherwise, of assets of the corporation or of any direct or indirect majority-owned subsidiary of the corporation which assets have an aggregate market value equal to ten percent or more of either the aggregate market value of all the assets of the corporation determined on a consolidated basis or the aggregate market value of all the outstanding stock of the corporation.

(3) A transaction which results in the issuance or transfer by the corporation or by any direct or indirect majority-owned subsidiary of the corporation of any stock of the corporation or of such subsidiary to the interested shareholder, except for the following:

(a) Pursuant to the exercise, exchange, or conversion of securities exercisable for, exchangeable for, or convertible into stock of the corporation or such subsidiary which securities were outstanding prior to the time that the interested shareholder became an interested shareholder.

(b) Pursuant to a merger under section 490.1105.

(c) Pursuant to a distribution paid or made, or the exercise, exchange, or conversion of securities exercisable for, exchangeable for, or convertible into stock of such corporation or any such subsidiary, which stock is distributed pro rata to all holders of a class or series of stock of the corporation subsequent to the time the interested shareholder became an interested shareholder.

(d) Pursuant to an exchange offer by the corporation to purchase stock made on the same terms to all holders of the stock.

(e) Any issuance or transfer of stock by the corporation, provided, however, that in no case under subparagraph divisions (c) and (d) and this subparagraph division shall there be an increase in the interested shareholder's proportionate share of the stock of any class or series of the corporation or of the voting stock of the corporation.

(4) A transaction involving the corporation or any direct or indirect majority-owned subsidiary of the corporation which has the effect, directly or indirectly, of increasing the proportionate share of the stock of any class or series, or securities convertible into the stock of any class or series, of the corporation or of any such subsidiary which is owned by the interested shareholder, except as a result of immaterial changes due to fractional share adjustments or as a result of any purchase or redemption of any shares of stock not caused, directly or indirectly, by the interested shareholder.

(5) The receipt by the interested shareholder of the benefit, directly or indirectly, except proportionately as a shareholder of such corporation, of any loans, advances, guarantees, pledges, or other financial benefits, other than those expressly permitted in subparagraphs (1) through (4), provided by or through the corporation or any direct or indirect majority-owned subsidiary.

d. "Control", including the terms *"controlling"*, *"controlled by"*, and *"under common*

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control with", means the ability, directly or indirectly, to direct or cause the direction of the management and policies of a person, whether through the ownership of voting stock, by contract, or otherwise. A person who is the owner of twenty percent or more of the outstanding voting stock of any corporation, partnership, unincorporated association, or other entity is presumed to have control of such entity, in the absence of proof by a preponderance of the evidence to the contrary. Notwithstanding this paragraph, a presumption of control shall not apply where a person holds voting stock, in good faith and not for the purpose of circumventing this section, as an agent, bank, broker, nominee, custodian, or trustee for one or more owners who do not individually or as a group have control of such entity.

e. "Interested shareholder" means any person, other than the corporation and any direct or indirect majority-owned subsidiary of the corporation, that is the owner of ten percent or more of the outstanding voting stock of the corporation, or is an affiliate or associate of the corporation and was the owner of ten percent or more of the outstanding voting stock of the corporation at any time within the three-year period immediately prior to the date on which it is sought to be determined whether such person is an interested shareholder, and the affiliates and associates of such person. *"Interested shareholder"* does not include a person whose ownership of shares in excess of the ten percent limitation is the result of action taken solely by the corporation, provided that such person is an interested shareholder if, after such action by the corporation, the person acquires additional shares of voting stock of the corporation, other than as a result of further corporate action not caused, directly or indirectly, by such person. For purposes of determining whether a person is an interested shareholder, the outstanding voting stock of the corporation does not include any other unissued stock of the corporation which may be issuable pursuant to any agreement, arrangement, or understanding, or upon exercise of conversion rights, warrants, or options, or otherwise.

f. "Owner", including the terms *"own"* and *"owned"* when used with respect to any stock, means a person that individually or with or through any of such person's affiliates or associates satisfies any of the following:

(1) Beneficially owns such stock, directly or indirectly.

(2) Has the right to do either of the following:

(a) Acquire such stock, whether such right is exercisable immediately or only after the passage of time, pursuant to any agreement, arrangement, or understanding, or upon the exercise of conversion rights, exchange rights, warrants, or options, or otherwise. However, a person is not deemed the owner of stock tendered pursuant to a tender or exchange offer made by such person or any of such person's affiliates or associates until such tendered stock is accepted for purchase or exchange.

(b) Vote such stock pursuant to any agreement, arrangement, or understanding. However, a person is not deemed the owner of any stock because of such person's right to vote such stock if the agreement, arrangement, or understanding to vote such stock arises solely from the revocable proxy or consent given in response to a proxy or consent solicitation made to ten or more persons.

(3) Has any agreement, arrangement, or understanding for the purpose of acquiring, holding, voting, or disposing of such stock with any other person who beneficially owns, or whose affiliates or associates beneficially own, directly or indirectly, such stock. However, an agreement, arrangement, or understanding for the purpose of voting such stock does not include voting pursuant to a revocable proxy or consent under subparagraph (2), subparagraph division (b).

g. "Person" means any individual, corporation, partnership, unincorporated association, or other entity.

h. "Stock" means, with respect to any corporation, capital stock and, with respect to any other entity, any equity interest.

i. "Voting stock" means, with respect to any corporation, stock of any class or series entitled to vote generally in the election of directors and, with respect to any entity that is not a corporation, any equity interest entitled to vote generally in the election of the governing body of such entity.

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4. The articles of incorporation or bylaws shall not require, for any vote of shareholders required by this section, a greater vote of shareholders than that specified in this section.

97 Acts, ch 117, §5; 97 Acts, ch 188, §52; 98 Acts, ch 1100, §66; 2002 Acts, ch 1154, §74, 75, 125; 2009 Acts, ch 41, §263; 2012 Acts, ch 1023, §88, 89

490.1111 Conversion. Repealed by 2021 Acts, ch 165, §217, 230. See §490.930.

490.1112 Action on plan of conversion by converting domestic corporation. Repealed by 2021 Acts, ch 165, §217, 230. See §490.932.

490.1113 Filings required for conversion — effective date. Repealed by 2021 Acts, ch 165, §217, 230. See §490.933.

490.1114 Effect of conversion. Repealed by 2021 Acts, ch 165, §217, 230. See §490.935.

490.1115 through 490.1200 Reserved.

SUBCHAPTER XII

DISPOSITION OF ASSETS

Referred to in §490.1340

490.1201 Disposition of assets not requiring shareholder approval.

No approval of the shareholders is required to do any of the following, unless the articles of incorporation otherwise provide:

1. Sell, lease, exchange, or otherwise dispose of any of the corporation's assets in the usual and regular course of business.
2. Mortgage, pledge, dedicate to the repayment of indebtedness, whether with or without recourse, or otherwise encumber any or all of the corporation's assets, regardless of whether in the usual and regular course of business.
3. Transfer any or all of the corporation's assets to one or more domestic or foreign corporations or other entities, all of the shares or interests of which are owned by the corporation.
4. Distribute assets pro rata to the holders of one or more classes or series of the corporation's shares.

89 Acts, ch 288, §129; 2002 Acts, ch 1154, §76, 125; 2021 Acts, ch 165, §156, 230

Referred to in §490.1202

490.1202 Shareholder approval of certain dispositions.

1. A sale, lease, exchange, or other disposition of assets, other than a disposition described in section 490.1201, requires approval of the corporation's shareholders if the disposition would leave the corporation without a significant continuing business activity. A corporation will conclusively be deemed to have retained a significant continuing business activity if it retains a business activity that represented, for the corporation and its subsidiaries on a consolidated basis, at least twenty-five percent of total assets at the end of the most recently completed fiscal year, and either twenty-five percent of either income from continuing operations before taxes or twenty-five percent of revenues from continuing operations, in each case for the most recently completed fiscal year; but no presumption that the disposition will leave the corporation without a significant continuing business activity shall arise from the fact that the corporation's continuing business activity does not equal or exceed any of these percentages.
2. To obtain the approval of the shareholders under subsection 1, all of the following shall apply:

a. The board of directors shall first adopt a resolution authorizing the disposition. The disposition shall then be approved by the shareholders. In submitting the disposition to the

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shareholders for approval, the board of directors shall recommend that the shareholders approve the disposition, unless any of the following apply:

(1) The board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation.

(2) Section 490.826 applies.

b. If paragraph *"a"*, subparagraph (1) or (2), applies, the board shall inform the shareholders of the basis for its so proceeding.

3. The board of directors may set conditions for the approval by the shareholders of a disposition or the effectiveness of the disposition.

4. If a disposition is required to be approved by the shareholders under subsection 1, and if the approval is to be given at a meeting, the corporation shall notify each shareholder, regardless of whether entitled to vote, of the meeting of shareholders at which the disposition is to be submitted for approval. The notice must state that the purpose, or one of the purposes, of the meeting is to consider the disposition and must contain a description of the disposition, including the terms and conditions of the disposition and the consideration to be received by the corporation.

5. Unless the articles of incorporation, bylaws, or the board of directors acting pursuant to subsection 3 require a greater vote or a greater quorum, the approval of a disposition by the shareholders shall require the approval of the shareholders at a meeting at which a quorum exists consisting of a majority of the votes entitled to be cast on the disposition.

6. After a disposition has been approved by the shareholders under this subchapter, and at any time before the disposition has been consummated, it may be abandoned by the corporation without action by the shareholders, subject to any contractual rights of other parties to the disposition.

7. A disposition of assets in the course of dissolution under subchapter XIV is not governed by this section.

8. The assets of a direct or indirect consolidated subsidiary shall be deemed to be the assets of the parent corporation for the purposes of this section.

89 Acts, ch 288, §130; 2002 Acts, ch 1154, §77, 125; 2013 Acts, ch 31, §49, 82; 2019 Acts, ch 24, §104; 2021 Acts, ch 165, §157, 230

Referred to in §490.1302

490.1203 through 490.1300 Reserved.

SUBCHAPTER XIII

APPRAISAL RIGHTS

Referred to in §490.924, 490.935, 490.1107, 499.69A, 524.1309, 524.1406, 524.1417

PART 1

RIGHT TO APPRAISAL AND PAYMENT FOR SHARES

490.1301 Subchapter definitions.

As used in this subchapter:

1. *"Affiliate"* means a person that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with another person or is a senior executive of such person. For purposes of section 490.1302, subsection 2, paragraph *"d"*, a person is deemed to be an affiliate of its senior executives.

2. *"Corporation"* means the domestic corporation that is the issuer of the shares held by a shareholder demanding appraisal and, for matters covered in sections 490.1322 through 490.1331, *"corporation"* includes the survivor of a merger.

3. *"Fair value"* means the value of the corporation's shares determined according to the following:

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a. Immediately before the effectiveness of the corporate action to which the shareholder objects.

b. Using customary and current valuation concepts and techniques generally employed for similar businesses in the context of the transaction requiring appraisal.

c. Without discounting for lack of marketability or minority status except, if appropriate, for amendments to the articles of incorporation pursuant to section 490.1302, subsection 1, paragraph *"d"*.

4. *"Interest"* means interest from the date the corporate action becomes effective until the date of payment, at the rate of interest on judgments in this state on the effective date of the corporate action.

5. *"Interested transaction"* means a corporate action described in section 490.1302, subsection 1, other than a merger pursuant to section 490.1105, involving an interested person in which any of the shares or assets of the corporation are being acquired or converted. As used in this subsection:

a. *"Beneficial owner"* means any person who, directly or indirectly, through any contract, arrangement, or understanding, other than a revocable proxy, has or shares the power to vote, or to direct the voting of, shares; except that a member of a national securities exchange is not deemed to be a beneficial owner of securities held directly or indirectly by it on behalf of another person if the member is precluded by the rules of the exchange from voting without instruction on contested matters or matters that may affect substantially the rights or privileges of the holders of the securities to be voted. When two or more persons agree to act together for the purpose of voting their shares of the corporation, each member of the group formed thereby is deemed to have acquired beneficial ownership, as of the date of the agreement, of all shares having voting power of the corporation beneficially owned by any member of the group.

b. *"Excluded shares"* means shares acquired pursuant to an offer for all shares having voting power if the offer was made within one year before the corporate action for consideration of the same kind and of a value equal to or less than that paid in connection with the corporate action.

c. *"Interested person"* means a person, or an affiliate of a person, who at any time during the one-year period immediately preceding approval by the board of directors of the corporate action was or had any of the following:

(1) Was the beneficial owner of twenty percent or more of the voting power of the corporation, other than as owner of excluded shares.

(2) Had the power, contractually or otherwise, other than as owner of excluded shares, to cause the appointment or election of twenty-five percent or more of the directors to the board of directors of the corporation.

(3) Was a senior executive or director of the corporation or a senior executive of any affiliate of the corporation, and that senior executive or director will receive, as a result of the corporate action, a financial benefit not generally available to other shareholders as such, other than any of the following:

(a) Employment, consulting, retirement, or similar benefits established separately and not as part of or in contemplation of the corporate action.

(b) Employment, consulting, retirement, or similar benefits established in contemplation of, or as part of, the corporate action that are not more favorable than those existing before the corporate action or, if more favorable, that have been approved on behalf of the corporation in the same manner as is provided in section 490.862.

(c) In the case of a director of the corporation who will, in the corporate action, become a director or governor of the acquiror or any of its affiliates, rights, and benefits as a director or governor that are provided on the same basis as those afforded by the acquiror generally to other directors or governors of such entity or such affiliate.

6. *"Preferred shares"* means a class or series of shares whose holders have preference over any other class or series of shares with respect to distributions.

7. *"Senior executive"* means the chief executive officer, chief operating officer, chief financial officer, and any individual in charge of a principal business unit or function.

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8. *"Shareholder"* means a record shareholder, a beneficial shareholder, and a voting trust beneficial owner.

89 Acts, ch 288, §131; 2000 Acts, ch 1211, §2; 2002 Acts, ch 1154, §78, 125; 2012 Acts, ch 1023, §157; 2013 Acts, ch 31, §50, 82; 2014 Acts, ch 1001, §1; 2019 Acts, ch 24, §104; 2021 Acts, ch 165, §158, 230

490.1302 Right to appraisal.

1. A shareholder is entitled to appraisal rights, and to obtain payment of the fair value of that shareholder's shares, in the event of any of the following corporate actions:

a. Consummation of a merger to which the corporation is a party if any of the following apply:

(1) Shareholder approval is required for the merger by section 490.1104 or would be required but for the provisions of section 490.1104, subsection 10, except that appraisal rights shall not be available to any shareholder of the corporation with respect to shares of any class or series that remain outstanding after consummation of the merger.

(2) The corporation is a subsidiary and the merger is governed by section 490.1105.

b. Consummation of a share exchange to which the corporation is a party the shares of which will be acquired, except that appraisal rights shall not be available to any shareholder of the corporation with respect to any class or series of shares of the corporation that is not acquired in the share exchange.

c. Consummation of a disposition of assets pursuant to section 490.1202 if the shareholder is entitled to vote on the disposition, except that appraisal rights shall not be available to any shareholder of the corporation with respect to shares of any class or series if all of the following apply:

(1) Under the terms of the corporate action approved by the shareholders there is to be distributed to shareholders in cash the corporation's net assets, in excess of a reasonable amount reserved to meet claims of the type described in sections 490.1406 and 490.1407, if the distribution is made subject to all of the following:

(a) Within one year after the shareholders' approval of the action.

(b) In accordance with the shareholders' respective interests determined at the time of distribution.

(2) The disposition of assets is not an interested transaction.

d. An amendment of the articles of incorporation with respect to a class or series of shares that reduces the number of shares of a class or series owned by the shareholder to a fraction of a share if the corporation has the obligation or right to repurchase the fractional share so created.

e. Any other merger, share exchange, disposition of assets, or amendment to the articles of incorporation, in each case to the extent provided by the articles of incorporation, bylaws, or a resolution of the board of directors.

f. Consummation of a domestication pursuant to section 490.920 if the shareholder does not receive shares in the foreign corporation resulting from the domestication that have terms as favorable to the shareholder in all material respects, and represent at least the same percentage interest of the total voting rights of the outstanding shares of the foreign corporation, as the shares held by the shareholder before the domestication.

g. Consummation of a conversion of the corporation to a nonprofit corporation pursuant to section 490.930.

h. Consummation of a conversion of the corporation to an unincorporated entity pursuant to section 490.930.

2. Notwithstanding subsection 1, the availability of appraisal rights under subsection 1, paragraphs *"a"*, *"b"*, *"c"*, *"d"*, *"f"*, and *"h"*, shall be limited in accordance with the following provisions:

a. Appraisal rights shall not be available for the holders of shares of any class or series of shares which is any of the following:

(1) A covered security under section 18(b)(1)(A) or (B) of the federal Securities Act of 1933, as amended.

(2) Traded in an organized market and has at least two thousand shareholders and a

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market value of at least twenty million dollars, exclusive of the value of such shares held by the corporation's subsidiaries, senior executives and directors, and by any beneficial shareholder and any voting trust beneficial owner owning more than ten percent of such shares.

(3) Issued by an open-end management investment company registered with the United States securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. §80a-1 et seq., and which may be redeemed at the option of the holder at net asset value.

b. The applicability of paragraph "*a*" shall be determined according to the following:

(1) The record date fixed to determine the shareholders entitled to receive notice of the meeting of shareholders to act upon the corporate action requiring appraisal rights or in the case of an offer made pursuant to section 490.1104, subsection 10, the date of such offer.

(2) If there is no meeting of shareholders and no offer made pursuant to section 490.1104, subsection 10, the day before the consummation of the corporate action or effective date of the amendment of the articles of incorporation, as applicable.

c. Paragraph "*a*" shall not be applicable and appraisal rights shall be available pursuant to subsection 1 under the following circumstances:

(1) For the holders of any class or series of shares who are required by the terms of the corporate action requiring appraisal rights to accept for such shares anything other than cash or shares of any class or any series of shares of any corporation, or any other proprietary interest of any other entity, that satisfies the standards set forth in paragraph "*a*", at the time the corporate action becomes effective.

(2) For the holders of any class or series of shares, in the case of the consummation of a disposition of assets pursuant to section 490.1202, unless the cash, shares, or proprietary interests received in the disposition are, under the terms of the corporate action approved by the shareholders, to be distributed to the shareholders, as part of a distribution to shareholders of the net assets of the corporation in excess of a reasonable amount to meet claims of the type described in sections 490.1406 and 490.1407, if the distribution is made subject to all of the following:

(a) Within one year after the shareholders' approval of the action.

(b) In accordance with the shareholders' respective interests determined at the time of the distribution.

d. Paragraph "*a*" shall not be applicable and appraisal rights shall be available pursuant to subsection 1 for the holders of any class or series of shares where the corporate action is an interested transaction.

3. Notwithstanding any other provision of this section, the articles of incorporation as originally filed or any amendment to the articles of incorporation may limit or eliminate appraisal rights for any class or series of preferred shares, except that the following shall apply:

a. Except as provided in paragraph "*b*", no such limitation or elimination shall be effective if the class or series does not have the right to vote separately as a voting group, alone or as part of a group, on the action or if the action is a conversion under section 490.930, or a merger having a similar effect as a conversion in which the converted entity is an eligible entity.

b. Any such limitation or elimination contained in an amendment to the articles of incorporation that limits or eliminates appraisal rights for any of such shares that are outstanding immediately before the effective date of such amendment or that the corporation is or may be required to issue or sell thereafter pursuant to any conversion, exchange, or other right existing immediately before the effective date of such amendment, shall not apply to any corporate action that becomes effective within one year after the effective date of such amendment if such action would otherwise afford appraisal rights.

89 Acts, ch 288, §132; 2002 Acts, ch 1154, §79, 125; 2008 Acts, ch 1162, §122, 155; 2013 Acts, ch 31, §51 – 55, 82; 2013 Acts, ch 140, §72; 2015 Acts, ch 30, §158; 2019 Acts, ch 20, §17; 2021 Acts, ch 165, §159, 230

Referred to in §490.1301, 490.1320, 490.1321, 490.1322, 490.1340, 490.1706, 521I.13

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490.1303 Assertion of rights by nominees and beneficial shareholders.

1. A record shareholder may assert appraisal rights as to fewer than all the shares registered in the record shareholder's name but owned by a beneficial shareholder or a voting trust beneficial owner only if the record shareholder objects with respect to all shares of a class or series owned by the beneficial shareholder or the voting trust beneficial owner and notifies the corporation in writing of the name and address of each beneficial shareholder or voting trust beneficial owner on whose behalf appraisal rights are being asserted. The rights of a record shareholder who asserts appraisal rights for only part of the shares held of record in the record shareholder's name under this subsection shall be determined as if the shares as to which the record shareholder objects and the record shareholder's other shares were registered in the names of different record shareholders.

2. A beneficial shareholder and a voting trust beneficial owner may assert appraisal rights as to shares of any class or series held on behalf of the shareholder only if such shareholder does all of the following:

a. Submits to the corporation the record shareholder's written consent to the assertion of such rights no later than the date referred to in section 490.1322, subsection 2, paragraph *"b"*, subparagraph (2).

b. Does so with respect to all shares of the class or series that are beneficially owned by the beneficial shareholder or the voting trust beneficial owner.

89 Acts, ch 288, §133; 2002 Acts, ch 1154, §80, 125; 2002 Acts, ch 1175, §91; 2021 Acts, ch 165, §160, 230

490.1304 through 490.1319 Reserved.

PART 2

PROCEDURE FOR EXERCISE OF APPRAISAL RIGHTS

490.1320 Notice of appraisal rights.

1. Where any corporate action specified in section 490.1302, subsection 1, is to be submitted to a vote at a shareholders' meeting, the meeting notice, or where no approval of such action is required pursuant to section 490.1104, subsection 10, the offer made pursuant to that section, must state that the corporation has concluded that appraisal rights are, are not, or may be available under this subchapter. If the corporation concludes that appraisal rights are or may be available, a copy of this subchapter must accompany the meeting notice or offer sent to those record shareholders entitled to exercise appraisal rights.

2. In a merger pursuant to section 490.1105, the parent entity shall notify in writing all record shareholders of the subsidiary who are entitled to assert appraisal rights that the corporate action became effective. Such notice shall be sent within ten days after the corporate action became effective and include the materials described in section 490.1322.

3. Where any corporate action specified in section 490.1302, subsection 1, is to be approved by written consent of the shareholders pursuant to section 490.704, all of the following apply:

a. Written notice that appraisal rights are, are not, or may be available shall be sent to each record shareholder from whom a consent is solicited at the time consent of such shareholder is first solicited and, if the corporation has concluded that appraisal rights are or may be available, the notice must be accompanied by a copy of this subchapter.

b. Written notice that appraisal rights are, are not, or may be available must be delivered together with the notice to nonconsenting and nonvoting shareholders required by section 490.704, subsections 5 and 6, may include the materials described in section 490.1322, and, if the corporation has concluded that appraisal rights are or may be available, must be accompanied by a copy of this subchapter.

4. Where corporate action described in section 490.1302, subsection 1, is proposed, or a merger pursuant to section 490.1105 is effected, the notice referred to in subsection 1 or 3, if

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the corporation concludes that appraisal rights are or may be available, and in subsection 2 must be accompanied by all of the following:

a. Financial statements of the corporation that issued the shares that may be subject to appraisal, consisting of a balance sheet as of the end of a fiscal year ending not more than sixteen months before the date of the notice, an income statement for that year, and a cash flow statement for that year; provided that, if such financial statements are not reasonably available, the corporation shall provide reasonably equivalent financial information.

b. The latest interim financial statements of such corporation, if any.

5. The right to receive the information described in subsection 4 may be waived in writing by a shareholder before or after the corporate action.

89 Acts, ch 288, §134; 2002 Acts, ch 1154, §81, 125; 2013 Acts, ch 31, §56, 82; 2016 Acts, ch 1073, §139; 2019 Acts, ch 24, §104; 2021 Acts, ch 165, §161, 230

Referred to in §490.1331

490.1321 Notice of intent to demand payment and consequences of voting or consenting.

1. If a corporate action specified in section 490.1302, subsection 1, is submitted to a vote at a shareholders' meeting, a shareholder who wishes to assert appraisal rights with respect to any class or series of shares must do all of the following:

a. Deliver to the corporation, before the vote is taken, written notice of the shareholder's intent to demand payment if the proposed action is effectuated.

b. Not vote, or cause or permit to be voted, any shares of such class or series in favor of the proposed action.

2. If a corporate action specified in section 490.1302, subsection 1, is to be approved by written consent, a shareholder who wishes to assert appraisal rights with respect to any class or series of shares shall not sign a consent in favor of the proposed action with respect to that class or series of shares.

3. If a corporate action specified in section 490.1302, subsection 1, does not require shareholder approval pursuant to section 490.1104, subsection 10, a shareholder who wishes to assert appraisal rights with respect to any class or series of shares must do all of the following:

a. Deliver to the corporation before the shares are purchased pursuant to the offer written notice of the shareholder's intent to demand payment if the proposed action is effected.

b. Not tender, or cause or permit to be tendered, any shares of such class or series in response to such offer.

4. A shareholder who fails to satisfy the requirements of subsection 1, 2, or 3 is not entitled to payment under this subchapter.

89 Acts, ch 288, §135; 2002 Acts, ch 1154, §82, 125; 2013 Acts, ch 31, §57, 82; 2021 Acts, ch 165, §162, 230

Referred to in §490.1322

490.1322 Appraisal notice and form.

1. If a corporate action requiring appraisal rights under section 490.1302, subsection 1, becomes effective, the corporation shall deliver a written appraisal notice and form required by subsection 2, to all shareholders who satisfy the requirements of section 490.1321, subsection 1, 2, or 3. In the case of a merger under section 490.1105, the parent shall deliver an appraisal notice and form to all record shareholders who may be entitled to assert appraisal rights.

2. The appraisal notice shall be delivered no earlier than the date the corporate action specified in section 490.1302, subsection 1, became effective, and no later than ten days after such date, and must do all of the following:

a. Supply a form that does all of the following:

(1) Specifies the first date of any announcement to shareholders made before the date the corporate action became effective of the principal terms of the proposed corporate action.

(2) If such announcement was made, requires the shareholder asserting appraisal rights to certify whether beneficial ownership of those shares for which appraisal rights are asserted was acquired before that date.

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(3) Requires the shareholder asserting appraisal rights to certify that such shareholder did not vote for or consent to the transaction as to the class or series of shares for which appraisal is sought.

b. State all of the following:

(1) Where the form shall be sent and where certificates for certificated shares shall be deposited and the date by which those certificates must be deposited, which date shall not be earlier than the date by which the corporation must receive the required form under subparagraph (2).

(2) A date by which the corporation shall receive the form, which date shall not be fewer than forty nor more than sixty days after the date the appraisal notice is sent under subsection 1, and state that the shareholder shall have waived the right to demand appraisal with respect to the shares unless the form is received by the corporation by such specified date.

(3) The corporation's estimate of the fair value of the shares.

(4) That, if requested in writing, the corporation will provide, to the shareholder so requesting, within ten days after the date specified in subparagraph (2) the number of shareholders who return the forms by the specified date and the total number of shares owned by them.

(5) The date by which the notice to withdraw under section 490.1323 shall be received, which date shall be within twenty days after the date specified in subparagraph (2).

c. Be accompanied by a copy of this subchapter.

89 Acts, ch 288, §136; 91 Acts, ch 211, §8; 2002 Acts, ch 1154, §83, 125; 2013 Acts, ch 31, §58 – 61, 82; 2019 Acts, ch 24, §104; 2021 Acts, ch 165, §163, 230

Referred to in §490.1301, 490.1303, 490.1320, 490.1323, 490.1324, 490.1325, 490.1331

490.1323 Perfection of rights — right to withdraw.

1. A shareholder who receives notice pursuant to section 490.1322 and who wishes to exercise appraisal rights shall sign and return the form sent by the corporation and, in the case of certificated shares, deposit the shareholder's certificates in accordance with the terms of the notice by the date referred to in the notice pursuant to section 490.1322, subsection 2, paragraph "*b*", subparagraph (2). In addition, if applicable, the shareholder shall certify on the form whether the beneficial owner of such shares acquired beneficial ownership of the shares before the date required to be set forth in the notice pursuant to section 490.1322, subsection 2, paragraph "*a*", subparagraph (1). If a shareholder fails to make this certification, the corporation may elect to treat the shareholder's shares as after-acquired shares under section 490.1325. Once a shareholder deposits that shareholder's certificates or, in the case of uncertificated shares, returns the signed forms, that shareholder loses all rights as a shareholder, unless the shareholder withdraws pursuant to subsection 2.

2. A shareholder who has complied with subsection 1 may nevertheless decline to exercise appraisal rights and withdraw from the appraisal process by so notifying the corporation in writing by the date set forth in the appraisal notice pursuant to section 490.1322, subsection 2, paragraph "*b*", subparagraph (5). A shareholder who fails to so withdraw from the appraisal process shall not thereafter withdraw without the corporation's written consent.

3. A shareholder who does not sign and return the form and, in the case of certificated shares, deposit that shareholder's share certificates where required, each by the date set forth in the notice described in section 490.1322, subsection 2, shall not be entitled to payment under this subchapter.

89 Acts, ch 288, §137; 2002 Acts, ch 1154, §84, 125; 2003 Acts, ch 44, §86; 2013 Acts, ch 31, §62, 82; 2019 Acts, ch 24, §104; 2021 Acts, ch 165, §164, 230

Referred to in §490.1301, 490.1322, 490.1324

490.1324 Payment.

1. Except as provided in section 490.1325, within thirty days after the form required by section 490.1322, subsection 2, paragraph "*b*", subparagraph (2), is due, the corporation shall pay in cash to those shareholders who complied with section 490.1323, subsection 1, the amount the corporation estimates to be the fair value of their shares, plus interest.

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2. The payment to each shareholder pursuant to subsection 1 must be accompanied by all of the following:

a. (1) Financial statements of the corporation that issued the shares to be appraised, consisting of a balance sheet as of the end of a fiscal year ending not more than sixteen months before the date of payment, an income statement for that year, and a cash flow statement for that year; provided that, if such annual financial statements are not reasonably available, the corporation shall provide reasonably equivalent financial information.

(2) The latest interim financial statements of such corporation, if any.

b. A statement of the corporation's estimate of the fair value of the shares, which estimate shall equal or exceed the corporation's estimate given pursuant to section 490.1322, subsection 2, paragraph *"b"*, subparagraph (3).

c. A statement that shareholders described in subsection 1 have the right to demand further payment under section 490.1326 and that if any such shareholder does not do so within the time period specified in section 490.1326, subsection 2, such shareholder shall be deemed to have accepted the payment under subsection 1 in full satisfaction of the corporation's obligations under this subchapter.

89 Acts, ch 288, §138; 2002 Acts, ch 1154, §85, 125; 2003 Acts, ch 44, §87; 2013 Acts, ch 31, §63, 82; 2021 Acts, ch 165, §165, 230

Referred to in §490.1301, 490.1325, 490.1326, 490.1331

490.1325 After-acquired shares.

1. A corporation may elect to withhold payment required by section 490.1324 from any shareholder who was required to, but did not certify that beneficial ownership of all of the shareholder's shares for which appraisal rights are asserted was acquired before the date set forth in the appraisal notice sent pursuant to section 490.1322, subsection 2, paragraph *"a"*.

2. If the corporation elected to withhold payment under subsection 1, within thirty days after the form required by section 490.1322, subsection 2, paragraph *"b"*, subparagraph (2), is due, the corporation shall notify all shareholders who are described in subsection 1 regarding all of the following:

a. Of the information required by section 490.1324, subsection 2, paragraph *"a"*.

b. Of the corporation's estimate of fair value pursuant to section 490.1324, subsection 2, paragraph *"b"*.

c. That they may accept the corporation's estimate of fair value, plus interest, in full satisfaction of their demands or demand appraisal under section 490.1326.

d. That those shareholders who wish to accept such offer shall so notify the corporation of their acceptance of the corporation's offer within thirty days after receiving the offer.

e. That those shareholders who do not satisfy the requirements for demanding appraisal under section 490.1326 shall be deemed to have accepted the corporation's offer.

3. Within ten days after receiving the shareholder's acceptance pursuant to subsection 2, paragraph *"d"*, the corporation shall pay in cash the amount it offered under subsection 2, paragraph *"b"*, plus interest to each shareholder who agreed to accept the corporation's offer in full satisfaction of the shareholder's demand.

4. Within forty days after delivering the notice described in subsection 2, the corporation shall pay in cash the amount it offered to pay under subsection 2, paragraph *"b"*, plus interest to each shareholder described in subsection 2, paragraph *"e"*.

89 Acts, ch 288, §139; 91 Acts, ch 211, §9; 2002 Acts, ch 1154, §86, 125; 2013 Acts, ch 31, §64, 82; 2021 Acts, ch 165, §166, 230

Referred to in §490.1301, 490.1323, 490.1324, 490.1326, 490.1330, 490.1331

490.1326 Procedure if shareholder dissatisfied with payment or offer.

1. A shareholder paid pursuant to section 490.1324 who is dissatisfied with the amount of the payment shall notify the corporation in writing of that shareholder's estimate of the fair value of the shares and demand payment of that estimate, less any payment under section 490.1324 plus interest. A shareholder offered payment under section 490.1325 who is dissatisfied with that offer shall reject the offer and demand payment of the shareholder's stated estimate of the fair value of the shares plus interest.

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2. A shareholder who fails to notify the corporation in writing of that shareholder's demand to be paid the shareholder's stated estimate of the fair value plus interest under subsection 1 within thirty days after receiving the corporation's payment or offer of payment under section 490.1324 or 490.1325, respectively, waives the right to demand payment under this section and shall be entitled only to the payment made or offered pursuant to those respective sections.

89 Acts, ch 288, §140; 91 Acts, ch 211, §10; 97 Acts, ch 171, §13; 2002 Acts, ch 1154, §87, 125; 2021 Acts, ch 165, §167, 230

Referred to in §490.1301, 490.1324, 490.1325, 490.1330, 490.1331

490.1327 and 490.1328 Repealed by 2002 Acts, ch 1154, §123, 125.

490.1329 Reserved.

PART 3

JUDICIAL APPRAISAL

490.1330 Court action.

1. If a shareholder makes a demand for payment under section 490.1326 which remains unsettled, the corporation shall commence a proceeding within sixty days after receiving the payment demand and petition the court to determine the fair value of the shares and accrued interest. If the corporation does not commence the proceeding within the sixty-day period, it shall pay in cash to each shareholder the amount the shareholder demanded pursuant to section 490.1326 plus interest.

2. The corporation shall commence the proceeding in the district court of the county where the corporation's principal office or, if none, its registered office in this state is located. If the corporation is a foreign corporation without a registered office in this state, it shall commence the proceeding in the county in this state where the principal office or registered office of the domestic corporation merged with the foreign corporation was located at the time of the transaction.

3. The corporation shall make all shareholders, regardless of whether they are residents of this state, whose demands remain unsettled parties to the proceeding as in an action against their shares, and all parties shall be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

4. The jurisdiction of the court in which the proceeding is commenced under subsection 2 is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers shall have the powers described in the order appointing them, or in any amendment to it. The shareholders demanding appraisal rights are entitled to the same discovery rights as parties in other civil proceedings. There shall be no right to a jury trial.

5. Each shareholder made a party to the proceeding is entitled to judgment for any of the following:

a. The amount, if any, by which the court finds the fair value of the shareholder's shares exceeds the amount paid by the corporation to the shareholder for such shares, plus interest.

b. The fair value, plus interest, of the shareholder's shares for which the corporation elected to withhold payment under section 490.1325.

89 Acts, ch 288, §143; 2000 Acts, ch 1211, §1; 2002 Acts, ch 1154, §88, 125; 2014 Acts, ch 1001, §2; 2021 Acts, ch 165, §168, 230

Referred to in §490.1301, 490.1331

490.1331 Court costs and expenses.

1. The court in an appraisal proceeding commenced under section 490.1330 shall determine all court costs of the proceeding, including the reasonable compensation and expenses of appraisers appointed by the court. The court shall assess the court costs against the corporation, except that the court may assess court costs against all or some of the

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shareholders demanding appraisal, in amounts which the court finds equitable, to the extent the court finds such shareholders acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this subchapter.

2. The court in an appraisal proceeding may also assess the expenses of the respective parties in amounts the court finds equitable, against any of the following:

a. The corporation and in favor of any or all shareholders demanding appraisal if the court finds the corporation did not substantially comply with the requirements of section 490.1320, 490.1322, 490.1324, or 490.1325.

b. Either the corporation or a shareholder demanding appraisal, in favor of any other party, if the court finds that the party against whom expenses are assessed acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this subchapter.

3. If the court in an appraisal proceeding finds that the expenses incurred by any shareholder were of substantial benefit to other shareholders similarly situated and that such expenses should not be assessed against the corporation, the court may direct that such expenses be paid out of the amounts awarded the shareholders who were benefited.

4. To the extent the corporation fails to make a required payment pursuant to section 490.1324, 490.1325, or 490.1326, the shareholder may sue directly for the amount owed, and to the extent successful, shall be entitled to recover from the corporation all expenses of the suit.

89 Acts, ch 288, §144; 2002 Acts, ch 1154, §89, 125; 2013 Acts, ch 31, §65, 82; 2019 Acts, ch 24, §104; 2021 Acts, ch 165, §169, 230

Referred to in §490.1301

490.1332 through 490.1339 Reserved.

PART 4

OTHER REMEDIES

490.1340 Other remedies limited.

1. The legality of a proposed or completed corporate action described in section 490.1302, subsection 1, shall not be contested, nor may the corporate action be enjoined, set aside, or rescinded, in a legal or equitable proceeding by a shareholder after the shareholders have approved the corporate action.

2. Subsection 1 does not apply to a corporate action that meets any of the following conditions:

a. Was not authorized and approved in accordance with the applicable provisions of any of the following:

(1) Subchapter IX, X, XI, or XII.

(2) The articles of incorporation or bylaws.

(3) The resolution of the board of directors authorizing the corporate action.

b. Was procured as a result of fraud, a material misrepresentation, or an omission of a material fact necessary to make statements made, in light of the circumstances in which they were made, not misleading.

c. Is an interested transaction, unless it has been recommended by the board of directors in the same manner as is provided in section 490.862 and has been approved by the shareholders in the same manner as is provided in section 490.863 as if the interested transaction were a director's conflicting interest transaction.

d. Is approved by less than unanimous consent of the voting shareholders pursuant to section 490.704 if all of the following apply:

(1) The challenge to the corporate action is brought by a shareholder who did not consent and as to whom notice of the approval of the corporate action was not effective at least ten days before the corporate action was effected.

(2) The proceeding challenging the corporate action is commenced within ten days after

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notice of the approval of the corporate action is effective as to the shareholder bringing the proceeding.

2013 Acts, ch 31, §66, 82; 2019 Acts, ch 24, §104; 2021 Acts, ch 165, §170, 230

490.1341 through 490.1400 Reserved.

SUBCHAPTER XIV

DISSOLUTION

Referred to in §15E.207, 490.640, 490.1202

PART 1

VOLUNTARY DISSOLUTION

Referred to in §15E.208

490.1401 Dissolution by incorporators or initial directors.

A majority of the incorporators or initial directors of a corporation that has not issued shares or has not commenced business may dissolve the corporation by delivering to the secretary of state for filing articles of dissolution that set forth all of the following:

1. The name of the corporation.
2. The date of its incorporation.
3. Either of the following:

a. That none of the corporation's shares has been issued.

b. That the corporation has not commenced business.

4. That no debt of the corporation remains unpaid.
5. That the net assets of the corporation remaining after winding up have been distributed to the shareholders, if shares were issued.
6. That a majority of the incorporators or initial directors authorized the dissolution.

89 Acts, ch 288, §145

490.1402 Dissolution by board of directors and shareholders.

1. The board of directors may propose dissolution for submission to the shareholders by first adopting a resolution authorizing the dissolution.

2. *a.* For a proposal to dissolve to be adopted, it shall then be approved by the shareholders. In submitting the proposal to dissolve to the shareholders for approval, the board of directors shall recommend that the shareholders approve the dissolution, unless any of the following apply:

(1) The board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation.

(2) Section 490.826 applies.

b. If paragraph "*a*", subparagraph (1) or (2), applies, the board shall inform the shareholders of the basis for its so proceeding.

3. The board of directors may set conditions for the approval of the proposal for dissolution by shareholders or the effectiveness of the dissolution.

4. If the approval of the shareholders is to be given at a meeting, the corporation shall notify each shareholder, regardless of whether entitled to vote, of the meeting of shareholders at which the dissolution is to be submitted for approval. The notice must state that the purpose, or one of the purposes, of the meeting is to consider dissolving the corporation.

5. Unless the articles of incorporation, bylaws, or the board of directors acting pursuant to subsection 3 require a greater vote, a greater quorum, or a vote by voting groups, adoption of the proposal to dissolve shall require the approval of the shareholders at a meeting at which

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a quorum exists consisting of a majority of the votes entitled to be cast on the proposal to dissolve.

89 Acts, ch 288, §146; 2002 Acts, ch 1154, §90, 125; 2013 Acts, ch 31, §67, 82; 2015 Acts, ch 30, §159; 2021 Acts, ch 165, §171, 230

490.1403 Articles of dissolution.

1. At any time after dissolution is authorized, the corporation may dissolve by delivering to the secretary of state for filing articles of dissolution setting forth all of the following:

a. The name of the corporation.

b. The date that dissolution was authorized.

c. If dissolution was approved by the shareholders, a statement that the proposal to dissolve was duly approved by the shareholders in the manner required by this chapter and by the articles of incorporation and bylaws.

2. The articles of dissolution shall take effect at the effective date determined in accordance with section 490.123. A corporation is dissolved upon the effective date of its articles of dissolution.

3. As used in this part, "*dissolved corporation*" means a corporation whose articles of dissolution have become effective and includes a successor entity to which the remaining assets of the corporation are transferred subject to its liabilities for purposes of liquidation.

89 Acts, ch 288, §147; 2002 Acts, ch 1154, §91, 125; 2019 Acts, ch 24, §104; 2021 Acts, ch 165, §172, 230

490.1404 Revocation of dissolution.

1. A corporation may revoke its dissolution within one hundred twenty days after its effective date.

2. Revocation of dissolution shall be authorized in the same manner as the dissolution was authorized unless that authorization permitted revocation by action of the board of directors alone, in which event the board of directors may revoke the dissolution without shareholder action.

3. After the revocation of dissolution is authorized, the corporation may revoke the dissolution by delivering to the secretary of state for filing articles of revocation of dissolution, together with a copy of its articles of dissolution, that set forth all of the following:

a. The name of the corporation.

b. The effective date of the dissolution that was revoked.

c. The date that the revocation of dissolution was authorized.

d. If the corporation's board of directors or incorporators revoked the dissolution, a statement to that effect.

e. If the corporation's board of directors revoked a dissolution as authorized by the shareholders, a statement that revocation was permitted by action by the board of directors alone pursuant to that authorization.

f. If shareholder action was required to revoke the dissolution, a statement that the revocation was duly approved by the shareholders in the manner required by this chapter and by the articles of incorporation and bylaws.

4. The articles of revocation of dissolution shall take effect at the effective date determined in accordance with section 490.123. Revocation of dissolution is effective upon the effective date of the articles of revocation of dissolution.

5. When the revocation of dissolution is effective, it relates back to and takes effect as of the effective date of the dissolution and the corporation resumes carrying on its business as if the dissolution had never occurred.

89 Acts, ch 288, §148; 2002 Acts, ch 1154, §92, 125; 2003 Acts, ch 44, §88; 2021 Acts, ch 165, §173, 230

Referred to in §524.1306

490.1405 Effect of dissolution.

1. A corporation that has dissolved continues its corporate existence but the dissolved

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corporation shall not carry on any business except that appropriate to wind up and liquidate its business and affairs, including by doing any of the following:

a. Collecting its assets.

b. Disposing of its properties that will not be distributed in kind to its shareholders.

c. Discharging or making provision for discharging its liabilities.

d. Making distributions of its remaining assets among its shareholders according to their interests.

e. Doing every other act necessary to wind up and liquidate its business and affairs.

2. Dissolution of a corporation does not do any of the following:

a. Transfer title to the corporation's property.

b. Prevent transfer of its shares or securities.

c. Subject its directors or officers to standards of conduct different from those prescribed in subchapter VIII.

d. Change any of the following:

(1) Quorum or voting requirements for its board of directors or shareholders.

(2) Provisions for selection, resignation, or removal of its directors or officers or both.

(3) Provisions for amending its bylaws.

e. Prevent commencement of a proceeding by or against the corporation in its corporate name.

f. Abate or suspend a proceeding pending by or against the corporation on the effective date of dissolution.

g. Terminate the authority of the registered agent of the corporation.

3. A distribution in liquidation under this section may only be made by a dissolved corporation. For purposes of determining the shareholders entitled to receive a distribution in liquidation, the board of directors may fix a record date for determining shareholders entitled to a distribution in liquidation, which date shall not be retroactive. If the board of directors does not fix a record date for determining shareholders entitled to a distribution in liquidation, the record date is the date the board of directors authorizes the distribution in liquidation.

89 Acts, ch 288, §149; 2019 Acts, ch 24, §104; 2021 Acts, ch 165, §174, 230
Referred to in §490.1421, 490.1433

490.1406 Known claims against dissolved corporation.

1. A dissolved corporation may dispose of the known claims against it by notifying its known claimants in writing of the dissolution at any time after its effective date.

2. The written notice must do all of the following:

a. Describe information that must be included in a claim.

b. Provide a mailing address where a claim may be sent.

c. State the deadline, which must not be fewer than one hundred twenty days after the written notice is effective, by which the dissolved corporation shall receive the claim.

d. State that the claim will be barred if not received by the deadline.

3. A claim against the dissolved corporation is barred if any of the following occurs:

a. A claimant who was given written notice under subsection 2 does not deliver the claim to the dissolved corporation by the deadline.

b. A claimant whose claim was rejected by the dissolved corporation does not commence a proceeding to enforce the claim within ninety days after the rejection notice is effective.

4. As used in this section, *"claim"* does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

89 Acts, ch 288, §150; 2002 Acts, ch 1154, §93, 125; 2021 Acts, ch 165, §175, 230
Referred to in §490.1302, 490.1407, 490.1409, 490.1421, 490.1433

490.1407 Other claims against dissolved corporation.

1. A dissolved corporation may publish notice of its dissolution and request that persons with claims against the dissolved corporation present them in accordance with the notice.

2. The notice must meet all of the following requirements:

a. Be published in compliance with any of the following:

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(1) One time in a newspaper of general circulation in the county where the dissolved corporation's principal office, or, if none in this state, its registered office is or was last located.

(2) Be posted conspicuously for at least thirty days on the dissolved corporation's internet site.

b. Describe the information that must be included in a claim and provide a mailing address where the claim may be sent.

c. State that a claim against the dissolved corporation will be barred unless a proceeding to enforce the claim is commenced within three years after the publication of the notice.

3. If the dissolved corporation publishes a notice in accordance with subsection 2, the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within three years after the publication date of the notice:

a. A claimant who was not given written notice under section 490.1406.

b. A claimant whose claim was timely sent to the dissolved corporation but not acted on by the corporation.

c. A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

4. A claim that is not barred by section 490.1406, subsection 2, or subsection 3 of this section, may be enforced in any of the following ways:

a. Against the dissolved corporation, to the extent of its undistributed assets.

b. Except as provided in section 490.1408, subsection 4, if the assets have been distributed in liquidation, against a shareholder of the dissolved corporation to the extent of the shareholder's pro rata share of the claim or the corporate assets distributed to the shareholder in liquidation, whichever is less, but a shareholder's total liability for all claims under this section shall not exceed the total amount of assets distributed to the shareholder in liquidation.

89 Acts, ch 288, §151; 2002 Acts, ch 1154, §94, 125; 2021 Acts, ch 165, §176, 230
Referred to in §490.1302, 490.1408, 490.1409, 490.1421, 490.1433

490.1408 Court proceedings.

1. A dissolved corporation that has published a notice under section 490.1407 may file an application with the district court of the county where the dissolved corporation's principal office or, if none in this state, its registered office is located for a determination of the amount and form of security to be provided for payment of claims that are contingent or have not been made known to the dissolved corporation or that are based on an event occurring after the effective date of dissolution but that, based on the facts known to the dissolved corporation, are reasonably estimated to arise after the effective date of dissolution. Provision need not be made for any claim that is or is reasonably anticipated to be barred under section 490.1407, subsection 3.

2. Within ten days after the filing of the application, notice of the proceeding shall be given by the dissolved corporation to each claimant holding a contingent claim whose contingent claim is shown on the records of the dissolved corporation.

3. The court may appoint a guardian ad litem to represent all claimants whose identities are unknown in any proceeding brought under this section. The reasonable fees and expenses of such guardian, including all reasonable expert witness fees, shall be paid by the dissolved corporation.

4. Provision by the dissolved corporation for security in the amount and the form ordered by the court under subsection 1, shall satisfy the dissolved corporation's obligations with respect to claims that are contingent, have not been made known to the dissolved corporation or are based on an event occurring after the effective date of dissolution, and such claims shall not be enforced against a shareholder who received assets in liquidation.

2002 Acts, ch 1154, §95, 125
Referred to in §490.1407, 490.1409

490.1409 Director duties.

1. Directors shall cause the dissolved corporation to discharge or make reasonable

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provision for the payment of claims and make distributions in liquidation of assets to shareholders after payment or provision for claims.

2. Directors of a dissolved corporation which has disposed of claims under section 490.1406, 490.1407, or 490.1408 shall not be liable for breach of subsection 1 with respect to claims against the dissolved corporation that are barred or satisfied under section 490.1406, 490.1407, or 490.1408.

2002 Acts, ch 1154, §96, 125; 2021 Acts, ch 165, §177, 230
Referred to in §490.832

490.1410 through 490.1419 Reserved.

PART 2

ADMINISTRATIVE DISSOLUTION

Referred to in §249A.40

490.1420 Grounds for administrative dissolution.

The secretary of state may commence a proceeding under section 490.1421 to dissolve a corporation administratively, if any of the following apply:

1. The corporation does not pay within sixty days after they are due any fees, taxes, interest, or penalties imposed by this chapter or other laws of this state.

2. The corporation does not deliver its biennial report required by section 490.1621 to the secretary of state within sixty days after it is due.

3. The corporation is without a registered agent or registered office in this state for sixty days or more.

4. The secretary of state has not been notified within sixty days that the corporation's registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued.

5. The corporation's period of duration stated in its articles of incorporation expires.

6. The corporation concedes that the corporation has violated a provision or provisions of this chapter that are the subjects of the interrogatories served on the corporation pursuant to section 490.1621B.

89 Acts, ch 288, §152; 96 Acts, ch 1170, §9, 10; 97 Acts, ch 171, §14; 2010 Acts, ch 1100, §18; 2021 Acts, ch 165, §178, 230; 2026 Acts, ch 1145, §20
Referred to in §490.1421
NEW subsection 6

490.1421 Procedure for and effect of administrative dissolution.

1. If the secretary of state determines that one or more grounds exist under section 490.1420, subsections 1 through 5, for dissolving a corporation, the secretary of state shall serve the corporation with written notice of such determination under section 490.504.

2. Except as specified in subsection 5, the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty days after service of the notice under section 490.504, the secretary of state shall administratively dissolve the corporation by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the corporation under section 490.504.

3. A corporation administratively dissolved continues its corporate existence but shall not carry on any business except that necessary to wind up and liquidate its business and affairs under section 490.1405 and notify claimants under sections 490.1406 and 490.1407.

4. The administrative dissolution of a corporation does not terminate the authority of its registered agent.

5. If the corporation concedes that the corporation has violated a provision or provisions of this chapter that are the subject of the interrogatories served on the corporation pursuant to section 490.1621B, the secretary of state may immediately administratively dissolve the

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corporation by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the corporation under section 490.504.

89 Acts, ch 288, §153; 96 Acts, ch 1170, §11; 2021 Acts, ch 165, §179, 230; 2026 Acts, ch 1145, §21, 22

Referred to in §490.128, 490.1420, 490.1422
Subsections 1 and 2 amended
NEW subsection 5

490.1422 Reinstatement following administrative dissolution.

1. A corporation administratively dissolved under section 490.1421 may apply to the secretary of state for reinstatement at any time after the effective date of dissolution. The application must meet all of the following requirements:

a. State the name of the corporation at its date of dissolution and the effective date of its administrative dissolution.

b. State that the ground or grounds for dissolution either did not exist or have been eliminated.

c. If the application is received more than five years after the effective date of dissolution, state a corporate name that satisfies the requirements of section 490.401.

2. *a.* If the secretary of state determines that the application contains the information required by subsection 1, and that the information is correct, the secretary of state shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites the secretary of state's determination and the effective date of reinstatement, file the certificate of reinstatement, and deliver a copy to the corporation under section 490.504.

b. If the corporate name in subsection 1, paragraph *"c"*, is different from the corporate name in subsection 1, paragraph *"a"*, the certificate of reinstatement shall constitute an amendment to the articles of incorporation insofar as it pertains to the corporate name. A corporation shall not relinquish the right to retain its corporate name if the reinstatement is effective within five years of the effective date of the corporation's dissolution.

3. When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution as if the administrative dissolution had never occurred.

89 Acts, ch 288, §154; 92 Acts, ch 1244, §46; 93 Acts, ch 17, §1; 93 Acts, ch 126, §7, 8; 94 Acts, ch 1053, §1; 96 Acts, ch 1170, §12, 13; 2003 Acts, ch 145, §286; 2006 Acts, ch 1089, §9 – 12; 2010 Acts, ch 1040, §2; 2020 Acts, ch 1118, §25; 2021 Acts, ch 165, §180, 230; 2024 Acts, ch 1048, §2

Referred to in §249A.40, 488.108, 490.401, 504.401, 504.403

490.1423 Appeal from denial of reinstatement.

1. If the secretary of state denies a corporation's application for reinstatement following administrative dissolution, the secretary of state shall serve the corporation under section 490.504 with a written notice that explains the reason or reasons for denial.

2. The corporation may appeal the denial of reinstatement to the district court of the county where the corporation's principal office or, if none in this state, its registered office is located within thirty days after service of the notice of denial is effected. The corporation appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the secretary of state's certificate of dissolution, the corporation's application for reinstatement, and the secretary of state's notice of denial.

3. The court may summarily order the secretary of state to reinstate the dissolved corporation or may take other action the court considers appropriate.

4. The court's final decision may be appealed as in other civil proceedings.

89 Acts, ch 288, §155; 2021 Acts, ch 165, §181, 230

490.1424 through 490.1429 Reserved.

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PART 3

JUDICIAL DISSOLUTION

490.1430 Grounds for judicial dissolution.

1. The district court may dissolve a corporation in any of the following ways:

a. A proceeding by the attorney general if it is established that any of the following apply:

(1) The corporation obtained its articles of incorporation through fraud.

(2) The corporation has continued to exceed or abuse the authority conferred upon it by law.

b. A proceeding by a shareholder if it is established that any of the following conditions exist:

(1) The directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock, and irreparable injury to the corporation is threatened or being suffered, or the business and affairs of the corporation can no longer be conducted to the advantage of the shareholders generally, because of the deadlock.

(2) The directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent.

(3) The shareholders are deadlocked in voting power and have failed, for a period that includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired.

(4) The corporate assets are being misapplied or wasted.

c. A proceeding by a creditor if it is established that any of the following applies:

(1) The creditor's claim has been reduced to judgment, the execution on the judgment returned unsatisfied, and the corporation is insolvent.

(2) The corporation has admitted in writing that the creditor's claim is due and owing and the corporation is insolvent.

d. A proceeding by the corporation to have its voluntary dissolution continued under court supervision.

e. A proceeding by a shareholder if the corporation has abandoned its business and has failed within a reasonable time to liquidate and distribute its assets and dissolve.

2. Subsection 1, paragraph *"b"*, shall not apply in the case of a corporation that, on the date of the filing of the proceeding, has a class or series of shares which is any of the following:

a. A covered security under section 18(b)(1)(A) or (B) of the federal Securities Act of 1933.

b. Not a covered security, but is held by at least three hundred shareholders and the shares outstanding have a market value of at least twenty million dollars, exclusive of the value of such shares held by the corporation's subsidiaries, senior executives, directors, and if they own more than ten percent of such shares, beneficial shareholders, and voting trust beneficial owners.

3. *a.* As used in subsection 1, *"shareholder"* means a record shareholder, a beneficial shareholder, and an unrestricted voting trust beneficial owner.

b. As used in subsection 2, *"shareholder"* means a record shareholder, a beneficial shareholder, and a voting trust beneficial owner.

89 Acts, ch 288, §156; 2013 Acts, ch 31, §68, 82; 2021 Acts, ch 165, §182, 230
Referred to in §490.304, 490.1431, 490.1433, 490.1434

490.1431 Procedure for judicial dissolution.

1. Venue for a proceeding by the attorney general to dissolve a corporation lies in Polk county. Venue for a proceeding brought by any other party named in section 490.1430, subsection 1, lies in the county where a corporation's principal office or, if none in this state, its registered office is or was last located.

2. It is not necessary to make shareholders parties to a proceeding to dissolve a corporation unless relief is sought against them individually.

3. A court in a proceeding brought to dissolve a corporation may issue injunctions, appoint a receiver or custodian during the proceeding with all powers and duties the court directs,

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take other action required to preserve the corporate assets wherever located, and carry on the business of the corporation until a full hearing can be held.

4. Within ten days of the commencement of a proceeding to dissolve a corporation under section 490.1430, subsection 1, paragraph *"b"*, the corporation shall deliver to all shareholders, other than the petitioner, a notice stating that the shareholders are entitled to avoid the dissolution of the corporation by electing to purchase the petitioner's shares under section 490.1434, and accompanied by a copy of section 490.1434.

89 Acts, ch 288, §157; 2002 Acts, ch 1154, §97, 125; 2013 Acts, ch 31, §69, 82; 2021 Acts, ch 165, §183, 230

490.1432 Receivership or custodianship.

1. Unless an election to purchase has been filed under section 490.1434, a court in a judicial proceeding brought to dissolve a corporation may appoint one or more receivers to wind up and liquidate, or one or more custodians to manage, the business and affairs of the corporation. The court shall hold a hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a receiver or custodian. The court appointing a receiver or custodian has jurisdiction over the corporation and all of its property wherever located.

2. The court may appoint an individual or a domestic or foreign corporation or eligible entity as a receiver or custodian, which, if a foreign corporation or foreign eligible entity, must be registered to do business in this state. The court may require the receiver or custodian to post bond, with or without sureties, in an amount the court directs.

3. The court shall describe the powers and duties of the receiver or custodian in its appointing order, which may be amended from time to time. Among other powers all of the following apply:

a. The receiver may do any or all of the following:

(1) Dispose of all or any part of the assets of the corporation wherever located, at a public or private sale.

(2) Sue and defend in the receiver's own name as receiver of the corporation in all courts of this state.

b. The custodian may exercise all of the powers of the corporation, through or in place of its board of directors, to the extent necessary to manage the affairs of the corporation in the best interests of its shareholders and creditors.

c. The receiver or custodian shall have such other powers and duties as the court may provide in the appointing order, which may be amended from time to time.

4. The court during a receivership may redesignate the receiver a custodian and during a custodianship may redesignate the custodian a receiver.

5. The court from time to time during the receivership or custodianship may order compensation paid and expenses paid or reimbursed to the receiver or custodian from the assets of the corporation or proceeds from the sale of the assets.

89 Acts, ch 288, §158; 2013 Acts, ch 31, §70, 82; 2021 Acts, ch 165, §184, 230

490.1433 Decree of dissolution.

1. If after a hearing the court determines that one or more grounds for judicial dissolution described in section 490.1430 exist, it may enter a decree dissolving the corporation and specifying the effective date of the dissolution, and the clerk of the court shall deliver a certified copy of the decree to the secretary of state, who shall file it.

2. After entering the decree of dissolution, the court shall direct the winding up and liquidation of the corporation's business and affairs in accordance with section 490.1405 and the notification of claimants in accordance with sections 490.1406 and 490.1407.

89 Acts, ch 288, §159

Referred to in §602.8102(68)

490.1434 Election to purchase in lieu of dissolution.

1. In a proceeding under section 490.1430, subsection 1, paragraph *"b"*, to dissolve a corporation, the corporation may elect or, if it fails to elect, one or more shareholders may

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elect to purchase all shares owned by the petitioning shareholder at the fair value of the shares. An election pursuant to this section shall be irrevocable unless the court determines that it is equitable to set aside or modify the election.

2. An election to purchase pursuant to this section may be filed with the court at any time within ninety days after the filing of the petition under section 490.1430, subsection 1, paragraph *"b"*, or at such later time as the court in its discretion may allow. If the election to purchase is filed by one or more shareholders, the corporation shall, within ten days thereafter, give written notice to all shareholders, other than the petitioner. The notice must state the name and number of shares owned by the petitioner and the name and number of shares owned by each electing shareholder and must advise the recipients of their right to join in the election to purchase shares in accordance with this section. Shareholders who wish to participate shall file notice of their intention to join in the purchase no later than thirty days after the effectiveness of the notice to them. All shareholders who have filed an election or notice of their intention to participate in the election to purchase thereby become parties to the proceeding and shall participate in the purchase in proportion to their ownership of shares as of the date the first election was filed, unless they otherwise agree or the court otherwise directs. After an election has been filed by the corporation or one or more shareholders, the proceeding under section 490.1430, subsection 1, paragraph *"b"*, shall not be discontinued or settled, nor shall the petitioning shareholder sell or otherwise dispose of the shareholder's shares, unless the court determines that it would be equitable to the corporation and the shareholders, other than the petitioner, to permit such discontinuance, settlement, sale, or other disposition.

3. If, within sixty days of the filing of the first election, the parties reach agreement as to the fair value and terms of purchase of the petitioner's shares, the court shall enter an order directing the purchase of the petitioner's shares upon the terms and conditions agreed to by the parties.

4. If the parties are unable to reach an agreement as provided for in subsection 3, the court, upon application of any party, shall stay the proceedings under section 490.1430, subsection 1, paragraph *"b"*, and determine the fair value of the petitioner's shares as of the day before the date on which the petition under section 490.1430, subsection 1, paragraph *"b"*, was filed or as of such other date as the court deems appropriate under the circumstances.

5. Upon determining the fair value of the shares, the court shall enter an order directing the purchase upon such terms and conditions as the court deems appropriate, which may include payment of the purchase price in installments, where necessary in the interests of equity, provision for security to assure payment of the purchase price and any additional expenses as may have been awarded, and, if the shares are to be purchased by shareholders, the allocation of shares among them. In allocating the petitioner's shares among holders of different classes or series of shares, the court should attempt to preserve the existing distribution of voting rights among holders of different classes or series insofar as practicable and may direct that holders of a specific class or classes or series shall not participate in the purchase. Interest may be allowed at the rate and from the date determined by the court to be equitable, but if the court finds that the refusal of the petitioning shareholder to accept an offer of payment was arbitrary or otherwise not in good faith, no interest shall be allowed. If the court finds that the petitioning shareholder had probable grounds for relief under section 490.1430, subsection 1, paragraph *"b"*, subparagraph (2) or (4), it may award expenses to the petitioning shareholder.

6. Upon entry of an order under subsection 3 or 5, the court shall dismiss the petition to dissolve the corporation under section 490.1430, subsection 1, paragraph *"b"*, and the petitioning shareholder shall no longer have any rights or status as a shareholder of the corporation, except the right to receive the amounts awarded by the order of the court which shall be enforceable in the same manner as any other judgment.

7. The purchase ordered pursuant to subsection 5 shall be made within ten days after the date the order becomes final.

8. Any payment by the corporation pursuant to an order under subsection 3 or 5, other

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than an award of expenses pursuant to subsection 5, is subject to the provisions of section 490.640.

2002 Acts, ch 1154, §98, 125; 2013 Acts, ch 31, §71, 82; 2021 Acts, ch 165, §185, 230
Referred to in §490.1431, 490.1432

490.1435 through 490.1439 Reserved.

PART 4

MISCELLANEOUS

490.1440 Deposit with state treasurer.

Assets of a dissolved corporation that should be transferred to a creditor, claimant, or shareholder of the corporation who cannot be found or who is not competent to receive them shall be reduced to cash and deposited with the treasurer of state or other appropriate state official for safekeeping. When the creditor, claimant, or shareholder furnishes satisfactory proof of entitlement to the amount deposited, the treasurer of state or other appropriate state official shall pay such person, or the representative of such person, that amount.

89 Acts, ch 288, §160; 2021 Acts, ch 165, §186, 230
Referred to in §489.1112, 524.1305, 524.1310, 533.404, 556.6

490.1441 through 490.1500 Reserved.

SUBCHAPTER XV

FOREIGN CORPORATIONS

Referred to in §490.120, 490.140, 490.933, 524.1805

490.1501 Governing law.

1. The law of the jurisdiction of formation of a foreign corporation governs all of the following:

a. The internal affairs of the foreign corporation.

b. The interest holder liability of its shareholders.

2. A foreign corporation is not precluded from registering to do business in this state because of any difference between the law of the foreign corporation's jurisdiction of formation and the law of this state.

3. Registration of a foreign corporation to do business in this state does not permit the foreign corporation to engage in any business or affairs or exercise any power that a domestic corporation cannot lawfully engage in or exercise in this state.

89 Acts, ch 288, §161; 2021 Acts, ch 165, §187, 230
Referred to in §490.1502

490.1502 Registration to do business in this state.

1. A foreign corporation shall not do business in this state until it registers with the secretary of state under this chapter.

2. A foreign corporation doing business in this state shall not maintain a proceeding in any court of this state until it is registered to do business in this state.

3. The failure of a foreign corporation to register to do business in this state does not impair the validity of a contract or act of the foreign corporation or preclude it from defending a proceeding in this state.

4. A limitation on the liability of a shareholder or director of a foreign corporation is not waived solely because the foreign corporation does business in this state without registering.

5. Section 490.1501, subsection 1, applies even if a foreign corporation fails to register under this chapter.

89 Acts, ch 288, §162; 2021 Acts, ch 165, §188, 230

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490.1503 Foreign registration statement.

1. To register to do business in this state, a foreign corporation shall deliver a foreign registration statement to the secretary of state for filing. The registration statement must be signed by the foreign corporation and state all of the following:

a. The corporate name of the foreign corporation and, if the name does not comply with section 490.401, an alternate name as required by section 490.1506.

b. The foreign corporation's jurisdiction of formation.

c. The street and mailing addresses of the foreign corporation's principal office and, if the law of the foreign corporation's jurisdiction of formation requires the foreign corporation to maintain an office in that jurisdiction, the street and mailing addresses of that office.

d. The street and mailing addresses of the foreign corporation's registered office in this state and the name of its registered agent at that office.

e. The names and business addresses of its directors and principal officers.

2. The foreign corporation shall deliver the completed foreign registration statement to the secretary of state, and also deliver to the secretary of state a certificate of existence or a document of similar import duly authenticated by the secretary of state or other official having custody of corporate records in the state or country under whose law it is incorporated which is dated no earlier than ninety days prior to the date the application is filed by the secretary of state.

89 Acts, ch 288, §163; 96 Acts, ch 1170, §14; 2021 Acts, ch 165, §189, 230

Referred to in §490.140, 490.1504, 490.1506

490.1504 Amendment of foreign registration statement.

A registered foreign corporation shall sign and deliver to the secretary of state for filing an amendment to its foreign registration statement if there is a change in any of the following:

1. Its name or alternate name.

2. Its jurisdiction of formation, unless its registration is deemed to have been withdrawn under section 490.1508 or transferred under section 490.1510.

3. An address required by section 490.1503, subsection 1, paragraph "*c*".

89 Acts, ch 288, §164; 2021 Acts, ch 165, §190, 230

490.1505 Activities not constituting doing business.

1. Activities of a foreign corporation that do not constitute doing business in this state for purposes of this subchapter include all of the following:

a. Maintaining, defending, mediating, arbitrating, or settling a proceeding.

b. Carrying on any activity concerning the internal affairs of the foreign corporation, including holding meetings of its shareholders or board of directors.

c. Maintaining accounts in financial institutions.

d. Maintaining offices or agencies for the transfer, exchange, and registration of securities of the foreign corporation or maintaining trustees or depositories with respect to those securities.

e. Selling through independent contractors.

f. Soliciting or obtaining orders by any means if the orders require acceptance outside this state before they become contracts.

g. Creating or acquiring indebtedness, mortgages, or security interests in property.

h. Securing or collecting debts or enforcing mortgages or security interests in property securing the debts, and holding, protecting, or maintaining property so acquired.

i. Conducting an isolated transaction that is not in the course of similar transactions.

j. Owning, protecting, and maintaining property.

k. Doing business in interstate commerce.

2. This section does not apply in determining the contacts or activities that may subject a foreign corporation to service of process, taxation, or regulation under the laws of this state other than this chapter.

89 Acts, ch 288, §165; 2021 Acts, ch 165, §191, 230

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490.1506 Noncomplying name of foreign corporation.

1. A foreign corporation whose name does not comply with section 490.401 shall not register to do business in this state until it adopts, for the purpose of doing business in this state, an alternate name that complies with section 490.401 by filing a foreign registration statement under section 490.1503, or if applicable, a transfer of registration statement under section 490.1510, setting forth that alternate name. After registering to do business in this state with an alternate name, a foreign corporation shall do business in this state under any of the following:

a. The alternate name.

b. The foreign corporation's name, with the addition of its jurisdiction of formation.

2. If a registered foreign corporation changes its name after registration to a name that does not comply with section 490.401, it shall not do business in this state until it complies with subsection 1 by amending its registration statement to adopt an alternate name that complies with section 490.401.

89 Acts, ch 288, §166; 96 Acts, ch 1170, §15; 2006 Acts, ch 1089, §13; 2021 Acts, ch 165, §192, 230

Referred to in §490.1503, 490.1510, 490.1621

490.1507 Withdrawal of registration of registered foreign corporation.

1. A registered foreign corporation may withdraw its registration by delivering a statement of withdrawal to the secretary of state for filing. The statement of withdrawal must be signed by the foreign corporation and state all of the following:

a. The name of the foreign corporation and its jurisdiction of formation.

b. That the foreign corporation is not doing business in this state and that it withdraws its registration to do business in this state.

c. That the foreign corporation revokes the authority of its registered agent in this state.

d. An address to which process on the foreign corporation may be sent by the secretary of state under section 490.504, subsection 3.

2. After the withdrawal of the registration of a foreign corporation, service of process in any proceeding based on a cause of action arising during the time the entity was registered to do business in this state may be made as provided in section 490.504.

2021 Acts, ch 165, §193, 230

Referred to in §490.504

Former section 490.1507 stricken effective January 1, 2022, by 2021 Acts, ch 165, §193, 230

490.1508 Deemed withdrawal upon domestication or conversion to certain domestic entities.

A registered foreign corporation that domesticates to a domestic business corporation or converts to a domestic nonprofit corporation or any type of domestic filing entity or to a domestic limited liability partnership is deemed to have withdrawn its registration on the effectiveness of such event.

2021 Acts, ch 165, §194, 230

Referred to in §490.1504

Former section 490.1508 stricken effective January 1, 2022, by 2021 Acts, ch 165, §194, 230

490.1509 Withdrawal upon dissolution or conversion to certain nonfiling entities.

1. A registered foreign corporation that has dissolved and completed winding up or has converted to a domestic or foreign nonfiling entity other than a limited liability partnership shall deliver to the secretary of state for filing a statement of withdrawal. The statement must be signed by the dissolved corporation or the converted domestic or foreign nonfiling entity and state:

a. In the case of a foreign corporation that has completed winding up all of the following:

(1) Its name and jurisdiction of formation.

(2) That the foreign corporation withdraws its registration to do business in this state and revokes the authority of its registered agent to accept service on its behalf.

(3) An address to which process on the foreign corporation may be sent by the secretary of state under section 490.504, subsection 3.

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b. In the case of a foreign corporation that has converted to a domestic or foreign nonfiling entity other than a limited liability partnership all of the following:

(1) The name of the converting foreign corporation and its jurisdiction of formation.

(2) The type of the nonfiling entity to which it has converted and its name and jurisdiction of formation.

(3) That it withdraws its registration to do business in this state and revokes the authority of its registered agent to accept service on its behalf.

(4) An address to which process on the foreign corporation may be sent by the secretary of state under section 490.504, subsection 3.

2. After the withdrawal of the registration of a foreign corporation, service of process in any proceeding based on a cause of action arising during the time the entity was registered to do business in this state may be made as provided in section 490.504.

2021 Acts, ch 165, §195, 230
Referred to in §490.504
Former section 490.1509 stricken effective January 1, 2022, by 2021 Acts, ch 165, §195, 230

490.1510 Transfer of registration.

1. If a registered foreign corporation merges into a nonregistered foreign corporation or converts to a foreign corporation required to register with the secretary of state to do business in this state, the foreign corporation shall deliver to the secretary of state for filing a transfer of registration statement. The transfer of registration statement must be signed by the surviving or converted foreign corporation and state all of the following:

a. The name of the registered foreign corporation and its jurisdiction of formation before the merger or conversion.

b. The name of the surviving or converted foreign corporation and its jurisdiction of formation after the merger or conversion and, if the name does not comply with section 490.401, an alternate name adopted pursuant to section 490.1506.

c. All of the following information regarding the surviving or converted foreign corporation after the merger or conversion:

(1) The street and mailing addresses of the principal office of the foreign corporation and, if the law of the foreign corporation's jurisdiction of formation requires it to maintain an office in that jurisdiction, the street and mailing addresses of that office.

(2) The street and mailing addresses of the foreign corporation's registered office in this state and the name of its registered agent at that office.

2. On the effective date of a transfer of registration statement as determined in accordance with section 490.123, the registration of the registered foreign corporation to do business in this state is transferred without interruption to the foreign corporation into which it has merged or to which it has been converted.

2021 Acts, ch 165, §196, 230
Referred to in §490.1504, 490.1506
Former section 490.1510 stricken effective January 1, 2022, by 2021 Acts, ch 165, §196, 230

490.1511 Administrative termination of registration.

1. The secretary of state may terminate the registration of a registered foreign corporation in the manner provided in subsections 2 and 3, if any of the following applies:

a. The foreign corporation does not pay within sixty days after they are due any fees, taxes, interest, or penalties imposed by this chapter or other laws of this state.

b. The foreign corporation does not deliver its biennial report to the secretary of state within sixty days after it is due.

c. The foreign corporation is without a registered agent or registered office in this state for sixty days or more.

d. The secretary of state has not been notified within sixty days that the foreign corporation's registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued.

2. The secretary of state may terminate the registration of a registered foreign corporation by doing all of the following:

a. Filing a certificate of termination.

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b. Delivering a copy of the certificate of termination to the foreign corporation's registered agent or, if the foreign corporation does not have a registered agent, to the foreign corporation's principal office.

3. The certificate of termination must state all of the following:

a. The effective date of the termination, which must be not less than sixty days after the secretary of state delivers the copy of the certificate of termination as prescribed in subsection 2, paragraph *"b"*.

b. The grounds for termination under subsection 1.

4. The registration of a registered foreign corporation ceases on the effective date of the termination as set forth in the certificate of termination, unless before that date the foreign corporation cures each ground for termination stated in the certificate of termination. If the foreign corporation cures each ground, the secretary of state shall file a statement that the certificate of termination is withdrawn.

5. After the effective date of the termination as set forth in the certificate of termination, service of process in any proceeding based on a cause of action arising during the time the entity was registered to do business in this state may be made as provided in section 490.504.

2021 Acts, ch 165, §197, 230; 2022 Acts, ch 1058, §13
Referred to in §490.504

490.1512 Action by attorney general.

The attorney general may maintain an action to enjoin a foreign corporation from doing business in this state in violation of this chapter.

2021 Acts, ch 165, §198, 230

490.1513 through 490.1519 Reserved.

490.1520 Withdrawal of foreign corporation. Repealed by 2021 Acts, ch 165, §217, 230. See §490.1507.

490.1521 and 490.1522 Reserved.

490.1523 Transfer of authority. Repealed by 2021 Acts, ch 165, §217, 230. See §490.1510.

490.1524 through 490.1529 Reserved.

490.1530 Grounds for revocation. Repealed by 2021 Acts, ch 165, §217, 230. See §490.1511.

490.1531 Procedure for and effect of revocation. Repealed by 2021 Acts, ch 165, §217, 230. See §490.1511.

490.1532 Appeal from revocation. Repealed by 2021 Acts, ch 165, §217, 230.

490.1533 through 490.1600 Reserved.

SUBCHAPTER XVI

RECORDS AND REPORTS

PART 1

RECORDS

490.1601 Corporate records.

1. A corporation shall maintain all of the following records:

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a. Its articles of incorporation as currently in effect.

b. Any notices to shareholders referred to in section 490.120, subsection 11, paragraph *"e"*, specifying facts on which a filed document is dependent if those facts are not included in the articles of incorporation or otherwise available as specified in section 490.120, subsection 11, paragraph *"e"*.

c. Its bylaws as currently in effect.

d. All written communications within the past three years to shareholders generally.

e. Minutes of all meetings of, and records of all actions taken without a meeting by, its shareholders, its board of directors, and board committees established under section 490.825.

f. A list of the names and business addresses of its current directors and officers.

g. Its most recent biennial report delivered to the secretary of state under section 490.1621.

2. A corporation shall maintain all annual financial statements prepared for the corporation for its last three fiscal years, or such shorter period of existence, and any audit or other reports with respect to such financial statements.

3. A corporation shall maintain accounting records in a form that permits preparation of its financial statements.

4. A corporation shall maintain a record of its current shareholders in alphabetical order by class or series of shares showing the address of each shareholder to which notices and other communications from the corporation are to be sent, and which shall include the number and class or series of shares held by each such shareholder. In addition, if a shareholder has provided an electronic mail address to the corporation or has consented to receive notices or other communications by electronic mail or other electronic transmission, the record of shareholders shall include the electronic mail or other electronic transmission address of the shareholder if notices or other communications are being delivered by the corporation to the shareholder at such electronic mail or other electronic transmission address pursuant to section 490.141, subsection 4. An electronic mail address of a shareholder shall be deemed to be provided by a shareholder if the electronic mail address is contained in a communication to the corporation by or on behalf of the shareholder unless the communication expressly indicates that the electronic mail address shall not be used to deliver notices or other communications.

5. A corporation shall maintain the records specified in this section in a manner so that they may be made available for inspection within a reasonable time.

89 Acts, ch 288, §175; 97 Acts, ch 171, §19; 2007 Acts, ch 140, §11, 12; 2013 Acts, ch 31, §74, 82; 2021 Acts, ch 165, §199, 230; 2022 Acts, ch 1058, §4

Referred to in §490.141, 490.840, 490.1602

490.1602 Inspection rights of shareholders.

1. A shareholder of a corporation is entitled to inspect and copy, during regular business hours at the corporation's principal office, any of the records of the corporation described in section 490.1601, subsection 1, excluding minutes of meetings of, and records of actions taken without a meeting by, the corporation's board of directors and board committees established under section 490.825, if the shareholder gives the corporation a signed written notice of the shareholder's demand at least five business days before the date on which the shareholder wishes to inspect and copy.

2. A shareholder of a corporation is entitled to inspect and copy, during regular business hours at a reasonable location specified by the corporation, any of the following records of the corporation if the shareholder meets the requirements of subsection 3 and gives the corporation a signed written notice of the shareholder's demand at least five business days before the date on which the shareholder wishes to inspect and copy any of the following:

a. The financial statements of the corporation maintained in accordance with section 490.1601, subsection 2.

b. Accounting records of the corporation.

c. Excerpts from minutes of any meeting of, or records of any actions taken without a meeting by, the corporation's board of directors and board committees maintained in accordance with section 490.1601, subsection 1.

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d. The record of shareholders maintained in accordance with section 490.1601, subsection 4.

3. A shareholder may inspect and copy the records described in subsection 2 only if all of the following apply:

a. The shareholder's demand is made in good faith and for a proper purpose.

b. The shareholder's demand describes with reasonable particularity the shareholder's purpose and the records the shareholder desires to inspect.

c. The records are directly connected with the shareholder's purpose.

4. The corporation may impose reasonable restrictions on the confidentiality, use, or distribution of records described in subsection 2.

5. For any meeting of shareholders for which the record date for determining shareholders entitled to vote at the meeting is different from the record date for notice of the meeting, any person who becomes a shareholder subsequent to the record date for notice of the meeting and is entitled to vote at the meeting is entitled to obtain from the corporation upon request the notice and any other information provided by the corporation to shareholders in connection with the meeting, unless the corporation has made such information generally available to shareholders by posting it on its internet site or by other generally recognized means. Failure of a corporation to provide such information does not affect the validity of action taken at the meeting.

6. The right of inspection granted by this section shall not be abolished or limited by a corporation's articles of incorporation or bylaws.

7. This section does not affect any of the following:

a. The right of a shareholder to inspect records under section 490.720 or, if the shareholder is in litigation with the corporation, to the same extent as any other litigant.

b. The power of a court, independently of this chapter, to compel the production of corporate records for examination and to impose reasonable restrictions as provided in section 490.1604, subsection 3, provided that, in the case of production of records described in subsection 2, at the request of a shareholder, the shareholder has met the requirements of subsection 3.

8. As used in this section, "*shareholder*" means a record shareholder, a beneficial shareholder, and an unrestricted voting trust beneficial owner.

89 Acts, ch 288, §176; 2013 Acts, ch 31, §75, 82; 2021 Acts, ch 165, §200, 230
Referred to in §490.720, 490.1603, 490.1604

490.1603 Scope of inspection right.

1. A shareholder may appoint an agent or attorney to exercise the shareholder's inspection and copying rights under section 490.1602.

2. The corporation may, if reasonable, satisfy the right of a shareholder to copy records under section 490.1602 by furnishing to the shareholder copies by photocopy or other means chosen by the corporation, including furnishing copies through an electronic transmission.

3. The corporation may comply at its expense with a shareholder's demand to inspect the record of shareholders under section 490.1602, subsection 2, paragraph "*d*", by providing the shareholder with a list of shareholders that was compiled no earlier than the date of the shareholder's demand.

4. The corporation may impose a reasonable charge to cover the costs of providing copies of documents to the shareholder, which may be based on an estimate of such costs.

89 Acts, ch 288, §177; 2002 Acts, ch 1154, §99, 125; 2013 Acts, ch 31, §76, 82; 2021 Acts, ch 165, §201, 230
Referred to in §490.720

490.1604 Court-ordered inspection.

1. If a corporation does not allow a shareholder who complies with section 490.1602, subsection 1, to inspect and copy any records required by that section to be available for inspection, the district court of the county where the corporation's principal office or, if none in this state, its registered office is located, may summarily order inspection and copying of the records demanded at the corporation's expense upon application of the shareholder.

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2. If a corporation does not within a reasonable time allow a shareholder who complies with section 490.1602, subsection 2, to inspect and copy the records required by that section, the shareholder who complies with section 490.1602, subsection 3, may apply to the district court in the county where the corporation's principal office or, if none in this state, its registered office is located for an order to permit inspection and copying of the records demanded. The court shall dispose of an application under this subsection on an expedited basis.

3. If the court orders inspection and copying of the records demanded under section 490.1602, subsection 2, it may impose reasonable restrictions on their confidentiality, use, or distribution by the demanding shareholder and it shall also order the corporation to pay the shareholder's expenses incurred to obtain the order, unless the corporation establishes that it refused inspection in good faith because of any of the following:

a. The corporation had a reasonable basis for doubt about the right of the shareholder to inspect the records demanded.

b. The corporation required reasonable restrictions on the confidentiality, use, or distribution of the records demanded to which the demanding shareholder had been unwilling to agree.

89 Acts, ch 288, §178; 2013 Acts, ch 31, §77, 82; 2021 Acts, ch 165, §202, 230
Referred to in §490.1602

490.1605 Inspection of records by directors.

1. A director of a corporation is entitled to inspect and copy the books, records, and documents of the corporation at any reasonable time to the extent reasonably related to the performance of the director's duties as a director, including duties as a member of a board committee, but not for any other purpose or in any manner that would violate any duty to the corporation.

2. The district court of the county where the corporation's principal office, or if none in this state, its registered office is located may order inspection and copying of the books, records, and documents at the corporation's expense, upon application of a director who has been refused such inspection rights, unless the corporation establishes that the director is not entitled to such inspection rights. The court shall dispose of an application under this subsection on an expedited basis.

3. If an order is issued, the court may include provisions protecting the corporation from undue burden or expense, and prohibiting the director from using information obtained upon exercise of the inspection rights in a manner that would violate a duty to the corporation, and may also order the corporation to reimburse the director for the director's expenses incurred in connection with the application.

2002 Acts, ch 1154, §100, 125; 2021 Acts, ch 165, §203, 230

490.1606 Exception to notice requirement. Repealed by 2021 Acts, ch 165, §217, 230. See §490.141(13).

490.1607 through 490.1619 Reserved.

PART 2

REPORTS

490.1620 Financial statements for shareholders.

1. Upon the written request of a shareholder, a corporation shall deliver or make available to such requesting shareholder by posting on its internet site or by other generally recognized means annual financial statements for the most recent fiscal year of the corporation for which annual financial statements have been prepared for the corporation. If financial statements have been prepared for the corporation on the basis of generally accepted accounting principles for such specified period, the corporation shall deliver or make available such financial statements to the requesting shareholder. If the annual

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financial statements to be delivered or made available to the requesting shareholder are audited or otherwise reported upon by a public accountant, the report shall also be delivered or made available to the requesting shareholder.

2. A corporation shall deliver, or make available and provide written notice of availability of, the financial statements required under subsection 1 to the requesting shareholder within five business days of delivery of such written request to the corporation.

3. A corporation may fulfill its responsibilities under this section by delivering the specified financial statements, or otherwise making them available, in any manner permitted by the applicable rules and regulations of the federal securities and exchange commission.

4. Notwithstanding the provisions of subsections 1, 2, and 3, all of the following apply:

a. As a condition to delivering or making available financial statements to a requesting shareholder, the corporation may require the requesting shareholder to agree to reasonable restrictions on the confidentiality, use, and distribution of such financial statements.

b. The corporation may, if it reasonably determines that the shareholder's request is not made in good faith or for a proper purpose, decline to deliver or make available such financial statements to that shareholder.

5. If a corporation does not respond to a shareholder's request for annual financial statements pursuant to this section in accordance with subsection 2 within five business days of delivery of such request to the corporation all of the following shall apply:

a. The requesting shareholder may apply to the district court of the county where the corporation's principal office, or if none in this state, its registered office is located for an order requiring delivery of or access to the requested financial statements. The court shall dispose of an application under this subsection on an expedited basis.

b. If the court orders delivery or access to the requested financial statements, it may impose reasonable restrictions on their confidentiality, use, or distribution.

c. In such proceeding, if the corporation has declined to deliver or make available such financial statements because the shareholder had been unwilling to agree to restrictions proposed by the corporation on the confidentiality, use, and distribution of such financial statements, the corporation shall have the burden of demonstrating that the restrictions proposed by the corporation were reasonable.

d. In such proceeding, if the corporation has declined to deliver or make available such financial statements pursuant to subsection 4, paragraph "*b*", the corporation shall have the burden of demonstrating that it had reasonably determined that the shareholder's request was not made in good faith or for a proper purpose.

e. If the court orders delivery or access to the requested financial statements it shall order the corporation to pay the shareholder's expenses incurred to obtain such order unless the corporation establishes that it had refused delivery or access to the requested financial statements because the shareholder had refused to agree to reasonable restrictions on the confidentiality, use, or distribution of the financial statements or that the corporation had reasonably determined that the shareholder's request was not made in good faith or for a proper purpose.

89 Acts, ch 288, §179; 2013 Acts, ch 31, §79, 82; 2014 Acts, ch 1024, §4; 2021 Acts, ch 165, §204, 230

490.1621 Biennial report for secretary of state.

1. Each domestic corporation shall deliver to the secretary of state for filing a biennial report that sets forth all of the following:

a. The name of the corporation.

b. The street and mailing addresses of its registered office and the name of its registered agent at that office in this state.

c. The street and mailing addresses of its principal office.

d. The names and business addresses of the president, secretary, treasurer, and one of the board of directors.

2. Each foreign corporation registered to do business in this state shall deliver to the secretary of state for filing a biennial report that sets forth all of the following:

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a. The name of the foreign corporation and, if the name does not comply with section 490.401, an alternate name as required by section 490.1506.

b. The foreign corporation's jurisdiction of formation.

c. The street and mailing addresses of the foreign corporation's principal office and, if the law of the foreign corporation's jurisdiction of formation requires the foreign corporation to maintain an office in that jurisdiction, the street and mailing addresses of that office.

d. The street and mailing addresses of the foreign corporation's registered office in this state and the name of its registered agent at that office.

e. The names and business addresses of the president, secretary, treasurer, and one of the board of directors.

3. Information in the biennial report must be current as of the date the biennial report is signed on behalf of the corporation. The report shall be executed on behalf of the corporation and signed as provided in section 490.120 or by any other person authorized by the board of directors of the corporation.

4. The first biennial report shall be delivered to the secretary of state between January 1 and April 1 of the first even-numbered year following the calendar year in which a domestic corporation was incorporated or a foreign corporation was registered to do business in this state. Subsequent biennial reports must be delivered to the secretary of state between January 1 and April 1 of the following even-numbered calendar years. For purposes of this section, each biennial report shall contain information related to the two-year period immediately preceding the calendar year in which the report is filed.

5. If a biennial report does not contain the information required by this section, the secretary of state shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the secretary of state within thirty days after the notice from the secretary of state becomes effective as determined in accordance with section 490.141, it is deemed to be timely filed.

6. The secretary of state may provide for the change of registered office or registered agent on the form prescribed by the secretary of state for the biennial report, provided that the form contains the information required in section 490.502. If the secretary of state determines that a biennial report does not contain the information required by this section but otherwise meets the requirements of section 490.502 for the purpose of changing the registered office or registered agent, the secretary of state shall file the statement of change of registered office or registered agent, effective as provided in section 490.123, before returning the biennial report to the corporation as provided in this section. A statement of change of registered office or agent pursuant to this subsection shall be executed by a person authorized to execute the biennial report.

89 Acts, ch 288, §181
CS89, §490.1622
96 Acts, ch 1170, §20, 21; 97 Acts, ch 171, §20; 2010 Acts, ch 1100, §19; 2021 Acts, ch 165, §205, 216, 230
C2022, §490.1621
2022 Acts, ch 1021, §146; 2022 Acts, ch 1058, §14
Referred to in §455B.397, 455B.430, 490.120, 490.121, 490.125, 490.128, 490.140, 490.141, 490.502, 490.1420, 490.1601, 490.1801

490.1621A Statement of removal — removal of information not authorized to be provided.

1. *a.* A person whose name, street address, mailing address, or email address has, without that person's authorization, been provided to the secretary of state as that of the registered agent or of the principal office in a domestic or foreign corporation filing may deliver to the secretary of state a notarized, sworn affidavit of unauthorized use that does all of the following:

(1) Identifies the domestic or foreign corporation registration by name and business number.

(2) Indicates the affiant's mailing address.

(3) States that neither the affiant nor any agent of the affiant has authorized the filing

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identifying the affiant as the registered agent, providing the affiant's street address or mailing address as an address of the registered agent or principal office, or providing the affiant's email address as that of the registered agent.

b. The affiant shall specify in the affidavit of unauthorized use the information that was not authorized to be provided.

c. The secretary of state may reject an affidavit of unauthorized use that is incomplete or that the secretary of state believes was delivered to the secretary of state with the intent to harass or defraud the domestic or foreign corporation or the individual named as affiant.

d. The office of the secretary of state shall adopt an affidavit of unauthorized use form in accordance with this section.

2. The secretary of state shall conduct an administrative review to determine whether the filing was authorized to identify the stated information as applicable.

3. If the secretary of state concludes that the filing was not authorized to provide the information identified in the affidavit, the secretary of state shall promptly file a statement of removal with respect to the identified information, and shall promptly cause the identified information to cease to be listed as identified for the domestic or foreign corporation.

4. The secretary of state shall not charge a fee for the filing of an affidavit of unauthorized use under subsection 1 or a statement of removal under subsection 3. The filing office shall not return any fee paid for filing the domestic or foreign corporation filing identified in the affidavit.

5. Upon filing a statement of removal, the secretary of state shall send to the principal office address or registered agent's mailing address on record for the domestic or foreign corporation, if any, a notice stating that the statement of removal has been filed and is effective immediately. The notice shall also state that the corporation is without a registered agent or registered agent address, as applicable.

6. The secretary of state shall adopt rules pursuant to chapter 17A necessary or desirable to administer this section.

2026 Acts, ch 1145, §23
Referred to in §490.125, 490.1621B
NEW section

490.1621B Interrogatories.

1. *a.* The secretary of state may serve one or more written interrogatories regarding any matter that pertains to a domestic or foreign corporation and that is within the purview of the secretary of state if the secretary of state receives credible information that a corporation is being used to accomplish a fraudulent, criminal, or unlawful purpose.

b. As used in paragraph *"a"*, *"credible information"* means any of the following:

(1) An affidavit of unauthorized use as provided in section 490.1621A.

(2) Information provided to the secretary of state by another government agency.

(3) Information collected by the secretary of state from a credible third-party data set.

2. The secretary of state shall serve such interrogatories on the domestic or foreign corporation that is the subject of the interrogatories by mail at the address of the registered agent that appears on the secretary of state's records at the time the information required by subsection 1 is received, or if the corporation has no registered agent, at the corporation's principal office address shown on the corporation's most recent biennial report filed with the secretary of state.

3. The interrogatories must be answered by a person with the authority to answer on behalf of the domestic or foreign corporation that is the subject of the interrogatories. Each interrogatory must be answered in writing separately and in a manner that is responsive to the interrogatory. The declaration on the completed interrogatories form must be signed by a person with the authority to sign on behalf of the corporation.

4. To be considered responsive, the completed and signed interrogatories form must be received by the secretary of state by mail or in-person delivery within twenty-one calendar days after the form was mailed.

5. A response to any interrogatory that indicates to the secretary of state that the domestic

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or foreign corporation violated any provision of this chapter constitutes the corporation's concession to such violation.

6. A failure to respond to any interrogatory within the allotted time constitutes the domestic or foreign corporation's concession that the corporation violated a provision or provisions of this chapter that are the subjects of the interrogatories.

7. If the secretary of state receives a response to each interrogatory that indicates to the secretary of state that the domestic or foreign corporation has not violated any provision of this chapter, the secretary of state shall take no action.

8. The secretary of state shall adopt rules pursuant to chapter 17A necessary or desirable to administer this section.

2026 Acts, ch 1145, §24
Referred to in §490.1420, 490.1421
NEW section

490.1622 Biennial report for secretary of state. Transferred to §490.1621; 2021 Acts, ch 165, §205, 216, 230.

490.1623 through 490.1700 Reserved.

SUBCHAPTER XVII

BENEFIT CORPORATIONS

Former sections 490.1701 – 490.1703 stricken by 2021 Acts, ch 165, §206 – 208; for similar provisions, see subchapter XVIII

490.1701 Application of subchapter — definitions.

1. If a corporation elects to become a benefit corporation under this subchapter in the manner prescribed in this subchapter, it is subject in all respects to the provisions of this chapter, except to the extent this subchapter imposes additional or different requirements, in which case such requirements apply. The inclusion of a provision in this subchapter does not imply that a contrary or different rule of law applies to a corporation that is not a benefit corporation. This subchapter does not affect a statute or rule of law that applies to a corporation that is not a benefit corporation.

2. As used in this subchapter:

a. "*Benefit corporation*" means a corporation that includes in its articles of incorporation a statement that the corporation is subject to this subchapter.

b. "*Public benefit*" means a positive effect, or reduction of negative effects, on one or more communities or categories of persons or entities, other than shareholders solely in their capacity as shareholders, or on the environment, including effects of an artistic, charitable, economic, educational, cultural, literary, medical, religious, social, ecological, or scientific nature.

c. "*Public benefit provision*" means a provision in the articles of incorporation which states that the corporation shall pursue one or more identified public benefits.

d. "*Responsible and sustainable manner*" means a manner that does all of the following:

(1) Pursues through the business of the corporation the creation of a positive effect on society and the environment, taken as a whole, that is material taking into consideration the corporation's size and the nature of its business.

(2) Considers, in addition to the interests of shareholders, the interests of stakeholders known to be affected by the conduct of the business of the corporation.

2021 Acts, ch 165, §206, 230
Former section 490.1701 stricken effective January 1, 2022, by 2021 Acts, ch 165, §206, 230

490.1702 Name — share certificates.

1. The name of a benefit corporation may contain the words "benefit corporation", the abbreviation "B.C.", or the designation "BC", any of which shall be deemed to satisfy the requirements of section 490.401, subsection 1, paragraph "*a*".

2. Any share certificate issued by a benefit corporation, and any information statement

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delivered by a benefit corporation pursuant to section 490.626, subsection 2, must note conspicuously that the corporation is a benefit corporation subject to this subchapter.

2021 Acts, ch 165, §207, 230

Former section 490.1702 stricken effective January 1, 2022, by 2021 Acts, ch 165, §207, 230

490.1703 Certain amendments and transactions — votes required.

1. Unless the articles of incorporation or bylaws require a greater vote, the approval of at least two-thirds of the voting power of the outstanding shares of the corporation entitled to vote thereon, and, if any class or series of shares is entitled to vote as a separate group on any such amendment or transaction, the approval of at least two-thirds of the outstanding shares of each such separate voting group entitled to vote thereon, shall be required for a corporation that is not a benefit corporation to do any of the following:

a. Amend its articles of incorporation to include a statement that it is subject to this subchapter.

b. Merge with or into, or enter into a share exchange with, another entity, or effect a domestication or conversion, if, as a result of the merger, share exchange, domestication, or conversion, the shares of any voting group would become, or be converted into or exchanged for the right to receive, shares of a benefit corporation or shares or interests in an entity subject to provisions of organic law analogous to those in this subchapter; provided, however, that in the case of this paragraph *"b"*, if the shares of one or more, but not all, voting groups are so affected, then only the shares in the voting groups so affected shall be entitled to vote under this subsection.

2. Unless the articles of incorporation or bylaws require a greater vote, the approval of at least two-thirds of the voting power of the outstanding shares of the corporation entitled to vote thereon and, if any class or series of shares is entitled to vote as a separate group on any such amendment or transaction, the approval of at least two-thirds of the voting power of the outstanding shares of each such separate voting group, shall be required for a benefit corporation to do any of the following:

a. Amend its articles of incorporation to eliminate a statement that the corporation is subject to this subchapter.

b. Merge with or into, or enter into a share exchange with, another entity, or effect a domestication or conversion if, as a result of the merger, share exchange, domestication, or conversion, the shares of any voting group would become, or be converted into or exchanged for the right to receive, shares or interests in an entity that is neither a benefit corporation nor an entity subject to provisions of organic law analogous to those in this subchapter; provided, however, that in the case of this paragraph *"b"*, if the shares of one or more, but not all, voting groups are so affected, then only the shares in the voting groups so affected shall be entitled to vote under this subsection.

3. The vote required under subsections 1 and 2 is in addition to any vote otherwise required under this chapter.

2021 Acts, ch 165, §208, 230

Former section 490.1703 stricken effective January 1, 2022, by 2021 Acts, ch 165, §208, 230

490.1704 Duties of directors.

1. Each member of the board of directors of a benefit corporation, when discharging the duties of a director, shall act according to all of the following:

a. In a responsible and sustainable manner.

b. In a manner that pursues the public benefit or benefits identified in any public benefit provision.

2. In fulfilling the duties under subsection 1, a director shall consider, to the extent affected, in addition to the interests of shareholders generally, the separate interests of stakeholders known to be affected by the business of the corporation including all of the following:

a. The employees and workforces of the corporation, its subsidiaries, and its suppliers.

b. Customers.

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c. Communities or society, including those of each community in which offices or facilities of the corporation, its subsidiaries, or its suppliers are located.

d. The local and global environment.

3. A director of a benefit corporation shall not, by virtue of the duties imposed by subsections 1 and 2, owe any duty to a person other than the benefit corporation due to any interest of the person in the status of the corporation as a benefit corporation or in any public benefit provision.

4. Unless otherwise provided in the articles of incorporation, the violation by a director of the duties imposed by subsections 1 and 2 shall not constitute an intentional infliction of harm on the corporation or the shareholders for the purposes of section 490.202, subsection 2, paragraphs *"d"* and *"e"*.

2021 Acts, ch 165, §209, 230; 2022 Acts, ch 1058, §7
Referred to in §490.1705

490.1705 Annual benefit report.

1. No less than annually, a benefit corporation shall prepare a benefit report addressing the efforts of the corporation during the preceding year to operate in a responsible and sustainable manner, to pursue any public benefit or benefits identified in any public benefit provision, and to consider the interests described in section 490.1704, subsection 2. The annual benefit report must include all of the following:

a. The objectives that the board of directors has established for the corporation to operate in a responsible and sustainable manner, to pursue any public benefit or benefits identified in any public benefit provision, and to consider the interests described in section 490.1704, subsection 2.

b. The standards the board of directors has adopted to measure the corporation's progress in operating in a responsible and sustainable manner, in pursuing the public benefit or benefits identified in any public benefit provision, and in considering the interests described in section 490.1704, subsection 2.

c. If the articles of incorporation or bylaws require that the corporation use an independent third-party standard in reporting on the corporation's progress in operating in a responsible and sustainable manner, in pursuing any public benefit or benefits identified in any public benefit provision, or in considering the interests described in section 490.1704, subsection 2, or if the board of directors has chosen to use such a standard, the applicable standard so required or chosen.

d. An assessment of the corporation's success in meeting the objectives and standards identified in paragraphs *"a"* and *"b"*, and, if applicable, paragraph *"c"*, and the basis for that assessment.

2. The benefit corporation shall deliver to each shareholder, or make available and provide written notice to each shareholder of the availability of, the annual benefit report required by subsection 1 on or before the earlier of the following:

a. One hundred twenty days following the end of the fiscal year of the benefit corporation.

b. The time that the benefit corporation delivers any other annual reports or annual financial statements to its shareholders.

3. Any shareholder that has not received or been given access to an annual benefit report within the time required by subsection 2 may make a written request that the corporation deliver or make available the annual benefit report to the shareholder. If a benefit corporation does not deliver or make available an annual benefit report to the shareholder within five business days of receiving such request, the requesting shareholder may apply to the district court of the county where the corporation's principal office or, if none in this state, its registered office, is located for an order requiring delivery of or access to the annual benefit report. The court shall dispose of an action under this subsection 3 on an expedited basis.

4. A benefit corporation shall post all of its annual benefit reports on the public portion of its internet site, if any. If a benefit corporation does not have an internet site, the benefit

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corporation shall provide a copy of its most recent annual benefit report, without charge, to any person that requests a copy in writing.

2021 Acts, ch 165, §210, 230
Referred to in §490.1706

490.1706 Rights of action.

1. Except in a proceeding authorized under section 490.1705, subsection 3, or this section, no person other than the corporation, or a shareholder in the right of the corporation pursuant to subsection 2, may bring an action or assert a claim with respect to the violation of any duty applicable to a benefit corporation or any of its directors under this subchapter.

2. Except for a proceeding brought under section 490.1705, subsection 3, a proceeding by a shareholder of a benefit corporation claiming violation of any duty applicable to a benefit corporation or any of its directors under this subchapter is subject to all of the following:

a. The proceeding must be brought in a derivative proceeding pursuant to subchapter VII, part 4.

b. The proceeding may be brought only by a shareholder of the benefit corporation that at the time of the act or omission complained of either individually, or together with other shareholders bringing such action collectively, owned directly or indirectly at least five percent of a class of the corporation's outstanding shares or, in the case of a corporation with shares traded on an organized market as described in section 490.1302, subsection 2, paragraph *"a"*, subparagraph (2), either that percentage of shares or shares with a market value of at least five million dollars at the time the proceeding is commenced.

3. A suit under subsection 2 shall not be maintained if, during the pendency of the suit, the shareholder individually fails, or the shareholders collectively fail, to continue to own directly or indirectly the lesser of the number of shares owned at the time the proceeding is commenced or five percent of a class of the corporation's shares.

2021 Acts, ch 165, §211, 230

490.1707 through 490.1800 Reserved.

SUBCHAPTER XVIII

TRANSITIONAL PROVISIONS

490.1801 Application to existing domestic corporations.

1. This chapter applies to all domestic corporations in existence on January 1, 2022, that were incorporated under any general statute of this state providing for incorporation of corporations for profit if power to amend or repeal the statute under which the corporation was incorporated was reserved.

2. *a.* Unless otherwise provided, this chapter does not apply to an entity subject to chapter 174, 497, 498, 499, 499A, 501, 501A, 524, or 533, or a corporation organized on the mutual plan under chapter 491, or a telephone company organized as a corporation under chapter 491 qualifying pursuant to an internal revenue service letter ruling under Internal Revenue Code §501(c)(12) as a nonprofit corporation entitled to distribute profits in a manner similar to a chapter 499 corporation, unless such entity voluntarily elects to adopt the provisions of this chapter and complies with the procedure prescribed by subsection 3.

b. A corporation organized under chapter 496C may voluntarily elect to adopt the provisions of this chapter by complying with the provisions prescribed by subsection 3.

3. The procedure for the voluntary election referred to in subsection 2 is as follows:

a. The corporation shall amend or restate its articles of incorporation to indicate that the corporation adopts this chapter and to designate the address of its initial registered office and the name of its registered agent at that office and, if the name of the corporation is not in compliance with the requirements of this chapter, to change the name of the corporation to one complying with the requirements of this chapter.

b. (1) The instrument shall be delivered to the secretary of state for filing and recording

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in the secretary of state's office. If the corporation was organized under chapter 524 or 533, the instrument shall also be filed and recorded in the office of the county recorder. The corporation shall at the time it files the instrument with the secretary of state deliver also to the secretary of state for filing in the secretary of state's office any biennial report required by section 490.1621 which is then due.

(2) If the county of the initial registered office as stated in the instrument for a corporation organized under chapter 524 or 533 is one which is other than the county where the principal place of business of the corporation, as designated in its articles of incorporation, was located, the corporation shall forward to the county recorder of the county in which the principal place of business of the corporation was located a copy of the instrument and the corporation shall forward to the recorder of the county in which the initial registered office of the corporation is located, in addition to a copy of the original instrument, a copy of the articles of incorporation of the corporation together with all amendments to them as then on file in the secretary of state's office. The corporation shall, through an officer or director, certify to the secretary of state that a copy has been sent to each applicable county recorder, including the date each copy was sent.

c. Upon the filing of the instrument by a corporation all of the following apply:

(1) All of the provisions of this chapter apply to the corporation.

(2) The secretary of state shall issue a certificate as to the filing of the instrument and deliver the certificate to the corporation or its representative.

(3) The secretary of state shall not file the instrument with respect to a corporation unless at the time of filing the corporation is validly existing and in good standing in that office under the chapter under which it is incorporated. The corporation shall be considered validly existing and in good standing for the purpose of this chapter for a period of three months following the expiration date of the corporation, provided all biennial reports due have been filed and all fees due in connection with the biennial reports have been paid.

d. The provisions of this chapter becoming applicable to a corporation voluntarily electing to be governed by this chapter do not affect any right accrued or established, or any liability or penalty incurred, under the chapter under which it is incorporated prior to the filing by the secretary of state in the secretary of state's office of the instrument manifesting the election by the corporation to adopt the provisions of this chapter as provided in this subsection.

4. A corporation subject to this chapter is not subject to chapter 491, 492, 493, or 495.

2021 Acts, ch 165, §212, 230
Referred to in §496C.14, 496C.19, 515G.3

490.1802 Application to existing foreign corporations.

A foreign corporation registered or authorized to do business in this state on January 1, 2022, is subject to this chapter, is deemed to be registered to do business in this state, and is not required to file a foreign registration statement under this chapter.

2021 Acts, ch 165, §213, 230

490.1803 Savings provisions.

1. Except as to procedural provisions, division I of 2021 Iowa Acts, ch. 165, does not affect a pending action or proceeding or a right accrued before January 1, 2022, and a pending civil action or proceeding may be completed, and a right accrued may be enforced, as if division I of 2021 Iowa Acts, ch. 165, had not become effective.

2. If a penalty or punishment for violation of a statute or rule is reduced by division I of 2021 Iowa Acts, ch. 165, the penalty, if not already imposed, shall be imposed in accordance with division I of 2021 Iowa Acts, ch. 165.

3. In the event that any provision of this chapter is deemed to modify, limit, or supersede the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §7001 et seq., the provisions of this chapter shall control to the maximum extent permitted by section 102(a)(2) of that federal Act.

2021 Acts, ch 165, §214, 230

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490.1804 Severability.

If any provision of this chapter or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application.

2021 Acts, ch 165, §215, 230

CHAPTER 490A

LIMITED LIABILITY COMPANIES

Repealed by its own terms effective December 31, 2010; 2008 Acts, ch 1162, §153, 155; see chapter 489
Chapter 489 governs limited liability companies formed on or after January 1, 2009, and all limited liability companies on and after January 1, 2011; for provisions regarding the applicability of chapter 489 to limited liability companies formed before January 1, 2009, see §489.1207

CHAPTER 491

CORPORATIONS FOR PECUNIARY PROFIT

Referred to in §9.11, 28E.29, 261B.3A, 468.327, 468.506, 490.1801, 499.5, 499.43B, 504.1108, 508B.2, 514.23, 515.1, 515.11A, 515G.2, 515G.3, 518.1, 518A.1, 519.2, 521.2, 521.17, 521A.14, 524.2001, 552A.2, 669.14

Applicable to domestic corporations incorporated prior to July 1, 1971; §491.1
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SUBCHAPTER I

GENERAL PROVISIONS

491.1 Who may incorporate.

Any number of persons may become incorporated under this chapter prior to July 1, 1971, for the transaction of any lawful business, but the incorporation confers no power or privilege not possessed by natural persons, except as provided in this chapter. All domestic corporations shall be organized under chapter 490, except as expressly provided otherwise in chapter 490.

[C51, §673; R60, §1150; C73, §1058; C97, §1607; C24, 27, 31, 35, 39, §**8339;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.1]

83 Acts, ch 101, §106; 89 Acts, ch 83, §65; 89 Acts, ch 288, §186

Referred to in §521A.14

Consolidation or merger involving domestic mutual insurance companies, merger involving foreign or domestic stock insurance companies, and merger involving domestic health maintenance organizations or limited service organizations, see §521.2

491.2 Single person.

Except as otherwise provided by law, a single person may incorporate under the provisions of this chapter, thereby entitling that person to all the privileges and immunities provided herein, but if the person adopts the name of an individual or individuals as that of the corporation, the person must add thereto the word “incorporated”.

[C51, §702; R60, §1179; C73, §1088; C97, §1608; C24, 27, 31, 35, 39, §**8340;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.2]

491.3 Powers.

Among the powers of such corporations are the following:

1. To have perpetual succession.
2. To sue and be sued by its corporate name.
3. To have a common seal, which it may alter at pleasure.
4. To render the interests of the stockholders transferable.

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5. To exempt the private property of its members from liability for corporate debts, except as otherwise declared.

6. To make contracts and acquire and transfer property, possessing the same powers in such respects as natural persons.

7. To establish bylaws, and make all rules and regulations necessary for the management of its affairs.

8. A corporation organized under or subject to this chapter may make indemnification as provided in sections 490.850 through 490.859.

[C51, §674; R60, §1151; C73, §1059; C97, §1609; C24, 27, 31, 35, 39, §**8341;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.3]

83 Acts, ch 71, §2; 90 Acts, ch 1205, §29; 2002 Acts, ch 1154, §102, 125; 2015 Acts, ch 29, §63; 2015 Acts, ch 30, §160

491.4 Index book. Repealed by 94 Acts, ch 1055, §16.

491.5 Articles adopted and filed — recording.

1. Before commencing any business except their own organization, they must adopt articles of incorporation, which must be signed and acknowledged by the incorporators. Said articles shall then be forwarded to the secretary of state. Upon the filing of such articles, the secretary of state shall issue a certificate of incorporation and record said articles in a book kept for that purpose.

2. Such articles shall contain:

a. Name of corporation and its principal place of business.

b. The objects for which it is formed.

c. The amount of authorized capital stock, the classes of stock and number of shares authorized, with the par value and conditions of each class of such shares, and the time when and conditions under which it is to be paid in.

d. The time of commencement and existence of the corporation.

e. The names and addresses of the incorporators and the officers or persons its affairs are to be conducted by, and the times when and manner in which such officers will be elected.

f. Whether private property is to be exempt from corporate debts.

g. The manner in which the articles may be amended.

h. Any provision eliminating or limiting the personal liability of a director to the corporation or its shareholders or members for money damages as provided in section 490.202, subsection 2, paragraph *"d"*, except that section 490.202, subsection 2, paragraph *"d"*, subparagraph (1), subparagraph division (c), shall have no application.

i. Any provision permitting or making obligatory indemnification of a director as provided in section 490.202, subsection 2, paragraph *"e"*, except that section 490.202, subsection 2, paragraph *"e"*, subparagraph (3), shall have no application.

[C51, §675; R60, §1152; C73, §1060; C97, §1610; S13, §1610; C24, 27, 31, 35, 39, §**8343;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.5]

87 Acts, ch 212, §2; 88 Acts, ch 1170, §3; 94 Acts, ch 1055, §4; 2003 Acts, ch 66, §5, 6; 2012 Acts, ch 1023, §151, 157

Referred to in §9.11, 491.10, 491.107

491.5A Secretary of state — extra services — surcharge.

Upon the request of a filer of a document under this chapter, the secretary of state shall provide an extra filing service and assess a surcharge as provided in chapter 9, subchapter II.

2021 Acts, ch 165, §258

Referred to in §491.10

491.6 Filing or refusal to file.

When articles of incorporation are presented to the secretary of state for the purpose of being filed, if the secretary is satisfied that they are in proper form to meet the requirements of law, that their object is a lawful one and not against public policy, that their plan for doing business, if any be provided for, is honest and lawful, the secretary shall file them; but if the secretary is of the opinion that they are not in proper form to meet the requirements of the

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law, or that their object is an unlawful one, or against public policy, or that their plan for doing business is dishonest or unlawful, the secretary shall refuse to file them.

[S13, §1610; C24, 27, 31, 35, 39, §**8344;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.6]
Referred to in §491.10, 491.107

491.7 Question of legality submitted.

Should a question of doubt arise as to the legality of the articles, the secretary of state shall submit them to the attorney general whose duty it shall be to forthwith examine and return them with an opinion in writing touching the point or points concerning which inquiry has been made of the attorney general.

[S13, §1610; C24, 27, 31, 35, 39, §**8345;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.7]
Referred to in §491.10, 491.107

491.8 Action on opinion.

If such opinion is in favor of the legality of the articles, and no other objections are apparent, they shall then, upon payment of the proper fee, be filed and otherwise dealt with as the law provides. If, however, such opinion be against their legality they shall not be filed.

[S13, §1610; C24, 27, 31, 35, 39, §**8346;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.8]
Referred to in §491.10, 491.107

491.9 Submission to executive council.

Upon the rejection of any articles of incorporation by the secretary of state, except for the reason that they have been held by the attorney general to be illegal, they shall, if the person or persons presenting them so request, be submitted to the executive council, which shall, as soon as practicable, consider the said articles and if the council determines that the articles are in proper form, of honest purpose, not against public policy, nor otherwise objectionable, it shall so advise the secretary of state in writing, whereupon the secretary shall, upon the payment of the proper fees, file the same and proceed otherwise as the law directs; but if the council sustains the previous action of the secretary of state in rejecting said articles, such decision by the council shall be reported to the secretary of state in writing, and the secretary shall then return said articles to the person or persons presenting them with such explanation as shall be proper in the case.

[C13, §1610; C24, 27, 31, 35, 39, §**8347;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.9]
Referred to in §491.10, 491.107

491.10 Interpretative clause.

Nothing in sections 491.5 through 491.9 shall be construed as repealing or modifying any statute now in force in respect to the approval of articles of incorporation relating to insurance companies or investment companies.

[S13, §1610; C24, 27, 31, 35, 39, §**8348;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.10]
2012 Acts, ch 1017, §90; 2021 Acts, ch 80, §313

491.11 Incorporation fee.

Corporations organized for a period of years shall pay the secretary of state, before a certificate of incorporation is issued, a fee of fifty dollars.

[C97, §1610; S13, §1610; C24, 27, 31, 35, 39, §**8349;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.11]
93 Acts, ch 126, §10
Referred to in §491.28, 491.107

491.12 Exemption from fee. Repealed by 93 Acts, ch 126, §35.

491.13 Place of business.

1. Any corporation organized under the laws of this state shall fix upon and designate in its articles of incorporation its principal place of business which must be in this state, and if outside the limits of a city then its post office address must be given. The place of business so designated shall not be changed except through an amendment to its articles of incorporation.

2. When a corporation changes its principal place of business from one county to another,

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an amendment for this purpose shall be filed with the secretary of state, recorded in the office of the recorder of deeds of the county of the previous place of business, and then said amendment together with the articles of incorporation and all amendments thereto shall be filed with the recorder of deeds of the county to which said corporation's principal place of business is changed.

[C97, §1612; S13, §1612; C24, 27, 31, 35, 39, §**8353;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.13]

2018 Acts, ch 1041, §127

Referred to in §9.11

491.14 Custody of office — business maintained.

Its place of business shall be in charge of an agent of the corporation and shall be the place where it shall hold its stockholders' meetings, keep a record of its proceedings and its stock and transfer books. The board of directors may designate by resolution some other place in the county where business of the corporation is transacted as the place for holding a stockholders' meeting if notice is mailed to the stockholders at least twenty days prior to each meeting informing the stockholders of the place, date, and hour of the stockholders' meeting.

[C97, §1612; S13, §1612; C24, 27, 31, 35, 39, §**8354;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.14]

491.15 Service of original notice — secretary of state.

Any corporation organized under the laws of this state that does not maintain an office in the county of its organization may file with the secretary of state a certified copy of a resolution of the board of directors of said corporation giving name and address in Iowa of a resident agent on whom the service of original notice of civil suit in the courts of this state may be served, or file with the secretary of state a written instrument duly signed and acknowledged authorizing the secretary of state to acknowledge service of notice or process for and in behalf of such corporation in this state and consenting that service of notice or process may be made upon the secretary of state. Failing which, or in the event such agent may not be found within the state, service of such process may then be made upon said corporation through the secretary of state by sending the original and two copies thereof to the secretary, and the secretary shall immediately upon its receipt acknowledge service thereon in behalf of the defendant corporation by writing thereon, giving the date thereof, and shall immediately return such notice or process by certified mail to the clerk of the court in which the suit is pending, addressed by the clerk's official title, and shall also forthwith mail a copy with a copy of the secretary's acknowledgment of service written thereon, by certified mail addressed to the corporation at the address of its principal place of business as shown by the records in the secretary of state's office, and shall retain the second copy for the secretary's files.

[C97, §1612; S13, §1612; C24, 27, 31, 35, 39, §**8355, 8356;** C46, 50, §491.15, 491.16; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.15]

Referred to in §9.11

491.16 Indemnification of officers, directors, employees, and agents — insurance.

Sections 490.850 through 490.859 apply to corporations organized under or subject to this chapter.

[C71, 73, 75, 77, 79, 81, §491.16]

83 Acts, ch 71, §3; 90 Acts, ch 1205, §30; 2002 Acts, ch 1154, §103, 125

491.16A Directors and officers — duties and liabilities.

Sections 490.830, 490.831, and 490.832, sections 490.840 through 490.842, sections 490.860 through 490.863, and section 490.870 apply to corporations organized under or subject to this chapter.

2003 Acts, ch 66, §7; 2018 Acts, ch 1136, §5

491.17 Remote participation in meetings of shareholders.

1. Shareholders of any class may participate in any meeting of shareholders by means

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of remote communication to the extent the board of directors authorizes such participation for such class. Participation as a shareholder by means of remote communication shall be subject to such guidelines and procedures as the board of directors adopts, and shall be in conformity with subsection 2.

2. Shareholders participating in a meeting of shareholders by means of remote communication shall be deemed present and may vote at such a meeting if the corporation has implemented reasonable measures to do all of the following:

a. Verify that each person participating remotely as a shareholder is a shareholder.

b. Provide such shareholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the shareholders, including an opportunity to communicate, and to read or hear the proceedings of the meeting, substantially concurrently with such proceedings.

3. Unless the bylaws require the meeting of shareholders to be held at a place, the board of directors may determine that any meeting of shareholders shall not be held at any place and shall instead be held solely by means of remote communication, but only if the corporation implements the measures specified in subsection 2.

2021 Acts, ch 165, §231, 248
Referred to in §491.104

491.18 Proof of publication — filing. Repealed by 2014 Acts, ch 1074, §4.

491.19 Commencement of business.

The corporation may commence business as soon as the articles of incorporation are filed with the secretary of state.

[C51, §679; R60, §1156; C73, §1064; C97, §1614; C24, 27, 31, 35, 39, §**8359;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.19]
2014 Acts, ch 1074, §1

491.20 Amendments — fees.

1. Amendments to articles of incorporation making changes in any of the provisions of the articles may be made at any annual meeting of the stockholders or special meeting called for that purpose, and they shall be valid only when approved by the shareholders and filed with the secretary of state. If no increase is made in the amount of capital stock, a certificate fee of one dollar and a recording fee of fifty cents per page must be paid. Where capital stock is increased the certificate fee shall be omitted but there shall be paid a recording fee of fifty cents per page and in addition a filing fee which in case of corporations existing for a period of years shall be one dollar per thousand of such increase and in case of corporations empowered to exist perpetually shall be one dollar and ten cents per thousand of such increase. Corporations providing for perpetual existence by amendment to its articles shall, at the time of filing such amendment, pay to the secretary of state a fee of one hundred dollars together with a recording fee of fifty cents per page, and, for all authorized capital stock in excess of ten thousand dollars, an additional fee of one dollar ten cents per thousand.

2. *a.* Its articles of incorporation to the contrary notwithstanding, if three-fourths of the voting stock of any corporation organized under the provisions of this chapter, with assets of the value of one million dollars or more, is owned by individuals owning not more than one share each of the voting stock thereof, said articles may be amended at any regular or special meeting of stockholders, when a notice in writing of the substance of the proposed amendment has been mailed by ordinary mail to each voting stockholder of such corporation not more than ninety nor less than sixty days prior to said meeting, by the affirmative vote of two-thirds of the voting stock represented at said meeting when said amendment is approved by the affirmative vote of two-thirds of the members of the board of directors at a meeting prior to the mailing of said notice.

b. If such corporation is renewed under the provisions of section 491.25, the voting stock

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of dissenting stockholders or any portion thereof may be purchased by the corporation at its option as provided in section 491.25.

[C51, §680; R60, §1157; C73, §1065; C97, §1615; S13, §1615; C24, 27, 31, 35, 39, §**8360;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.20]

2014 Acts, ch 1074, §2; 2015 Acts, ch 29, §64

Referred to in §9.11, 491.24, 491.26, 491.107

491.21 Signing and acknowledging of amendments.

Such amendments need only be signed and acknowledged by such officers of the corporation as may be designated by the stockholders to perform such act.

[C97, §1615; S13, §1615; C24, 27, 31, 35, 39, §**8361;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.21]

491.22 Individual property liable.

A failure to substantially comply with the foregoing requirements in relation to organization and publicity shall render the individual property of the stockholders liable for the corporate debts; but corporators and stockholders in railway and street railway companies shall be liable only for the amount of stock held by them therein.

[C51, §689; R60, §1166, 1338; C73, §1068; C97, §1616; C24, 27, 31, 35, 39, §**8362;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.22]

491.23 Dissolution — filing a statement with secretary of state.

A corporation may be dissolved prior to the period fixed in the articles of incorporation, by unanimous consent, or in accordance with the provisions of its articles, if a statement swearing to the dissolution, signed by the officers of such corporation, is filed with the secretary of state. A fee of one dollar shall apply to the filing of the statement.

[C51, §682, 683; R60, §1159, 1160; C73, §1066, 1067; C97, §1617; C24, 27, 31, 35, 39, §**8363;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.23]

94 Acts, ch 1055, §5; 2014 Acts, ch 1074, §3; 2015 Acts, ch 30, §161

Referred to in §9.11

491.24 Duration.

Corporations for the construction and operation, or the operation alone, of steam railways, interurban railways, and street railways, or for the transaction of the business of life insurance, may be formed to endure fifty years; those for other purposes, not to exceed twenty years; provided, however, that in addition to the power herein granted to incorporate for a period of years, corporations hereafter organized or now existing may have perpetual existence by so providing in the articles of incorporation or by amendment thereto pursuant to section 491.20.

[C51, §681; R60, §1158; C73, §1069; C97, §1618; S13, §1618; C24, 27, 31, 35, 39, §**8364;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.24]

491.25 Renewal — conditions.

1. Corporations existing for a period of years may be renewed from time to time for the same or shorter periods, or may be renewed to exist perpetually, upon compliance with the provisions of this section and other applicable statutes.

2. The right of renewal is vested in the stockholders and shall be exercised by a resolution thereof adopted at any regular meeting or at any special meeting called for that purpose. Such resolution must be adopted by a majority of all the votes cast at such meeting, or by such other vote as is authorized or required in the company's existing articles of incorporation.

3. If the renewal instrument in proper form and the necessary fees are tendered to the secretary of state for filing three months or less either prior or subsequent to the corporation's expiration date, the renewal shall take effect immediately upon the expiration of the corporation's previous period of existence, and in such case, the corporate existence shall be considered as having been extended without interruption. If the renewal is filed more than three months before or after the expiration date, the renewal shall take effect upon the date such renewal with necessary fees is accepted and filed by the secretary of

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state; and in cases where filed more than three months after the expiration date, shall not be in legal effect a renewal unless the procedure provided for and the additional fees provided for in section 491.28 are fully complied with and paid.

4. In all cases of renewal, those stockholders voting for such renewal must purchase at its real value the stock voted against the renewal, and shall have three years from the date such action for renewal was taken in which to purchase and pay for the stock voting against the renewal, which purchase price shall bear interest at the rate of five percent per annum from the date of the renewal action until paid.

[C51, §681; R60, §1158; C73, §1069; C97, §1618; S13, §1618; C24, 27, 31, 35, 39, §**8365, 8366;** C46, 50, §491.25, 491.26; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.25]

2015 Acts, ch 29, §65
Referred to in §9.11, 491.20, 491.26

491.26 Stock of dissenting holders.

The provisions of section 491.25 shall not apply to any renewal voted before July 4, 1951, but all rights of any corporation described or referred to in the last two paragraphs of section 491.20 to purchase stock of dissenting stockholders or any portion thereof are preserved to said corporation both before and after this section becomes operative.

[S13, §1618; C24, 27, 31, 35, 39, §**8366;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.26]

491.27 Execution of renewal — record required.

After the action of the stockholders for the renewal of any corporation, a certificate, showing the proceedings resulting in the renewal, sworn to by the president and secretary of the corporation, or by other officers as may be designated by the stockholders, together with the articles of incorporation, which may be the original articles of incorporation or amended and substituted articles, shall be filed with the secretary of state and be recorded by the secretary in a book kept for that purpose.

[S13, §1618; C24, 27, 31, 35, 39, §**8367;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.27]

94 Acts, ch 1055, §6
Referred to in §9.11

491.28 Filing with secretary of state — fees — certificate of renewal.

1. Upon filing with the secretary of state the said certificate and articles of incorporation, and upon the payment to the secretary of state of the fees prescribed by section 491.11 for newly organized corporations, the secretary of state shall issue a proper certificate for the renewal of the corporation.

2. Whenever, after timely notice has been received that its articles of incorporation will expire and the corporate existence of any corporation has expired and not been renewed within the period prescribed by statute, said corporation thereafter files with the secretary of state amended and substituted articles of incorporation for the purpose of renewing and extending its corporate existence, the secretary of state shall cause said corporation to file satisfactory proof that no judgments against said corporation or the stockholders thereof are outstanding which may be liens against said corporation and that there is no pending litigation involving said corporation or the corporate existence of said corporation. Upon the filing of said proof the secretary of state may acknowledge and file for record the amended and substituted articles of said corporation and issue a certificate of renewal upon the payment of the renewal fees required by statute, however, the secretary of state shall charge and collect an additional ten percent of said renewal fees for each month or major fraction thereof said corporation was delinquent in renewal of its corporate existence as a penalty, but in no instance shall such additional delinquency fee be less than one hundred dollars and not more than one thousand dollars. Said certificate of renewal when issued shall have the same force and effect as though issued upon proper and timely application by said corporation and it shall date from the expiration of the corporate period which it succeeds.

[S13, §1618; C24, 27, 31, 35, 39, §**8368;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.28]

2018 Acts, ch 1041, §127
Referred to in §9.11, 491.25

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491.29 Erroneous certificate — correction.

In all cases wherein the secretary of state has prior to April 10, 1931 issued to a corporation organized or purporting to have been organized under the laws of this state a certificate renewing and extending its corporate existence from an erroneous date or for a period of time in excess of that provided by law, the secretary of state shall, upon the surrender of such certificate, issue to such corporation a new certificate, extending and renewing the corporate existence thereof from the correct date or for the period of time provided by law.

[C31, 35, §8368-d1; C39, §**8368.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.29]

Referred to in §9.14

491.30 and 491.31 Repealed by 93 Acts, ch 126, §35.

491.32 Notice of renewal — publication. Repealed by 2014 Acts, ch 1074, §4.

491.33 Foreign insurance companies becoming domestic.

The secretary of state upon a corporation complying with the provisions of this section and upon the filing of articles of incorporation and upon receipt of the fees as provided in this chapter shall issue a certificate of incorporation as of the date of the corporation's original incorporation in its state of original incorporation. The certificate of incorporation shall state on its face that it is issued in accordance with the provisions of this section. The secretary of state shall then notify the appropriate officer of the state or country of the corporation's last domicile that the corporation is now a domestic corporation domiciled in this state. This section applies to life insurance companies, and to insurance companies doing business under chapter 515.

[C75, 77, 79, 81, §491.33; 81 Acts, ch 161, §1]

94 Acts, ch 1055, §7

Referred to in §508.12, 515.78

491.34 and 491.35 Reserved.

491.36 Foreign-trade zone corporation.

A domestic corporation may be incorporated or organized under the laws of this state, and a foreign corporation may be authorized or registered to transact business in this state, for the purpose of establishing, operating, and maintaining a foreign-trade zone as defined in 19 U.S.C. §81a. The domestic or foreign corporation must maintain its principal place of business in this state. The domestic or foreign corporation described in this section has all powers necessary or convenient for applying for a grant of authority to establish, operate, and maintain a foreign-trade zone under the provisions of 19 U.S.C. §81a, et seq., and rules promulgated under that law, and for establishing, operating, and maintaining a foreign-trade zone pursuant to that grant of authority.

[C81, §491.36]

2010 Acts, ch 1061, §66; 2021 Acts, ch 165, §264, 266

491.37 Reserved.

491.38 Consolidation of interstate bridge companies.

Any corporation heretofore or hereafter organized under the laws of this state for the purpose of constructing or operating, or constructing and operating, a bridge, one extremity of which shall rest in an adjacent state, may merge or consolidate the stock, property, rights, franchises, privileges, assets and liabilities of such corporation with the stock, property, rights, franchises, privileges, assets and liabilities of a corporation organized for a similar purpose under the laws of such adjacent state, upon such terms not in conflict with law as may be mutually agreed upon, and thereafter such merged or consolidated corporations shall be one corporation with such name as may be agreed upon, and shall have all of the

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property, rights, privileges, assets and franchises, and be subject to all of the liabilities, of the merging or consolidating corporations.

[C31, 35, §8375-d1; C39, §**8375.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.38]
2013 Acts, ch 90, §147

491.39 Legislative control.

The articles of incorporation, bylaws, rules and regulations of corporations hereafter organized under the provisions of either Title XII, subtitles 2 through 5, or Title XIII, subtitle 1 or 2, or whose organization may be adopted or amended thereunder, shall at all times be subject to legislative control, and may be at any time altered, abridged or set aside by law, and every franchise obtained, used, or enjoyed by such corporation may be regulated, withheld, or be subject to conditions imposed upon the enjoyment thereof, whenever the general assembly shall deem necessary for the public good.

[C73, §1090; C97, §1619; C24, 27, 31, 35, 39, §**8376;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.39]
Iowa Constitution, Art. I, §21; Art. VIII, §12
United States Constitution, Article I, §10

491.40 Fraud — penalty for.

Intentional fraud in failing to comply substantially with the articles of incorporation, or in deceiving the public or individuals in relation to their means or their liabilities, shall be a fraudulent practice. Any person who has sustained injury from such fraud may also recover damages therefor against those guilty of participating in such fraud.

[C51, §686; R60, §1163; C73, §1071; C97, §1620; C24, 27, 31, 35, 39, §**8377;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.40]
Referred to in §491.41, 491.42
Fraudulent practices, see §714.8 – 714.14

491.41 Diversion of funds — unlawful dividends.

The diversion of the funds of the corporation to other objects than those mentioned in its articles and in the notice published, if any person be injured thereby, and the payment of dividends which leaves insufficient funds to meet the liabilities thereof, shall be such fraud as will subject those guilty thereof to the penalties of section 491.40; and such dividends, or their equivalent, in the hands of stockholders, shall be subject to such liabilities. If the directors or other officers or agents of any corporation shall declare and pay any dividend when such corporation is known by them to be insolvent, or any dividend the payment of which would render it insolvent, or which would diminish the amount of its capital stock, all directors, officers, or agents knowingly consenting thereto shall be jointly and severally liable for all the debts of such corporation then existing, but dividends made in good faith before knowledge of the occurring of losses shall not come within the provisions of this section.

[C51, §687, 688; R60, §1164, 1165; C73, §1072, 1073; C97, §1621; C24, 27, 31, 35, 39, §**8378;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.41]
Referred to in §491.42

491.42 Forfeiture.

Any intentional violation by the board of directors or the managing officers of the corporation of the provisions of sections 491.40 and 491.41 shall work a forfeiture of the corporate privileges, to be enforced as provided by law.

[C51, §690; R60, §1167; C73, §1074; C97, §1622; C24, 27, 31, 35, 39, §**8379;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.42]

491.43 Keeping false accounts.

The intentional keeping of false books or accounts shall be a fraudulent practice on the part of any officer, agent, or employee of the corporation guilty thereof, or of anyone whose duty it is to see that such books or accounts are correctly kept.

[C51, §691; R60, §1168; C73, §1075; C97, §1623; C24, 27, 31, 35, 39, §**8381;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.43]
Fraudulent practices, see §714.8 – 714.14

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491.44 and 491.45 Reserved.

491.46 Books to show names of stockholders.

The books of the corporation shall be kept to show the amount of capital stock actually paid in, the number of shares of stock issued, the original stockholders, and all transfers of shares of stock, and there shall be entered upon the books of the corporation the name of the person by and to whom stock is transferred, the numbers or other designations of the shares of stock and the date of transfer. This section does not create any rights or impose any duties inconsistent with the provisions of chapter 554.

[C51, §692; R60, §1169; C73, §1078; C97, §1626; C24, 27, 31, 35, 39, §**8385;** C46, 50, §491.47; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.46]

Referred to in §491.50

491.47 Names exhibited at meetings.

It shall be the duty of the officer or agent of any corporation organized under the laws of the state of Iowa, or any foreign corporation qualified to do business in the state of Iowa and holding a meeting of its stockholders in the state of Iowa, who has charge of the stock records of such corporation to prepare and make, at least ten days before the holding of such meeting, a complete list of the stockholders entitled to vote thereat, arranged in alphabetical order. Such list shall be open and available at the place where said meeting is to be held for said ten days to the examination of any stockholder, and shall be kept at the time and place of meeting during the whole time thereof, and subject to the inspection of any stockholder who may be present at said meeting. The original or duplicate stock ledger of the corporation shall be the only evidence as to who are the stockholders entitled to examine such list or the books of the corporation or to vote in person or by proxy at such meeting. Failure to comply with the requirements of this section shall not affect the validity of any action taken at such meeting. An officer or agent having charge of the transfer books who shall fail to prepare the list of stockholders, or keep the same on file for a period of ten days, or produce and keep the same open for inspection at the meeting, as provided in this section, shall be liable to any stockholder suffering damage on account of such failure, to the extent of such damage.

[C24, 27, 31, 35, 39, §**8384;** C46, 50, §491.46; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.47]

Referred to in §491.50

491.48 Stock certificates — signing.

A corporation organized and existing under the laws, either general or special, of this state, may designate in its articles or bylaws the officer or officers who shall be empowered to sign stock certificates issued by the corporation. If the articles or bylaws provide for the signature of a registrar or the signature or countersignature of a transfer agent on stock certificates issued by it, the corporation may likewise provide in the articles or bylaws that in lieu of the actual signature of the officer or officers authorized to sign stock certificates, the facsimile thereof may be either engraved or printed thereon.

[C31, 35, §8385-d1; C39, §**8385.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.48]

491.49 Reserved.

491.50 Examination by stockholder.

1. Any person who shall be a stockholder of record of any corporation organized under the laws of the state of Iowa or any foreign corporation authorized to transact business in the state of Iowa and maintaining its books and records in the state of Iowa shall have the right to examine in person or by duly authorized agent or attorney at any reasonable time or times and for any proper purpose the stock records, minutes and records of stockholders' meetings, and the books and records of account and to make extracts therefrom.

2. The provisions of sections 491.46 and 491.47 and this section shall not apply to savings associations, deposit, loan, and investment records of banks, trust companies, or insurance

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companies organized under the laws of the state of Iowa, and to whom the provisions of this chapter would otherwise be applicable.

[C51, §692; R60, §1169; C73, §1078; C97, §1626; C24, 27, 31, 35, 39, §**8385, 8386;** C46, 50, §491.47, 491.50; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.50]

2012 Acts, ch 1017, §91

491.51 through 491.53 Reserved.

491.54 Liability of collateral holder.

No holder of stock as collateral security shall be liable for assessments on the same.

[C97, §1626; C24, 27, 31, 35, 39, §**8390;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.54]

491.55 Right to vote stock — attachment.

1. Every executor, administrator, guardian, or trustee shall represent the stock in the person's hands at all corporate meetings, and may vote the same as a stockholder.

2. Every person who shall pledge the person's stock, in the absence of a written agreement to the contrary, may represent the same at all such meetings and vote accordingly.

3. The owner of corporate stock levied upon by attachment or other proceeding shall have the right to vote the same at all corporate meetings, until such time as the owner shall have been divested of title thereto by execution sale.

4. Nothing contained in this section shall in any manner conflict with any provision in the articles of incorporation, or the bylaws of the corporation issuing the stock.

[S13, §1641-a; C24, 27, 31, 35, 39, §**8391;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.55]

2018 Acts, ch 1041, §127

491.56 Expiration and closing of business.

Corporations whose charters expire by limitation or the voluntary act of the stockholders may nevertheless continue to act for the purpose of winding up their affairs.

[C51, §694; R60, §1171; C73, §1080; C97, §1629; C24, 27, 31, 35, 39, §**8392;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.56]

491.57 Sinking fund and loaning thereof.

For the purpose of repairs, rebuilding, enlarging, or to meet contingencies, or for the purpose of creating a sinking fund, the corporation may set apart a sum which it may loan, and take proper securities therefor.

[C51, §699; R60, §1176; C73, §1081; C97, §1630; C24, 27, 31, 35, 39, §**8393;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.57]

491.58 Liability of stockholders.

Neither anything in this chapter contained, nor any provisions in the articles of corporation, shall exempt the stockholders from individual liability to the amount of the unpaid installments on the stock owned by them, or transferred by them for the purpose of defrauding creditors; and execution against the company may, to that extent, be levied upon the private property of any such individual.

[C51, §695; R60, §1172; C73, §1082; C97, §1631; C24, 27, 31, 35, 39, §**8394;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.58]

2012 Acts, ch 1017, §92

491.59 Levy on private property.

In none of the cases contemplated in this chapter can the private property of the stockholders be levied upon for the payment of corporate debts while corporate property can be found with which to satisfy the same; but it will be sufficient proof that no property can be found, if an execution has issued on a judgment against the corporation, and a demand

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has been thereon made of some one of the last acting officers of the body for property on which to levy, and the officer neglects to point out any such property.

[C97, §1631; C24, 27, 31, 35, 39, §**8395;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.59]
Referred to in §491.61

491.60 Suit by creditor — measure of recovery.

In suits by creditors to recover unpaid installments upon shares of stock against any person who has in any manner obtained such stock of the corporation, the stockholder shall be liable for the difference between the amount paid by the stockholder to the corporation for said stock and the face value thereof.

[C97, §1631; C24, 27, 31, 35, 39, §**8396;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.60]

491.61 Corporate property exhausted.

Before any stockholder can be charged with the payment of a judgment rendered for a corporate debt, an action shall be brought against the stockholder, in any stage of which the stockholder may point out corporate property subject to levy; and, upon the stockholder's satisfying the court of the existence of such property, by affidavit or otherwise, the cause may be continued, or execution against the stockholder stayed, until the property can be levied upon and sold, and the court may subsequently render judgment for any balance which there may be after disposing of the corporate property; but if a demand of property has been made as contemplated in section 491.59, the costs of said action shall, in any event, be paid by the company or the defendant therein, but the stockholder shall not be permitted to controvert the validity of the judgment rendered against the corporation, unless it was rendered through fraud and collusion.

[C51, §696, 697; R60, §1173, 1174; C73, §1083, 1084; C97, §1632; C24, 27, 31, 35, 39, §**8397;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.61]

491.62 Indemnity — contribution.

When the property of a stockholder is taken for a corporate debt, the stockholder may maintain an action against the corporation for indemnity, and against any of the other stockholders for contribution.

[C51, §698; R60, §1175; C73, §1085; C97, §1633; C24, 27, 31, 35, 39, §**8398;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.62]

491.63 Franchise sold on execution.

The franchise of a corporation may be levied upon under execution and sold, but the corporation shall not become thereby dissolved, and no dissolution of the original corporation shall affect the franchise, and the purchaser becomes vested with all the powers of the corporation therefor. Such franchise shall be sold without appraisement.

[C51, §700; R60, §1177; C73, §1086; C97, §1634; C24, 27, 31, 35, 39, §**8399;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.63]

491.64 Production of books.

In proceedings by or against a corporation or a stockholder to charge the stockholder's private property, or the dividends received by the stockholder, the court may, upon motion of either party, upon cause shown for that purpose, compel the officers or agents of the corporation to produce the books and records of the corporation.

[C51, §701; R60, §1178; C73, §1087; C97, §1635; C24, 27, 31, 35, 39, §**8400;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.64]

491.65 Estoppel.

No person or persons acting as a corporation shall be permitted to set up the want of a legal organization as a defense to an action against them as a corporation, nor shall any person sued on a contract made with such an acting corporation, or sued for an injury to its property,

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or a wrong done to its interests, be permitted to set up a want of such legal organization in the person's defense.

[C51, §704; R60, §1181; C73, §1089; C97, §1636; C24, 27, 31, 35, 39, §**8401;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.65]

491.66 Dissolution — receivership.

Courts of equity shall have full power, on good cause shown, to dissolve or close up the business of any corporation, and to appoint a receiver therefor, who shall be a resident of the state of Iowa. An action therefor may be instituted by the attorney general in the name of the state, reserving, however, to the stockholders and creditors all rights now possessed by them.

[C97, §1640; C24, 27, 31, 35, 39, §**8402;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.66]

491.67 Reserved.

491.68 False statements or pretenses.

Every director, officer, or agent of any corporation or joint-stock association, who knowingly concurs in making, publishing, or posting, either generally or privately to the stockholders or other persons, any written report, exhibit, or statement of its affairs or pecuniary condition, or book or notice containing any material statement which is false, or any untrue or willfully or fraudulently exaggerated report, prospectus, account, statement of operations, values, business, profits, expenditures, or prospects, or any other paper or document intended to produce or give, or having a tendency to produce or give, the shares of stock in such corporation a greater value or a less apparent or market value than they really possess, is guilty of a fraudulent practice.

[S13, §1641-g; C24, 27, 31, 35, 39, §**8404;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.68]

Fraudulent practices, see §714.8 – 714.14

491.69 through 491.100 Reserved.

SUBCHAPTER II

CORPORATION MERGER OR CONSOLIDATION

491.101 Definitions.

1. *"Merger"* means the uniting of two or more corporations into one corporation in such manner that the corporation resulting from the merger retains its corporate existence and absorbs the other constituent corporation or corporations which thereby lose their or its corporate existence.

2. *"Consolidation"* means the uniting of two or more corporations into a single new corporation, all of the constituent corporations thereby ceasing to exist as separate entities.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.101]

491.101A Poison pill defense authorized.

The terms and conditions of stock rights or options issued by the corporation may include, without limitation, restrictions or conditions that preclude or limit the exercise, transfer, or receipt of such rights or options by a person, or group of persons, owning or offering to acquire a specified number or percentage of the outstanding common shares or other securities of the corporation, or a transferee of the offeror, or that invalidate or void such stock rights or options held by an offeror or a transferee of the offeror.

89 Acts, ch 288, §187

491.101B Consideration of community interests in consideration of acquisition proposals.

1. A director, in determining what is in the best interest of the corporation when considering a tender offer or proposal of acquisition, merger, consolidation, or similar

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proposal, may consider any or all of the following community interest factors, in addition to consideration of the effects of any action on shareholders:

a. The effects of the action on the corporation's employees, suppliers, creditors, and customers.

b. The effects of the action on the communities in which the corporation operates.

c. The long-term as well as short-term interests of the corporation and its shareholders, including the possibility that these interests may be best served by the continued independence of the corporation.

2. If on the basis of the community interest factors described in subsection 1, the board of directors determines that a proposal or offer to acquire or merge the corporation is not in the best interests of the corporation, it may reject the proposal or offer. If the board of directors determines to reject any such proposal or offer, the board of directors has no obligation to facilitate, to remove any barriers to, or to refrain from impeding, the proposal or offer. Consideration of any or all of the community interest factors is not a violation of the business judgment rule or of any duty of the director to the shareholders, or a group of shareholders, even if the director reasonably determines that a community interest factor or factors outweigh the financial or other benefits to the corporation or a shareholder or group of shareholders.

89 Acts, ch 288, §188

491.102 Procedure for merger.

1. Any two or more corporations whether heretofore or hereafter organized may merge into one of such corporations in the manner provided in this section.

2. The board of directors of each corporation shall, by resolution adopted by a majority vote of the members of each such board, approve a plan of mergers setting forth:

a. The names of the corporations proposing to merge, and the name of the corporation into which they propose to merge, which is hereinafter designated as the surviving corporation.

b. The terms and conditions of the proposed merger.

c. The manner and basis of converting the shares of each merging corporation into shares or other securities or obligations of the surviving corporation.

d. A statement of any changes in the articles of incorporation of the surviving corporation to be effected by such merger.

e. Such other provisions with respect to the proposed merger as are deemed necessary or desirable.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.102]

2012 Acts, ch 1023, §90

Referred to in §508B.2, 515G.2, 521.2

491.103 Procedure for consolidation.

1. Any two or more corporations whether heretofore or hereafter organized may consolidate into a new corporation in the manner provided in this section.

2. The board of directors of each corporation shall, by a resolution adopted by a majority vote of the members of each such board, approve a plan of consolidation setting forth:

a. The names of the corporations proposing to consolidate, and the name of the new corporation into which they propose to consolidate, which is hereinafter designated as the new corporation.

b. The terms and conditions of the proposed consolidation.

c. The manner and basis of converting the shares of each corporation into shares, or other securities, or obligations of the new corporation.

d. With respect to the new corporation, all of the statements required to be set forth in articles of incorporation for corporations organized under this chapter.

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e. Such other provisions with respect to the proposed consolidation as are deemed necessary or desirable.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.103]

2012 Acts, ch 1023, §91

Referred to in §508B.2, 515G.2, 521.2

491.104 Meetings of shareholders.

1. The board of directors of each corporation, upon approving such plan of merger or plan of consolidation, shall, by resolution, direct that the plan be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting. Written or printed notice shall be delivered not less than twenty days before such meeting, either personally or by mail, to each shareholder of record entitled to vote at such meeting. Such notice shall state the place, day, hour and purpose of the meeting, and a copy or a summary of the plan of merger or plan of consolidation, as the case may be, shall be included in or enclosed with such notice.

2. The board of directors may hold the meeting solely by means of remote communication in accordance with section 491.17 and in that case the notice shall describe how shareholders may participate in the meeting.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.104]

2021 Acts, ch 165, §232, 248

Referred to in §508B.2, 515G.2, 521.2

491.105 Approval by shareholders.

At each such meeting, a vote of the shareholders entitled to vote thereat shall be taken on the proposed plan of merger or consolidation. The plan of merger or consolidation shall be approved upon receiving the affirmative vote of the holders of at least two-thirds of the outstanding shares entitled to vote at such meeting, of each of such corporations, unless any class of shares of any such corporations is entitled to vote as a class in respect thereof in which event, as to such corporation, the plan of merger or consolidation shall be approved upon receiving the affirmative vote of the holders of at least a majority of the outstanding shares of each such class of shares entitled to vote as a class in respect thereof and two-thirds of the total outstanding shares entitled to vote at such meeting. Any class of shares of any such corporation shall be entitled to vote as a class if the plan of merger or consolidation, as the case may be, contains any provision which, if contained in a proposed amendment to articles of incorporation, would entitle such class of shares to vote as a class.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.105]

Referred to in §508B.2, 515G.2, 521.2

491.106 Articles of merger or consolidation.

Upon such approval, articles of merger or articles of consolidation shall be executed in duplicate by each corporation by its president or a vice president, and verified by that person, attested by its secretary or an assistant secretary, and shall be acknowledged and shall set forth:

1. The plan of merger or the plan of consolidation.

2. As to each corporation, the number of shares outstanding, and the number of shares entitled to vote, and, if the shares of any class are entitled to vote as a class, the designation of each such class and the number of outstanding shares thereof entitled to vote.

3. As to each corporation, the number of shares voted for and against such plan respectively, and, if the shares of any class are entitled to vote as a class, the number of shares of each such class voted for and against such plan, respectively.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.106]

491.107 Filing articles of merger or consolidation.

1. A duly executed and acknowledged copy of the articles of merger or consolidation shall be forwarded to the secretary of state for filing and recording as provided in section 491.5.

2. The procedure set forth in sections 491.6 through 491.9 shall be applicable to the filing of articles of consolidation or merger.

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3. If as the result of a consolidation a new Iowa corporation is formed then the fees provided for in section 491.11 shall be applicable. If as the result of a merger an existing Iowa corporation becomes the survivor the articles of merger shall be deemed an amendment to its articles of incorporation and section 491.20 shall be applicable.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.107]

94 Acts, ch 1055, §8; 2018 Acts, ch 1041, §127; 2021 Acts, ch 80, §314

Referred to in §9.11

491.108 Effective date of merger or consolidation.

Upon the payment of all fees and charges and upon the filing of the articles of consolidation or merger with the secretary of state the secretary of state shall issue to the corporation or its representative a certificate of consolidation or a certificate of merger and upon the issuance of said certificate the merger or consolidation shall be effected.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.108]

491.109 Notice. Repealed by 2014 Acts, ch 1074, §4.

491.110 Effect of merger or consolidation.

When such merger or consolidation has been effected:

1. The several corporations parties to the plan of merger or consolidation shall be a single corporation, which, in the case of a merger, shall be that corporation designated in the plan of merger as the surviving corporation, and, in the case of a consolidation, shall be the new corporation provided for in the plan of consolidation.

2. The separate existence of all corporations parties to the plan of merger or consolidation, except the surviving or new corporation, shall cease.

3. Such surviving or new corporation shall have all the rights, privileges, immunities and powers and shall be subject to all the duties and liabilities of a corporation organized under this chapter.

4. Such surviving or new corporation shall thereupon and thereafter possess all the rights, privileges, immunities and franchises, as well of a public as of a private nature, of each of the merging or consolidating corporations; and all property, real, personal and mixed, and all debts due on whatever account, including subscriptions to shares, and all other choses in action, and all and every other interest, of or belonging to or due to each of the corporations so merged or consolidated, shall be taken and deemed to be transferred to and vested in such single corporation without further act or deed; and the title to any real estate, or any interest therein, vested in any of such corporations shall not revert or be in any way impaired by reason of such merger or consolidation.

5. Such surviving or new corporation shall thenceforth be responsible and liable for all the liabilities and obligations of each of the corporations so merged or consolidated; and any claim existing or action or proceeding pending by or against any of such corporations may be prosecuted to judgment as if such merger or consolidation had not taken place, or such surviving or new corporation may be substituted in its place. Neither the rights of creditors nor any liens upon the property of any such corporation shall be impaired by such merger or consolidation.

6. In the case of a merger, the articles of incorporation of the surviving corporation shall be deemed to be amended to the extent, if any, that changes in its articles of incorporation are stated in the articles of merger; and, in the case of a consolidation, the statements set forth in the articles of consolidation and which are required or permitted to be set forth in the articles of incorporation of corporations organized under this chapter shall be deemed to be the articles of incorporation of the new corporation.

7. The aggregate amount of the net assets of the merging or consolidating corporations which was available for the payment of dividends immediately prior to such merger or consolidation, to the extent that the amount thereof is not transferred to stated capital by the issuance of shares or otherwise, shall continue to be available for the payment of dividends by such surviving or new corporation.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.110]

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491.111 Merger or consolidation of domestic and foreign corporations.

1. One or more foreign corporations and one or more domestic corporations whether heretofore or hereafter organized may be merged or consolidated in the following manner, provided such merger or consolidation is permitted by the laws of the state under which each such foreign corporation is organized:

a. Each domestic corporation shall comply with the provisions of this chapter with respect to the merger or consolidation, as the case may be, of domestic corporations and each foreign corporation shall comply with the applicable provisions of the laws of the state under which it is organized.

b. If the surviving or new corporation, as the case may be, is to be governed by the laws of any state other than this state, it shall comply with the provisions of the statutes of the state of Iowa with respect to foreign corporations if it is to do business in this state, and in every case it shall file with the secretary of state of this state:

(1) An agreement that it may be served with process in this state in any proceeding for the enforcement of any obligation of any domestic corporation which is a party to such merger or consolidation and in any proceeding for the enforcement of the rights of a dissenting shareholder of any such domestic corporation against the surviving or new corporation.

(2) The appointment of a resident agent as provided for in section 490.501.

(3) An agreement that it will promptly pay to the dissenting shareholders of any such domestic corporation the amount, if any, to which they shall be entitled under the provisions of this subchapter with respect to the rights of dissenting shareholders.

2. Insofar as the state of Iowa is concerned, the effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations, if the surviving or new corporation is to be governed by the laws of this state. If the surviving or new corporation is to be governed by the laws of any state other than this state, the effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations except insofar as the laws of such other state provide otherwise.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.111]

93 Acts, ch 126, §11; 2012 Acts, ch 1023, §157; 2017 Acts, ch 54, §76

Referred to in §9.11

491.112 Rights of dissenting shareholders.

1. If a shareholder of a corporation which is a party to a merger or consolidation shall file with such corporation, prior to or at the meeting of shareholders at which the plan of merger or consolidation is submitted to a vote, a written objection to such plan of merger or consolidation, and shall not vote in favor thereof, and such shareholder, within twenty days after the merger or consolidation is effected, shall make written demand on the surviving or new corporation for payment of the fair value of the shareholder's shares as of the day prior to the date on which the vote was taken approving the merger or consolidation, the surviving or new corporation shall pay to such shareholder, upon surrender of the certificate or certificates representing said shares, such fair value thereof. Such demand shall state the number and class of the shares owned by such dissenting shareholder. Any shareholder failing to make demand within the twenty-day period shall be conclusively presumed to have consented to the merger or consolidation and shall be bound by the terms thereof.

2. If within thirty days after the date on which such merger or consolidation was effected the value of such shares is agreed upon between the dissenting shareholder and the surviving or new corporation payment therefor shall be made within ninety days after the date on which such merger or consolidation was effected, upon the surrender of the certificate or certificates representing said shares. Upon payment of the agreed value the dissenting shareholder shall cease to have any interest in such shares or in the corporation.

3. If within such period of thirty days the shareholder and the surviving or new corporation do not so agree, then the dissenting shareholder may, within sixty days after the expiration of the thirty-day period, file a petition in any court of competent jurisdiction within the state and judicial subdivision thereof in which the registered office or the principal place of business of the surviving or new corporation is situated, asking for a finding and determination of the fair value of such shares, and shall be entitled to judgment against

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the surviving or new corporation for the amount of such fair value as of the day prior to the date on which such vote was taken approving such merger or consolidation, together with interest thereon at the rate of five percent per annum to the date of such judgment. The action shall be prosecuted as an equitable action and the practice and procedure shall conform to the practice and procedure in equity cases. The judgment shall be payable only upon and simultaneously with the surrender to the surviving or new corporation of the certificate or certificates representing said shares. Upon payment of the judgment, the dissenting shareholder shall cease to have any interest in such shares, or in the surviving or new corporation. Such shares may be held and disposed of by the surviving or new corporation as it may see fit. Unless the dissenting shareholder shall file such petition within the time herein limited, such shareholder and all persons claiming under the shareholder shall be conclusively presumed to have approved and ratified the merger or consolidation and shall be bound by the terms thereof.

4. The right of a dissenting shareholder to be paid the fair value of the shareholder's shares as herein provided shall cease if and when the corporation shall abandon the merger or consolidation.

5. Shares acquired by the corporation pursuant to the payment of the agreed value thereof or to the payment of judgment entered therefor as in this section provided may be held and disposed of by the corporation as it shall see fit.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.112]
2016 Acts, ch 1011, §121
Referred to in §9.11

491.113 Issuance of stock.

All stock issued in connection with such merger or consolidation shall be issued pursuant to the provisions of chapter 492 and nothing in this amendment shall be construed as eliminating the requirements of said chapter.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.113]

491.114 Amana stock.

Notwithstanding anything contained in this chapter and chapters 492 and 502, a corporation organized under the laws of the state of Iowa having assets of the value of one million dollars or more, the articles of which provide that an individual may not vote more than one share of the common voting shares of stock of the corporation, and which give to children of the owners of shares of the common voting stock the right to purchase one common voting share of stock in the corporation upon attaining majority or within a fixed period thereafter, and which authorize the issuance, sale and delivery of not to exceed one share of the common voting stock to any one individual, may issue, sell and deliver its shares of common voting stock, whether held by it as treasury stock or whether issued as an original issue, for the following considerations and upon the following terms and conditions, and with the following limitations:

1. Such common voting stock may be issued, sold and delivered by the corporation either for cash or upon credit or time payments or installment payments or for a consideration evidenced in part or in whole by the written agreement of the purchaser thereof to pay for the same, payment of said purchase price to be secured by a lien on said stock.

2. No such stock shall be issued, sold and delivered for a price less than the par value thereof at the time of such issuance, sale and delivery.

3. Not more than one share of said stock shall be so issued, sold and delivered to any one individual, but when issued, sold and delivered, said stock may be voted by the owner thereof, if the articles of incorporation or bylaws of such corporation, whether now in effect or hereafter adopted or amended, so provide, although a part or all of the price to be paid therefor may be owing to the corporation under said written agreement of the purchaser to pay for the same.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §491.114]

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CHAPTER 492

CAPITAL STOCK

Referred to in §490.1801, 491.113, 491.114, 515.11A, 524.2001, 669.14

492.1	Endorsement of amount paid.	492.8	Elements considered in fixing amount.
492.2	Effect of violation.	492.9	Certificate of issuance of stock.
492.3	Penalties.	492.10	Cancellation of stock — reimbursement.
492.4	Certain corporations excepted.	492.11	Dissolution — distribution of assets.
492.5	Par value required.	492.12	Violation.
492.6	Payment in property other than cash.		
492.7	Executive council to fix amount.		

492.1 Endorsement of amount paid.

No certificate or shares of stock shall be issued, delivered, or transferred by any corporation, officer or agent thereof, or by the owner of such certificate or shares without having endorsed on the face thereof what amount or portion of the par value has been paid to the corporation issuing the same, and whether such payment has been in money or property.

[C97, §1627; S13, §1627; C24, 27, 31, 35, 39, §**8408;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §492.1]

Referred to in §492.2, 492.3, 492.4

492.2 Effect of violation.

Any certificate of stock issued, delivered, or transferred in violation of section 492.1 when the corporation has not received payment therefor at par in money or property at a valuation approved by the executive council, shall be void, and the issuance, delivery, or transfer of each certificate shall be considered a separate transaction.

[C24, 27, 31, 35, 39, §**8409;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §492.2]

Referred to in §492.3, 492.4

492.3 Penalties.

Any person violating the provisions of sections 492.1 and 492.2, or knowingly making a false statement on such certificate, shall be guilty of a fraudulent practice.

[C97, §1627; S13, §1627; C24, 27, 31, 35, 39, §**8410;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §492.3]

Referred to in §492.4

492.4 Certain corporations excepted.

Sections 492.1 through 492.3 shall not apply to railway or quasi-public corporations organized before October 1, 1897.

[S13, §1627; C24, 27, 31, 35, 39, §**8411;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §492.4]

2021 Acts, ch 80, §315

492.5 Par value required.

No corporation organized under the laws of this state shall issue any certificate of a share of capital stock, or any substitute therefor, until the corporation has received the par value thereof.

[S13, §1641-b; C24, 27, 31, 35, 39, §**8412;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §492.5]

2012 Acts, ch 1017, §93

Referred to in §492.10, 492.11, 492.12, 495.1

492.6 Payment in property other than cash.

1. If it is proposed to pay for said capital stock in property or in any other thing than money, the corporation proposing the same must, before issuing capital stock in any form, apply to the executive council of the state for leave so to do. Such application shall state the amount of capital stock proposed to be issued for a consideration other than money, and set forth specifically the property or other thing to be received in payment for such

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stock, providing that the foregoing provision shall not apply to trust companies or insurance companies organized under the laws of this state.

2. Any insurance company proposing to issue capital stock for property or any thing other than money, before issuing the capital stock in any form, shall apply to the commissioner of insurance for leave so to do. Such application to the commissioner of insurance shall state the amount of capital stock proposed to be issued for a consideration other than money and set forth specifically the property or other thing to be received in payment for such stock.

[S13, §1641-b; C24, 27, 31, 35, 39, §**8413;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §492.6]

2021 Acts, ch 76, §150

Referred to in §492.10, 492.11, 492.12, 493.4, 495.1

492.7 Executive council to fix amount.

The executive council or the commissioner of insurance as the case may be, shall make investigation, under such rules as it may prescribe, and ascertain the real value of the property or other thing which the corporation is to receive for the stock. It shall enter its finding, fixing the value at which the corporation may receive the same in payment for capital stock; and no corporation shall issue capital stock for the said property or thing in a greater amount than the value so fixed.

[S13, §1641-b; C24, 27, 31, 35, 39, §**8414;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §492.7]

Referred to in §492.10, 492.11, 492.12, 493.4, 495.1

492.8 Elements considered in fixing amount.

For the purpose of encouraging the construction of new steam or electric railways, and manufacturing industries within this state, the labor performed in effecting the organization and promotion of such corporation, and the reasonable discount allowed or reasonable commission paid in negotiating and effecting the sale of bonds for the construction and equipment of such railroad or manufacturing plant, shall be taken into consideration by said council as elements of value in fixing the amount of capital stock that may be issued.

[S13, §1641-b; C24, 27, 31, 35, 39, §**8415;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §492.8]

Referred to in §492.10, 492.11, 492.12, 493.4, 495.1

492.9 Certificate of issuance of stock.

It shall be the duty of every corporation to file a certificate under oath with the secretary of state, within thirty days after the issuance of any capital stock, stating the date of issue, the amount issued, the sum received therefor, if payment be made in money, or the property or thing taken, if such be the method of payment. If the corporation fails to file said certificate of issuance of stock within the thirty-day period herein provided, it may thereafter file the same upon first paying to the secretary of state a penalty of ten dollars when the said certificate is offered for filing. Provided further that the penalty herein provided for is first paid and provided the said report contains the specific information required by this section as to the issuance of any capital stock not previously reported, then the first annual report filed by such corporation following such failure to comply with the provisions of this section, shall be received by the secretary of state as a compliance with this section.

[S13, §1641-c; C24, 27, 31, 35, 39, §**8416;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §492.9]

93 Acts, ch 126, §12; 2012 Acts, ch 1017, §94

Referred to in §495.1, 591.14

492.10 Cancellation of stock — reimbursement.

The capital stock of any corporation issued in violation of the terms and provisions of sections 492.5 through 492.8 shall be void, and in a suit brought by the attorney general on behalf of the state in any court having jurisdiction, a decree of cancellation shall be entered; and if the corporation has received any money or thing of value for the said stock, such money or thing of value shall be returned to the individual, firm, company, or corporation from whom

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it was received, and if represented by labor or other service of intangible nature, the value thereof shall constitute a claim against the corporation issuing stock in exchange therefor.

[S13, §1641-d; C24, 27, 31, 35, 39, §**8417;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §492.10]

2021 Acts, ch 80, §316

492.11 Dissolution — distribution of assets.

Any corporation violating the provisions of sections 492.5 through 492.8 shall, upon the application of the attorney general, in behalf of the state, made to any court of competent jurisdiction, be dissolved, its affairs wound up, and its assets distributed among the stockholders other than those who have received the stock so unlawfully issued.

[S13, §1641-e; C24, 27, 31, 35, 39, §**8418;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §492.11]

2021 Acts, ch 80, §317

492.12 Violation.

Any officer, agent, or representative of a corporation who violates any of the provisions of sections 492.5 through 492.8 shall be guilty of a simple misdemeanor.

[S13, §1641-f; C24, 27, 31, 35, 39, §**8419;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §492.12]

2021 Acts, ch 80, §318

CHAPTER 493

STOCK WITHOUT PAR VALUE

Referred to in §490.1801, 524.2001, 669.14

493.1	Authorization.	493.7	Certificates of stock.
493.2	Par value — method of stating.	493.8	Number of shares.
493.3	Amount of stock.	493.9	Change in stock.
493.4	Sale value.	493.10	Convertibility.
493.5	Liability of holder.	493.11	Incorporation fee — computation.
493.6	Status of stock.	493.12	Applicability of statutes.

493.1 Authorization.

Any corporation, heretofore or hereafter organized for pecuniary profit under the laws of this state, except state banks, trust companies, and insurance companies, may create one or more classes of stock without any nominal or par value, with such rights, preferences, privileges, voting powers, limitations, restrictions and qualifications thereon not inconsistent with law as shall be expressed in its articles of incorporation, or any amendment thereto. Stock without par value which is preferred as to dividends, or as to its distributive share of the assets of the corporation upon dissolution, may be made subject to redemption at such times and prices as may be determined in such articles of incorporation, or any amendment thereto. In the case of stock without par value which is preferred as to its distributive share of the assets of the corporation upon dissolution, the amount of such preference shall be stated in the articles of incorporation, or any amendment thereto.

[C31, 35, §8419-c1; C39, §**8419.01;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §493.1]

2012 Acts, ch 1017, §95

493.2 Par value — method of stating.

In any case, in which the par value of the shares of stock of a corporation shall be required to be stated in the articles of incorporation, or any amendment thereto, or in any other place, it shall be stated in respect to shares without par value that such shares are without par value, and when the amount of such stock authorized, issued or outstanding shall be required to be

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stated, the number of shares thereof authorized, issued or outstanding, as the case may be, shall be stated, and it shall also be stated that such shares are without par value.

[C31, 35, §8419-c2; C39, §**8419.02;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §493.2]

493.3 Amount of stock.

For the purpose of any rule of law or of any statutory provision relating to the amount of capital stock issued and represented by shares of stock without par value except as otherwise provided in this chapter such amounts shall be taken to be the amount of money or the actual value of the consideration, as fixed by the directors or otherwise, in accordance with law, as the case may be, for which such shares of stock shall have been issued. In any such case in which stock having a par value shall have been issued with stock without par value for a specified combined consideration, in determining the amount of the capital stock issued and represented by shares of stock without par value the then book value of such stock having a par value shall first be deducted from the amount of the money or actual value of the consideration determined as aforesaid, and the excess thereof, if any, shall be taken to be the amount of capital stock represented by the shares of stock without par value so issued.

[C31, 35, §8419-c3; C39, §**8419.03;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §493.3]

493.4 Sale value.

Subject to any limitations and restrictions set forth in the articles of incorporation, or amendment thereto, any such corporation may issue its authorized capital stock without par value for such consideration as may be prescribed in the articles of incorporation, or amendment thereto, or, if not prescribed, then for such consideration as may be fixed by resolution passed by the stockholders of such corporation at any annual meeting thereof, or at any special meeting thereof duly called for that purpose, or by the board of directors acting under authority of such stockholders given in like manner. In the absence of fraud in the transaction, the judgment of the board of directors in fixing and determining such sale value shall be conclusive as to the creditors and stockholders. Nothing in this chapter shall be so construed as to repeal the law as it now appears in sections 492.6, 492.7, and 492.8.

[C31, 35, §8419-c4; C39, §**8419.04;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §493.4]

Referred to in §493.5

493.5 Liability of holder.

Any and all shares without par value issued for the consideration as prescribed or fixed in section 493.4 shall be deemed fully paid and nonassessable and the holder of such shares shall not be liable to the corporation or to its creditors in respect thereto.

[C31, 35, §8419-c5; C39, §**8419.05;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §493.5]

493.6 Status of stock.

Except as to any preferences, rights, limitations, privileges and restrictions, lawfully granted or imposed with respect to any stock or class thereof, shares of stock without nominal or par value shall be deemed to be an aliquot part of the aggregate capital of the corporation issuing the same and equal to every other share of stock of the same class.

[C31, 35, §8419-c6; C39, §**8419.06;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §493.6]

493.7 Certificates of stock.

Each stock certificate issued for shares without nominal or par value shall have plainly written or printed upon its face the number of shares which it represents, and the number of such shares the corporation is authorized to issue, and no such certificate shall state any nominal or par value of such shares or express any rate of dividend to which it shall be entitled in terms of percentage of any par or other value.

[C31, 35, §8419-c7; C39, §**8419.07;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §493.7]

493.8 Number of shares.

The number of authorized shares of stock without par value may be increased or reduced in the manner and subject to the conditions provided by law for the increase or reduction of

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the capital stock of a similar corporation having shares with par value. All other statutory provisions relating to stock having a par value shall also apply to stock without par value, so far as the same may be legally, necessarily or practically applicable to, and not inconsistent with, the provisions of this chapter.

[C31, 35, §8419-c8; C39, §**8419.08;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §493.8]

493.9 Change in stock.

Any such corporation may, by appropriate amendments to its articles of incorporation, adopted by a two-thirds affirmative vote of each class of stock then issued and outstanding and affected by such amendment, change its common or preferred stock having a par value to an equal, greater or less number of shares of stock having no par value, and, in connection therewith, may fix the amount of capital represented by such shares of stock without par value.

[C31, 35, §8419-c9; C39, §**8419.09;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §493.9]
2013 Acts, ch 30, §117; 2014 Acts, ch 1026, §113

493.10 Convertibility.

The articles of incorporation, or any amendment thereto, of any such corporation may provide that shares of stock of any class shall be convertible into shares of stock of any other class upon such terms and conditions as may be therein stated.

[C31, 35, §8419-c10; C39, §**8419.10;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §493.10]

493.11 Incorporation fee — computation.

For the purpose of computing the statutory fee for incorporating or for any other statutory provision based on the par value of shares of stock, but for no other purpose, each share of stock without par value shall be considered equivalent to a share having a nominal or par value of one hundred dollars.

[C31, 35, §8419-c11; C39, §**8419.11;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §493.11]

493.12 Applicability of statutes.

1. Except as otherwise provided by this chapter, such corporations issuing shares without par value, under the provisions of this chapter, shall be and remain subject to the laws of this state relating to the formation, regulation, consolidation, or merger, rights, powers, and privileges of corporations organized for pecuniary profit, and all other applicable laws.

2. All Acts or parts of Acts providing for the incorporation, organization, administration, and management of the affairs of corporations organized for pecuniary profit and having shares of stock with a par value are applicable to corporations having shares of stock without par value, except where the enactments are inconsistent with the provisions of this chapter.

[C31, 35, §8419-c12; C39, §**8419.12;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §493.12]
2021 Acts, ch 76, §150; 2026 Acts, ch 1040, §100
Section amended

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CHAPTERS 493A and 494

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CHAPTER 495

FOREIGN PUBLIC UTILITY CORPORATIONS

Referred to in §490.1801, 669.14

495.1	Capital stock and permit.	495.4	Sale of capital stock.
495.2	Holding companies.	495.5	Violations — stock void.
495.3	Biennial report — fee.	495.6	Dissolution — receiver.

495.1 Capital stock and permit.

Sections 492.5 through 492.9 are applicable to any foreign corporation which directly or indirectly owns, uses, operates, controls, or is concerned in the operation of any public gasworks, electric light plant, heating plant, waterworks, interurban or street railway located within the state, or the carrying on of any gas, electric light, electric power, heating business, waterworks, interurban or street railway business within the state, or that owns or controls, directly or indirectly, any of the capital stock of any corporation which owns, uses, operates or is concerned in the operation of any public gasworks, electric light plant, electric power plant, heating plant, waterworks, interurban or street railway located within the state, or any foreign corporation that exercises any control in any way or in any manner over any of such works, plants, interurban or street railways or the business carried on by such works, plants, interurban or street railways by or through the ownership of the capital stock of any corporation or corporations or in any other manner whatsoever. The ownership, operation, or control of any such works, plants, interurban or street railways or the business carried on by any of such works or plants or the ownership or control of the capital stock in any corporation owning or operating any of such works, plants, interurban or street railways by any foreign corporation in violation of this chapter is unlawful.

[S13, §1641-1; C24, 27, 31, 35, 39, §**8433;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §495.1]

93 Acts, ch 126, §13; 2021 Acts, ch 80, §319

495.2 Holding companies.

The provisions of this chapter are hereby made applicable to all corporations, including so-called "holding companies" which by or through the ownership of the capital stock in any other corporation or corporations or a series of corporations owning or controlling the capital stock of each other can or may exercise control over the capital stock of any corporation which owns, uses, operates, or is concerned in the operation of any public gasworks, electric light plant, electric power plant, heating plant, waterworks, interurban or street railway located in the state, or the business carried on by such works or plants.

[S13, §1641-m; C24, 27, 31, 35, 39, §**8434;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §495.2]

495.3 Biennial report — fee.

All corporations subject to the provisions of this chapter are hereby required to pay the fee and to make the biennial report in the form and manner and at the time as specified in chapter 490.

[S13, §1641-n; C24, 27, 31, 35, 39, §**8435;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §495.3]

2000 Acts, ch 1022, §3

495.4 Sale of capital stock.

The provisions of this chapter are hereby made applicable to the sale of its own capital stock by any corporation subject to the provisions of this chapter, whether said capital stock has been heretofore issued by said corporation or not, including the sale of so-called "treasury stock" or stock of the corporation in the hands of a trustee or where the corporation participates in any way or manner in the benefits of said sales, and also to the sale of any of

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the obligations of any corporation subject to the provisions of this chapter, the payment of which is secured by the deposit or pledge of any of the capital stock of said corporation.

[S13, §1641-o; C24, 27, 31, 35, 39, §**8436;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §495.4]

495.5 Violations — stock void.

Shares of capital stock of any corporation owned or controlled in violation of this chapter shall be void and the holder of such shares shall not be entitled to exercise the powers of a shareholder of the corporation or permitted to participate in or be entitled to any of the benefits accruing to shareholders of the corporation. This chapter shall be construed so as to prevent evasion and to accomplish the intents and purposes of this chapter.

[S13, §1641-p; C24, 27, 31, 35, 39, §**8437;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §495.5]

93 Acts, ch 126, §14

495.6 Dissolution — receiver.

Courts of equity shall have full power to dissolve, close up, or dispose of any business or property owned, operated, or controlled in violation of the provisions of this chapter; to dissolve any corporation owning or controlling the capital stock of any other corporation in violation of the provisions of this chapter and to close up or dispose of the business or property of said corporation; and if the court finds that, in order to carry out the purposes of this chapter, it is necessary so to do, it may dissolve the corporation issuing the stock which is owned in violation of the provisions of this chapter, close up the business of said corporation and dispose of its property, and the court may also appoint a receiver who shall be a resident of Iowa for any business or for any corporation which has violated the provisions thereof or of the corporation issuing the stock which is held in violation thereof. Any action to enforce the provisions of this chapter may be instituted by the attorney general in the name of the state of Iowa or by a citizen in the name of the state of Iowa at the citizen's own proper cost and expense, reserving, however, to the stockholders owning capital stock not held in violation of this chapter all rights possessed by them.

[S13, §1641-q; C24, 27, 31, 35, 39, §**8438;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §495.6]

CHAPTER 496

RESERVED

CHAPTER 496A

BUSINESS CORPORATIONS

Repealed effective December 31, 1989, by 89 Acts, ch 288, §195, 196; see chapter 490; transition and savings provisions, §490.1701 – 490.1703

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CHAPTER 496B

ECONOMIC DEVELOPMENT CORPORATIONS

Referred to in §502.201, 524.901, 669.14

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496B.2 Definitions.
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496B.16 Reports to department of economic development. Repealed by 2006 Acts, ch 1100, §7.
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496B.1 Title of Act.

This chapter shall be known and may be cited as the "*Iowa Economic Development Act*". [C66, 71, 73, 75, 77, 79, 81, §496B.1]

496B.2 Definitions.

As used in this chapter, unless the context otherwise requires, the term:

1. *"Authority"* means the economic development authority created in section 15.105, or any entity which succeeds to the functions of the authority.
2. *"Board of directors"* means members of the board of directors of a development corporation constituted under section 496B.13 in office from time to time.
3. *"Development corporation"* means any corporation organized pursuant to this chapter and for the purpose of developing businesses, industries, and enterprises in the state of Iowa by the loaning of money thereto and investing money therein, and otherwise organizing for the purposes in section 496B.5.
4. *"Financial institution"* means any bank, trust company, savings association, insurance company or related corporation, partnership, foundation or other institution licensed to do business in the state of Iowa and engaged primarily in lending or investing funds.
5. *"Loan limit"* means, for any member, the maximum amount permitted to be outstanding at any one time on loans made by any such member to a development corporation, as determined herein.
6. *"Member"* means any financial institution which shall undertake to lend money to a development corporation upon its call and in accordance with the provision of section 496B.9.

[C66, 71, 73, 75, 77, 79, 81, §496B.2]
2011 Acts, ch 118, §82, 83, 89; 2012 Acts, ch 1017, §96
Referred to in §16.1

496B.3 Authorized corporations.

There is hereby authorized to be incorporated under the Iowa business corporation Act, chapter 490, development corporations which meet and comply with the requirements of this chapter. Such corporations shall be subject to and have the powers and privileges conferred by the provisions of this chapter and those provisions of the Iowa business corporation Act, chapter 490, which are not inconsistent with and to the extent not restricted or limited by the provisions of this chapter. No corporation shall be deemed incorporated pursuant to and under the provisions of this chapter unless the same is approved by the authority and unless its articles of incorporation provide that it is incorporated pursuant to this chapter. To assure a broad base from which development corporations may obtain loans from members, the authority at its discretion may limit the number of development corporations organized and existing pursuant to this chapter to one or more such corporations.

[C66, 71, 73, 75, 77, 79, 81, §496B.3]
2001 Acts, ch 24, §63; 2011 Acts, ch 118, §85, 89

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496B.4 Offices.

A development corporation may have offices in such places within the state of Iowa as may be fixed by the board of directors.

[C66, 71, 73, 75, 77, 79, 81, §496B.4]

496B.5 Purposes.

The purposes of a development corporation shall be limited to those provided in this section and shall be to promote, stimulate, develop and advance the business prosperity and economic welfare of the state of Iowa and its citizens; to encourage and assist through loans, investments, or other business transactions, the location of new business and industry in the state; to rehabilitate and assist existing business and industry in this state; to stimulate and assist in the expansion of any kind of business activity which would tend to promote business development and maintain the economic stability of this state, provide maximum opportunities for employment, encourage thrift, and improve the standard of living of the citizens of this state; to cooperate and act in conjunction with other organizations, public or private, in the promotion and advancement of industrial, commercial, agricultural, and recreational development in this state; and to provide financing for the promotion, development, and conduct of all kinds of business activity in this state.

[C66, 71, 73, 75, 77, 79, 81, §496B.5]

Referred to in §496B.2

496B.6 Powers.

Any development corporation shall, subject to the restrictions and limits herein contained, have the following powers:

1. To make contracts and incur liabilities for any of the purposes of the development corporation; provided that no development corporation shall incur any secondary liability by way of guaranty or endorsement of the obligations of any person, firm, corporation, joint stock company, association, or trust, or in any other manner.

2. To borrow money either from its members or pursuant to lending arrangements entered into under the authority granted in subsection 7 of this section, or both from its members and pursuant to said lending arrangements, and to issue therefor its bonds, debentures, notes, or other evidences of indebtedness, whether secured or unsecured, and when necessary to secure the same by mortgage, pledge, deed of trust, or other lien on its property, franchises, rights, and privileges of every kind and nature, or any part thereof or interest therein, without securing shareholder or member approval; provided, that no loan to a development corporation shall be secured in any manner unless all outstanding loans to such corporation, and for which loan or loans no subordination agreement has been entered into between the respective loan maker and the development corporation, shall be secured equally and ratably in proportion to the unpaid balance of such loans and in the same manner.

3. To make loans to any person, firm, corporation, joint stock company, association, or trust and to establish and regulate the terms and conditions with respect to any such loans, and the charges for interest and service connected therewith.

4. To acquire the goodwill, business, rights, real and personal property, and other assets, or any part thereof, or interest therein, of any persons, firms, corporations, associations, or trusts, and to assume, undertake, or pay the obligations, debts, and liabilities of any such person, firm, corporation, association, or trust; to acquire, construct or reconstruct, alter, repair, maintain, operate, sell, convey, transfer, lease, or otherwise dispose of industrial plants and business establishments.

5. To cooperate with and avail itself of the facilities of the authority and to cooperate with and assist and otherwise encourage organizations in the various communities of the state of Iowa in the promotion, assistance, and development of business prosperity and economic welfare of such communities or of this state or any part thereof.

6. To do all acts and things necessary or convenient to carry out the powers expressly granted in this chapter and such other powers not in conflict herewith granted under the Iowa business corporation Act, chapter 490.

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7. To enter into lending arrangements with state and federal agencies or instrumentalities whereby the development corporation may participate in lending operations or secure guarantees or qualify under applicable laws to further state or federal lending programs by becoming a participant therein.

[C66, 71, 73, 75, 77, 79, 81, §496B.6]

2001 Acts, ch 24, §64; 2011 Acts, ch 118, §85, 89

496B.7 Stock — limitations.

Capital stock shall be issued only on receipt by each development corporation of cash in such amount not less than the par value thereof as may be determined by the board of directors. No shareholder of any development corporation shall be entitled as of right to purchase or subscribe for any unissued or treasury shares of the corporation, and no such shareholder shall be entitled as of right to purchase or subscribe for any bonds, notes, certificates of indebtedness, debentures, or other obligations convertible into shares of the development corporation.

[C66, 71, 73, 75, 77, 79, 81, §496B.7]

496B.8 Stockholders' privileges.

Notwithstanding any rule at common law or any provision of any general or special law or any provision in their respective articles of incorporation, agreements of association, or trust indentures:

1. Any person, as defined in the Iowa business corporation Act, chapter 490, is hereby authorized to acquire, purchase, hold, sell, assign, transfer, mortgage, pledge, or otherwise dispose of any bond, security or other evidences of indebtedness created by, or the shares of the capital stock of, development corporations, and while owners of said shares to exercise all the rights, powers and privileges of ownership, including the right to vote thereon, all without the approval of any regulatory agency of this state.

2. Any financial institution is hereby authorized to become a member of a development corporation and to make loans to such corporation.

3. Any financial institution which does not become a member of a development corporation shall not be permitted to acquire any shares of the capital stock of such development corporation.

4. Each financial institution which becomes a member of a development corporation is hereby authorized to acquire, purchase, hold, sell, assign, mortgage, pledge, or otherwise dispose of any bonds, securities or other evidences of indebtedness created by, or the shares of the capital stock of, the development corporation of which it is a member, and while owners of such shares to exercise all rights, powers and privileges of ownership, including the right to vote thereon, all without the approval of any regulatory agency of this state; provided that the amount of the capital stock of any development corporation which may be acquired by any member pursuant to the authority granted herein shall not exceed ten percent of the loan limit of such member. The amount of capital stock of a development corporation which any member is authorized to acquire pursuant to the authority granted herein is in addition to the amount of capital stock in other corporations which such member may otherwise be authorized to acquire.

[C66, 71, 73, 75, 77, 79, 81, §496B.8]

89 Acts, ch 180, §2; 2001 Acts, ch 24, §64

496B.9 Loan procedures.

A financial institution may request membership in a development corporation by making application to the board of directors thereof on such form and in such manner as such board of directors may require, and membership shall become effective upon acceptance of such application by said board. Each member of any development corporation shall make loans to such development corporation as and when called upon by that corporation to do so on such terms and conditions as shall be approved from time to time by the board of directors subject to the following:

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1. All loan limits shall be established at the thousand dollar amount nearest the amount computed in accordance with the provisions of this section.

2. No loan to a development corporation shall be made if immediately thereafter the total amount of the obligations of the development corporation calling for the loan would exceed ten times the amount then paid in on the outstanding capital stock of such corporation.

3. The total amount outstanding at any one time on loans to a development corporation made by a member thereof when added to the amount of the investment in the capital stock of such corporation and held by such member, shall not exceed the lesser of:

a. Twenty percent of the total amount then outstanding on loans to such development corporation by all members thereof, including in said total amount outstanding amounts validly called for loan but not yet loaned.

b. (1) The limit, to be determined as of the time such member becomes a member, on the basis of the audited balance sheet of such member at the close of its fiscal year immediately preceding its application for membership, as follows:

(a) Banks and trust companies — two percent of the paid-in capital, surplus, and undivided profits.

(b) Stock life insurance companies — one percent of capital and unassigned surplus.

(c) Mutual life insurance companies — one percent of the unassigned surplus.

(d) All other insurance companies — one-tenth of one percent of the assets.

(e) Other financial institutions — such limits as may be approved by the board of directors of the development corporation.

(2) Provided that the lending limit of any one member shall not exceed two hundred fifty thousand dollars.

4. Each call for loan shall be prorated among the members in substantially the same proportion that the adjusted loan limit of each member bears to the aggregate of the adjusted loan limits of all members. The adjusted loan limit of a member shall be the amount of such member's loan limit, reduced by the balance of outstanding obligations of the corporation to such member and the investment in capital stock of the corporation held by such member at the time of such call.

5. All loans to a development corporation by a member shall be evidenced by registered bonds, debentures, notes, or other evidences of indebtedness of the development corporation, which shall be freely transferable by the registered holder thereof on the books of the corporation.

[C66, 71, 73, 75, 77, 79, 81, §496B.9]

2012 Acts, ch 1017, §97; 2012 Acts, ch 1023, §157

Referred to in §496B.2

496B.10 Duration of membership.

Membership in any development corporation shall be for the duration of the respective development corporation; provided, however, that upon written notice given to the development corporation five years in advance a member thereof may withdraw from membership in such corporation at the expiration date of such notice. Provided that a financial institution may at any time withdraw from membership without such notice in the event of its merger with another financial institution, after commencement of proceedings for voluntary or involuntary dissolution, receivership, or reorganization pursuant to or by operation of federal or state law or in the event of conversion from a state financial institution to a federal financial institution or the reverse. If there shall be a legislative amendment of this chapter affecting the rights and obligations of the members and shareholders or otherwise affecting the articles of incorporation of such corporation which shall not have been approved by the members and shareholders within the time set forth and in the manner provided in this chapter, any member not approving such amendment may immediately withdraw from membership upon giving written notice to the corporation not later than ninety days from the effective date of the amendment. A member shall not be obligated to make any loans to a development corporation pursuant to calls made subsequent to the withdrawal of said member therefrom.

[C66, 71, 73, 75, 77, 79, 81, §496B.10]

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496B.11 Powers of shareholders.

The shareholders and the members of the development corporation shall have the following powers of such corporation:

1. Those powers granted in the Iowa business corporation Act, chapter 490, which are not inconsistent with the provisions of this chapter.
2. To determine the number and elect directors as provided herein.
3. To amend the articles of incorporation as provided herein.
4. To dissolve the corporation as provided herein.
5. To exercise such other of the powers of the corporation as may be conferred on the shareholders and the members by the bylaws. As to all matters requiring action by the shareholders and the members of the corporation, such shareholders and such members shall vote separately thereon by classes and, except as may be otherwise herein provided, approval of such matters shall require the affirmative vote of a majority of the votes to which the shareholders present or represented at the meeting are entitled, and the affirmative vote of a majority of the votes to which the members present or represented at the meeting are entitled. Each shareholder shall have one vote, in person or by proxy, for each share of capital stock held by the shareholder, and each member shall have one vote, in person or by proxy, except that any member having a loan limit of more than one thousand dollars shall have one additional vote, in person or by proxy, for each additional one thousand dollars which such member is authorized to have outstanding on loans to the corporation at any one time as determined herein.

[C66, 71, 73, 75, 77, 79, 81, §496B.11]
2001 Acts, ch 24, §62

496B.12 Articles amended.

1. The articles of incorporation of any development corporation may be amended by the votes of the shareholders and the members thereof voting separately by classes.
2. Any amendment shall require approval by the affirmative vote of two-thirds of the votes to which the shareholders shall be entitled and two-thirds of the votes to which the members shall be entitled. No amendment, however, shall be made which:

a. Is inconsistent with this chapter.
b. Authorizes any additional class or classes of shares of capital stock.
c. Eliminates or curtails the authority of the authority with respect to the corporation.

3. Without the consent of each of the members affected, no amendment shall be made which does any of the following:

a. Increases the obligation of a member to make loans to the corporation.
b. Makes any change in the principal amount, interest rate, maturity date, or in the security or credit position of any outstanding loan of a member to the corporation.
c. Affects a member's right to withdraw from membership, as provided herein.
d. Affects a member's voting rights in the corporation.

4. Within thirty days after any meeting at which amendment of any such articles has been adopted, articles of amendment signed and sworn to by the president, secretary, and majority of the directors, setting forth such amendment and the due adoption thereof, shall be submitted to the director of the authority who shall examine them, and if the director finds that they conform to the requirements of this chapter, shall so certify and endorse the director's approval thereof. Thereupon, the articles of amendment shall be filed in the office of the secretary of state in the manner set forth and as provided in the Iowa business corporation Act, chapter 490, and no such amendment shall take effect until such articles of amendment shall have been approved and filed as aforesaid.
5. Within sixty days after the effective date of any legislative amendment affecting the rights and obligations of the members and shareholders or otherwise affecting the articles of incorporation, the approval of such legislative amendments shall be voted on by the shareholders and the members of the development corporation at a meeting duly called for that purpose. If such legislative amendment is not approved by the affirmative vote of two-thirds of the votes to which such shareholders shall be entitled and two-thirds of the votes to which such members shall be entitled, any such member voting against the

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approval of such legislative amendment shall have the right to withdraw from membership as provided in this chapter.

6. Within thirty days after any meeting at which a legislative amendment affecting the articles of incorporation of a development corporation has been voted on, a certificate filed and sworn to by the secretary or other recording officer of such corporation setting forth the action taken at such meeting with respect to such amendment shall be submitted to the director of the authority and upon receipt of such approval shall be filed in the office of the secretary of state.

[C66, 71, 73, 75, 77, 79, 81, §496B.12]

2001 Acts, ch 24, §62; 2011 Acts, ch 118, §85, 89; 2012 Acts, ch 1021, §95

496B.13 Board of directors.

1. The board of directors shall consist of such number not less than fifteen as shall be determined in the first instance by the incorporators and thereafter annually by the members and the shareholders at each annual meeting or at any special meeting held in lieu of the annual meeting. At each annual meeting or at any special meeting held in lieu of the annual meeting, the members of each corporation shall elect two-thirds of the board of directors and the shareholders shall elect the remaining directors. The directors shall hold office until the next annual meeting of the corporation or special meeting held in lieu of the annual meeting after their election, and until their successors are elected and qualify unless sooner removed in accordance with the provisions of the bylaws. Any vacancy in the office of a director elected by the members shall be filled by the directors elected by the members, and any vacancy in the office of a director elected by the shareholders shall be filled by the directors elected by the shareholders.

2. Notwithstanding any provisions of law to the contrary, officers and directors of insurance companies and other financial institutions may be members of the board of directors of any corporation organized for the purposes of this chapter to which the insurance company or other financial institution may make a loan or may make an investment.

[C66, 71, 73, 75, 77, 79, 81, §496B.13]

2021 Acts, ch 76, §150

Referred to in §496B.2

496B.14 Earned surplus set aside.

Each year each development corporation shall set apart as earned surplus not less than ten percent of its net earnings for the preceding fiscal year until such surplus shall be equal in value to one-half of the amount paid in on the capital stock then outstanding. Whenever the amount of surplus established herein shall become impaired, it shall be built up again to the required amount in the manner provided for its original accumulation. Net earnings and surplus shall be determined by the board of directors, after providing for such reserves as said directors deem desirable, and the directors' determination made in good faith shall be conclusive on all persons.

[C66, 71, 73, 75, 77, 79, 81, §496B.14]

496B.15 Deposit of funds.

No development corporation shall deposit any of its funds in any financial institution unless such institution has been designated as a depository by a vote of a majority of the directors present at any authorized meeting of the board of directors exclusive of any director who is an officer or director of the depository so designated. No development corporation shall receive money on deposit.

[C66, 71, 73, 75, 77, 79, 81, §496B.15]

496B.16 Reports to department of economic development. Repealed by 2006 Acts, ch 1100, §7.

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496B.17 Certificate to do business.

Upon the approval of the authority as required in this chapter and the issuance of a certificate as provided in the Iowa business corporation Act, chapter 490, a development corporation shall then be authorized to commence business and to issue stock thereof to the extent authorized in its articles of incorporation.

[C66, 71, 73, 75, 77, 79, 81, §496B.17]

2001 Acts, ch 24, §64; 2011 Acts, ch 118, §85, 89

496B.18 Reserved.

496B.19 Dissolution.

A development corporation may be dissolved upon the affirmative vote of two-thirds of the votes to which the shareholders thereof shall be entitled and two-thirds of the votes to which the members shall be entitled. Upon any dissolution of a development corporation, none of the corporation's assets shall be distributed to the shareholders until all sums due the members of the corporation as creditors thereof have been paid in full.

[C66, 71, 73, 75, 77, 79, 81, §496B.19]

496B.20 State credit not available.

Under no circumstances is the credit of the state of Iowa pledged herein.

[C66, 71, 73, 75, 77, 79, 81, §496B.20]

CHAPTER 496C

PROFESSIONAL CORPORATIONS

Referred to in §10B.4, 10B.7, 135D.4, 135D.5, 147.136A, 148C.1, 169.4A, 489.1115, 490.1801, 542.7, 547.1, 669.14

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496C.1 Short title.

This chapter shall be known and may be cited as the *"Iowa Professional Corporation Act"*.

[C71, 73, 75, 77, 79, 81, §496C.1]

496C.2 Definitions.

For words used in this chapter, unless the context otherwise requires, the definitions contained in the Iowa business corporation Act, chapter 490, apply, and:

1. *"Employees"* or *"agents"* does not include clerks, stenographers, secretaries, bookkeepers, technicians, or other persons who are not usually and ordinarily considered by custom and practice to be practicing a profession, nor any other person who performs all that person's duties for the professional corporation under the direct supervision and control of one or more officers, employees, or agents of the professional corporation who are duly licensed in this state to practice a profession which the corporation is authorized to practice

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in this state. This chapter shall not be construed to require any such persons to be licensed to practice a profession if they are not required to be licensed under any other law of this state.

2. *"Foreign professional corporation"* means a corporation organized under laws other than the laws of this state for a purpose for which a professional corporation may be organized under this chapter.

3. *"Licensed"* includes registered, certified, admitted to practice, or otherwise legally authorized under the laws of this state.

4. *"Profession"* means the following professions:

a. Certified public accountancy.
b. Architecture.
c. Chiropractic.
d. Dentistry.
e. Physical therapy.
f. Practice as a physician associate.
g. Psychology.
h. Marital and family therapy or mental health counseling, provided that the marital and family therapist or mental health counselor is licensed under chapters 147 and 154D.
i. Social work, provided that the social worker is licensed pursuant to chapter 147 and section 154C.3, subsection 1, paragraph *"c"*.
j. Professional engineering.
k. Land surveying.
l. Landscape architecture.
m. Law.
n. Medicine and surgery.
o. Optometry.
p. Osteopathic medicine and surgery.
q. Accounting practitioner.
r. Podiatry.
s. Real estate brokerage.
t. Speech pathology.
u. Audiology.
v. Veterinary medicine.
w. Pharmacy.
x. The practice of nursing.

5. *"Professional corporation"* means a corporation subject to this chapter, except a foreign professional corporation.

6. *"Regulating board"* means any board, commission, court, or governmental authority which, under the laws of this state, is charged with the licensing, registration, certification, admission to practice, or other legal authorization of the practitioners of any profession.

7. *"Voluntary transfer"* includes any sale, voluntary assignment, gift, pledge, or encumbrance; any voluntary change of legal or equitable ownership or beneficial interest; or any voluntary change of persons having voting rights with respect to any shares, except as proxies; but does not include any transfer of an individual's shares or other property to a guardian or conservator appointed for such individual or the individual's property.

[C71, 73, 75, 77, 79, 81, §496C.2]

90 Acts, ch 1205, §31; 2007 Acts, ch 13, §2; 2008 Acts, ch 1088, §141; 2010 Acts, ch 1131, §5; 2018 Acts, ch 1066, §3, 5; 2019 Acts, ch 24, §74; 2026 Acts, ch 1008, §3
Code editor directive applied

496C.3 Applicability of Iowa business corporation Act.

The Iowa business corporation Act, chapter 490, shall be construed as part of this chapter and shall apply to professional corporations, including, but not limited to, their organization, reports, fees, authority, powers, rights, and the regulation and conduct of their affairs. The provisions of the Iowa business corporation Act, chapter 490, on foreign corporations shall apply to foreign professional corporations. The provisions of this chapter shall prevail over

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any inconsistent provisions of the Iowa business corporation Act, chapter 490, or any other law.

[C71, 73, 75, 77, 79, 81, §496C.3]

2001 Acts, ch 24, §62

496C.4 Purposes and powers.

1. A professional corporation shall be organized only for the purpose of engaging in the practice of one specific profession, or two or more specific professions which could lawfully be practiced in combination by a licensed individual or a partnership of licensed individuals, and for the additional purpose of doing all lawful things which may be incidental to or necessary or convenient in connection with the practice of the profession or professions. The articles of incorporation shall state in substance that the purposes for which the corporation is organized are to engage in the general practice of a specified profession or professions, or one or more specified branches or divisions thereof, and to do all lawful things which may be incidental to or necessary or convenient in connection with the practice of the profession or professions. Each professional corporation, unless otherwise provided in its articles of incorporation or unless expressly prohibited by this chapter, shall have all powers granted to corporations by the Iowa business corporation Act, chapter 490.

2. *a.* For purposes of this section, medicine and surgery, osteopathic medicine and surgery, and practice as a physician associate shall be deemed to be professions which could lawfully be practiced in combination by licensed individuals or a partnership of licensed individuals.

b. Nothing in this section shall be construed to expand the scope of practice of a physician associate.

c. For purposes of this section, marital and family therapy, mental health counseling, psychology, and social work shall be deemed to be professions which could lawfully be practiced in combination by licensed individuals or a partnership of licensed individuals.

[C71, 73, 75, 77, 79, 81, §496C.4]

2001 Acts, ch 24, §64; 2010 Acts, ch 1131, §6; 2018 Acts, ch 1066, §4, 5; 2023 Acts, ch 73, §24; 2026 Acts, ch 1008, §3

Referred to in §496C.7, 496C.16

Code editor directive applied

496C.5 Corporate name.

The corporate name of a professional corporation, the corporate name of a foreign professional corporation or its name as modified for use in this state, and any fictitious name or trade name adopted by a professional corporation or foreign professional corporation shall contain the words "professional corporation" or the abbreviation "P. C.", and except for the addition of such words or abbreviation, shall be a name which could lawfully be used by a licensed individual or by a partnership of licensed individuals in the practice in this state of a profession which the corporation is authorized to practice. Each regulating board may by rule or regulation adopt additional requirements as to the corporate names and fictitious or trade names of professional corporations and foreign professional corporations which are authorized to practice a profession which is within the jurisdiction of the regulating board.

[C71, 73, 75, 77, 79, 81, §496C.5]

90 Acts, ch 1205, §32

496C.6 Who may incorporate.

One or more individuals having capacity to contract, each of whom is licensed to practice in this state a profession which the professional corporation is to be authorized to practice, may act as incorporators of a professional corporation.

[C71, 73, 75, 77, 79, 81, §496C.6]

496C.7 Practice by professional corporation.

1. Notwithstanding any other statute or rule of law, a professional corporation may practice a profession, but may do so in this state only through shareholders, directors, officers, employees, and agents who are licensed to practice the same profession in this state.

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2. In its practice of a profession, no professional corporation shall do any act which could not lawfully be done by individuals licensed to practice the profession which the professional corporation is authorized to practice.

3. *a.* This section shall not prohibit persons practicing medicine and surgery, persons practicing osteopathic medicine and surgery, or persons practicing as physician associates from practicing their respective professions in lawful combination pursuant to section 496C.4.

b. Nothing in this section shall be construed to expand the scope of practice of a physician associate.

[C71, 73, 75, 77, 79, 81, §496C.7]
2010 Acts, ch 1131, §7; 2023 Acts, ch 73, §25; 2026 Acts, ch 1008, §3
Code editor directive applied

496C.8 Professional regulation.

No professional corporation shall be required to register with or to obtain any license, registration, certificate, or other legal authorization from any regulating board in order to practice a profession. Except as provided in this section, nothing in this chapter shall restrict or limit in any manner the authority or duties of any regulating board with respect to individuals practicing any profession which is within the jurisdiction of the regulating board, even if the individual is a shareholder, director, officer, employee, or agent of a professional corporation or foreign professional corporation and practices the individual's profession through such corporation.

[C71, 73, 75, 77, 79, 81, §496C.8]

496C.9 Relationship and liability to persons served.

1. This chapter does not modify any law applicable to the relationship between an individual practicing a profession and a person receiving professional services, including but not limited to any liability arising out of such practice and any law respecting privileged communications.

2. This chapter does not modify or affect the ethical standards or standards of conduct of any profession, including but not limited to any standards prohibiting or limiting the practice of the profession by a corporation or prohibiting or limiting the practice of two or more professions in combination. All such standards shall apply to the shareholders, directors, officers, employees, and agents through whom a professional corporation practices any profession in this state, to the same extent that the standards apply to an individual practitioner.

3. Unless otherwise provided in the articles of incorporation, the liability of the shareholders of a professional corporation, as shareholders, shall be limited in the same manner and to the same extent as in the case of a corporation organized under the Iowa business corporation Act, chapter 490.

[C71, 73, 75, 77, 79, 81, §496C.9]
2001 Acts, ch 24, §64; 2018 Acts, ch 1041, §127

496C.10 Issuance of shares.

1. Shares of a professional corporation may be issued, and treasury shares may be disposed of, only to individuals who are licensed to practice in this state, or in any other state or territory of the United States or in the District of Columbia, a profession which the corporation is authorized to practice.

2. Unless otherwise provided in the articles of incorporation or bylaws, the affirmative vote or consent in writing of all of the outstanding shareholders entitled to vote, or such lesser proportion as may be provided in the articles or bylaws, is necessary in order to authorize the issuance of any shares or the disposal of any treasury shares, and to fix the consideration for shares or treasury shares.

3. No shares of a professional corporation shall at any time be issued in, transferred into, or held in joint tenancy, tenancy in common, or any other form of joint ownership or co-ownership.

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4. The Iowa securities law, chapter 502, shall not be applicable to nor govern any transaction relating to any shares of a professional corporation.

[C71, 73, 75, 77, 79, 81, §496C.10]

2018 Acts, ch 1026, §154

496C.11 Transfer of shares.

1. No shareholder or other person shall make any voluntary transfer of any shares in a professional corporation to any person, except to the professional corporation or to an individual who is licensed to practice in this state a profession which the corporation is authorized to practice.

2. Unless otherwise provided in the articles of incorporation or bylaws, the affirmative vote or consent in writing of all of the outstanding shareholders entitled to vote, or such lesser proportion as may be provided in the articles or bylaws, is necessary in order to authorize any voluntary transfer of any shares of a professional corporation.

3. The articles of incorporation or bylaws may contain any additional provisions restricting the transfer of shares.

[C71, 73, 75, 77, 79, 81, §496C.11]

2018 Acts, ch 1041, §127

496C.12 Convertible securities — stock rights and options.

No professional corporation shall create or issue any securities convertible into shares of the professional corporation. The provisions of this chapter with respect to the issuance and transfer of shares and disposal of treasury shares apply to the creation, issuance, and transfer of any rights or options entitling the holder to purchase from a professional corporation any shares of the corporation, including treasury shares. Rights or options shall not be transferable, whether voluntarily, involuntarily, by operation of law, or in any other manner. Upon the death of the holder, or whenever the holder ceases to be licensed to practice in this state a profession which the corporation is authorized to practice, the rights or options shall expire.

[C71, 73, 75, 77, 79, 81, §496C.12]

496C.13 Voting trust — proxy.

No shareholder of a professional corporation shall create or enter into a voting trust or any other agreement conferring upon any other person the right to vote or otherwise represent any shares of a professional corporation, and no such voting trust or agreement is valid or effective. Any proxy of a shareholder of a professional corporation shall be an individual licensed to practice in this state a profession which the corporation is authorized to practice. Any provision in any proxy instrument denying the right of the shareholder to revoke the proxy at any time or for any period of time is not valid or effective. This section does not otherwise limit the right of a shareholder to vote by proxy, but the articles of incorporation or bylaws may further limit or deny the right to vote by proxy.

[C71, 73, 75, 77, 79, 81, §496C.13]

496C.14 Required purchase by professional corporation of its own shares.

1. *a.* Notwithstanding any other statute or rule of law, a professional corporation shall purchase its own shares as provided in this section; and the shareholders of a professional corporation and their executors, administrators, legal representatives, and successors in interest shall sell and transfer the shares held by them as provided in this section.

b. The corporation may validly purchase its own shares even though its net assets are less than its stated capital, or even though by so doing its net assets would be reduced below its stated capital.

c. Upon the death of a shareholder, the professional corporation shall immediately purchase all shares held by the deceased shareholder.

2. In order to remain a shareholder of a professional corporation, a shareholder shall at all times be licensed to practice in this state a profession which the corporation is authorized

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to practice. Whenever any shareholder does not have or ceases to have this qualification, the corporation shall immediately purchase all shares held by that shareholder.

3. Whenever any person other than the shareholder of record becomes entitled to have shares of a corporation transferred into that person's name or to exercise voting rights, except as a proxy, with respect to shares of the corporation, the corporation shall immediately purchase such shares. Without limiting the generality of the foregoing, this section shall be applicable whether the event occurs as a result of the appointment of a guardian or conservator for a shareholder or the shareholder's property, transfer of shares by operation of law, involuntary transfer of shares, judicial proceedings, execution, levy, bankruptcy proceedings, receivership proceedings, foreclosure or enforcement of a pledge or encumbrance, or any other situation or occurrence. However, this section does not apply to any voluntary transfer of shares as defined in this chapter.

4. Shares purchased by the corporation under the provisions of this section shall be transferred to the corporation as of the close of business on the date of the death or other event which requires purchase. The shareholder and the shareholder's executors, administrators, legal representatives, or successors in interest shall promptly do all things which may be necessary or convenient to cause transfer to be made as of the transfer date. However, the shares shall promptly be transferred on the stock transfer books of the corporation as of the transfer date, notwithstanding any delay in transferring or surrendering the shares or certificates representing the shares, and the transfer shall be valid and effective for all purposes as of the close of business on the transfer date. The purchase price for such shares shall be paid as provided in this chapter, but the transfer of shares to the corporation as provided in this section shall not be delayed or affected by any delay or default in making payment.

5. Notwithstanding subsections 1 through 4, purchase by the corporation is not required upon the occurrence of any event other than death of a shareholder if the corporation is dissolved or voluntarily elects to adopt the provisions of the Iowa business corporation Act, as provided in section 490.1801, subsection 2, within sixty days after the occurrence of the event. The articles of incorporation or bylaws may provide that purchase is not required upon the death of a shareholder if the corporation is dissolved within sixty days after the death. Notwithstanding subsections 1 through 4, purchase by the corporation is not required upon the death of a shareholder if the corporation voluntarily elects to adopt the provisions of the Iowa business corporation Act, as provided in section 490.1801, subsection 2, within sixty days after death.

6. Unless otherwise provided in the articles of incorporation or bylaws or in an agreement among all shareholders of the professional corporation:

a. The purchase price for shares shall be their book value as of the end of the month immediately preceding the death or other event which requires purchase. Book value shall be determined from the books and records of the professional corporation in accordance with the regular method of accounting used by the corporation, uniformly and consistently applied. Adjustments to book value shall be made, if necessary, to take into account work in process and accounts receivable. Any final determination of book value made in good faith by any independent certified public accountant or firm of certified public accountants employed by the corporation for the purpose shall be conclusive on all persons.

b. The purchase price shall be paid in cash as follows:

(1) Upon the death of a shareholder, thirty percent of the purchase price shall be paid within ninety days after death, and the balance shall be paid in three equal annual installments on the first three anniversaries of the death.

(2) Upon the happening of any other event referred to in this section, one-tenth of the purchase price shall be paid within ninety days after the date of such event, and the balance shall be paid in three equal annual installments on the first three anniversaries of the date of the event.

c. Interest from the date of death or other event shall be payable annually on principal payment dates, at the rate of six percent per annum on the unpaid balance of the purchase price.

d. All persons who are shareholders of the professional corporation on the date of death

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or other event, and their executors, administrators, and legal representatives, shall, to the extent the corporation fails to meet its obligations under this section, be jointly liable for the payment of the purchase price and interest in proportion to their percentage of ownership of the corporation's shares, disregarding shares of the deceased or withdrawing shareholder.

e. The part of the purchase price remaining unpaid after the initial payment shall be evidenced by a negotiable promissory note, which shall be executed by the corporation and all shareholders liable for payment. Any person liable on the note shall have the right to prepay the note in full or in part at any time.

f. If the person making any payment is not reasonably able to determine which of two or more persons is entitled to receive a payment, or if the payment is payable to a person who is unknown, or who is under disability and there is no person legally competent to receive the payment, or who cannot be found after the exercise of reasonable diligence by the person making the payment, it shall be deposited with the treasurer of state and shall be subject to the provisions of the Iowa business corporation Act, chapter 490, with respect to funds deposited with the treasurer of state upon the voluntary or involuntary dissolution of a corporation.

g. Notwithstanding the provisions of this section, no part of the purchase price shall be required to be paid until the certificates representing such shares have been surrendered to the corporation.

h. Notwithstanding the provisions of this section, payment of any part of the purchase price for shares of a deceased shareholder shall not be required until the executor or administrator of the deceased shareholder provides any indemnity, release, or other document from any taxing authority, which is reasonably necessary to protect the corporation against liability for any estate and death tax, or any inheritance tax for a death occurring before January 1, 2025.

7. The articles of incorporation or bylaws or an agreement among all shareholders of a professional corporation may provide for a different purchase price, a different method of determining the purchase price, a different interest rate or no interest, and other terms, conditions, and schedules of payment.

8. The articles of incorporation or bylaws or an agreement among all shareholders of a professional corporation may provide for the optional or mandatory purchase of its own shares by the corporation in other situations, subject to any applicable law regarding such purchase.

[C71, 73, 75, 77, 79, 81, §496C.14]

2001 Acts, ch 24, §62; 2003 Acts, ch 66, §8; 2009 Acts, ch 133, §165; 2021 Acts, ch 165, §222, 230; 2022 Acts, ch 1021, §147; 2025 Acts, ch 148, §34, 53, 54

2025 amendment to subsection 6, paragraph h applies retroactively to January 1, 2025, to the estates of decedents dying on or after January 1, 2025; 2025 Acts, ch 148, §54

496C.15 Certificates representing shares.

Each certificate representing shares of a professional corporation shall state in substance that the certificate represents shares in a professional corporation and is not transferable except as expressly provided in this chapter and in the articles of incorporation and bylaws of the corporation.

[C71, 73, 75, 77, 79, 81, §496C.15]

496C.16 Management.

All directors of a professional corporation and all officers of a professional corporation, except assistant officers, shall at all times be individuals who are licensed to practice in this state a profession, or a lawful combination of professions pursuant to section 496C.4, which the corporation is authorized to practice. However, upon the occurrence of any event that requires the corporation either to be dissolved or to elect to adopt the provisions of the Iowa business corporation Act, chapter 490, as provided in section 496C.19, provided the corporation ceases to practice the profession that the corporation is authorized to practice, as provided in section 496C.19, then individuals who are not licensed to practice in this state a profession that the corporation is authorized to practice may be appointed as officers and directors for the sole purpose of carrying out the dissolution of the corporation or, if

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applicable, the voluntary election of the corporation to adopt the provisions of the Iowa business corporation Act, as provided in section 496C.19.

[C71, 73, 75, 77, 79, 81, §496C.16]

2003 Acts, ch 66, §9; 2004 Acts, ch 1086, §79; 2010 Acts, ch 1131, §8

496C.17 Bylaws.

The initial bylaws of a professional corporation shall be adopted by its board of directors. The power to alter, amend, or repeal the bylaws or adopt new bylaws is reserved to and vested in the shareholders unless granted to the board of directors by the articles of incorporation.

[C71, 73, 75, 77, 79, 81, §496C.17]

496C.18 Merger or consolidation.

No professional corporation shall merge or consolidate with any other corporation except another professional corporation subject to this chapter. Merger or consolidation shall not be permitted unless the surviving or new corporation is a professional corporation which complies with all requirements of this chapter.

[C71, 73, 75, 77, 79, 81, §496C.18]

496C.19 Dissolution or liquidation.

Violation of any provision of this chapter by a professional corporation or any of its shareholders, directors, or officers shall be cause for its involuntary dissolution, or liquidation of its assets and business by the district court, as provided in the Iowa business corporation Act, chapter 490. Upon the death of the last remaining shareholder of a professional corporation, or whenever the last remaining shareholder is not licensed or ceases to be licensed to practice in this state a profession which the corporation is authorized to practice, or whenever any person other than the shareholder of record becomes entitled to have all shares of the last remaining shareholder of the corporation transferred into that person's name or to exercise voting rights, except as a proxy, with respect to such shares, the corporation shall not practice any profession and it shall either be promptly dissolved or shall promptly elect to adopt the provisions of the Iowa business corporation Act, as provided in section 490.1801, subsection 2. However, if prior to such dissolution all outstanding shares of the corporation are acquired by one or more persons licensed to practice in this state a profession which the corporation is authorized to practice, the corporation need not be dissolved and may practice the profession as provided in this chapter.

[C71, 73, 75, 77, 79, 81, §496C.19]

2001 Acts, ch 24, §64; 2003 Acts, ch 66, §10; 2021 Acts, ch 165, §223, 230

Referred to in §496C.16

496C.20 Foreign professional corporation.

1. A foreign professional corporation may practice a profession in this state if it complies with the provisions of the Iowa business corporation Act, chapter 490, on foreign corporations. The secretary of state may prescribe forms for such purpose.

2. A foreign professional corporation may practice a profession in this state only through shareholders, directors, officers, employees, and agents who are licensed to practice the profession in this state. The provisions of this chapter with respect to the practice of a profession by a professional corporation apply to a foreign professional corporation.

3. The foreign registration statement of a foreign professional corporation may be revoked by the secretary of state as provided in the Iowa business corporation Act, chapter 490, if the foreign professional corporation fails to comply with any provision of this chapter.

4. This chapter shall not be construed to prohibit the practice of a profession in this state by an individual who is a shareholder, director, officer, employee, or agent of a foreign professional corporation if the individual could lawfully practice the profession in this state in the absence of any relationship to a foreign professional corporation. This subsection

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shall apply regardless of whether or not the foreign professional corporation is authorized to practice a profession in this state.

[C71, 73, 75, 77, 79, 81, §496C.20]

2001 Acts, ch 24, §62; 2018 Acts, ch 1026, §155; 2022 Acts, ch 1058, §15

496C.21 Biennial report.

1. Each biennial report of a professional corporation or foreign professional corporation shall, in addition to the information required by the Iowa business corporation Act, chapter 490, set forth:

a. The name and address of one shareholder.

b. In the case of a professional corporation, a statement under oath whether or not all shareholders, directors, and officers, except assistant officers, of the corporation are licensed to practice in this state a profession which the corporation is authorized to practice, and whether or not all employees and agents of the corporation who practice a profession in this state on behalf of the corporation are licensed to practice the profession in this state.

c. In the case of a foreign professional corporation, a statement under oath whether or not all shareholders, directors, officers, employees, and agents who practice a profession in this state on behalf of the corporation are licensed to practice the profession in this state.

d. Additional information necessary or appropriate to enable the secretary of state or regulating board to determine whether the professional corporation or foreign professional corporation is complying with this chapter.

2. Information shall be set forth on forms prescribed and furnished by the secretary of state.

3. A corporation subject to the provisions of this chapter shall pay the biennial report filing fee and make the biennial report in a form and manner and at the time specified in chapter 490.

[C71, 73, 75, 77, 79, 81, §496C.21]

83 Acts, ch 144, §5; 97 Acts, ch 171, §25; 2000 Acts, ch 1022, §4, 5; 2001 Acts, ch 24, §64; 2012 Acts, ch 1023, §157; 2023 Acts, ch 66, §119

496C.22 Corporations organized under other laws.

1. This chapter shall not apply to or interfere with the practice of any profession by or through any corporation hereafter organized under any other law of this state or any other state or country if such practice is lawful under any other statute or rule of law of this state.

2. Any corporation subject to the provisions of the Iowa business corporation Act, chapter 490, may voluntarily elect to adopt this chapter and become subject to its provisions by amending its articles of incorporation to be consistent with all provisions of this chapter and by stating in its amended articles of incorporation that the corporation has voluntarily elected to adopt this chapter.

3. Any corporation organized under any law of any other state or country may become subject to the provisions of this chapter by complying with all provisions of this chapter with respect to foreign professional corporations.

[C71, 73, 75, 77, 79, 81, §496C.22]

2001 Acts, ch 24, §62; 2018 Acts, ch 1041, §127

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SUBTITLE 3

ASSOCIATIONS

Referred to in §491.39

CHAPTER 497

COOPERATIVE ASSOCIATIONS

Referred to in §10B.1, 10B.4, 10B.7, 476C.1, 489.102, 490.1801, 498.32, 499.43A, 499.60, 499.71, 500.3, 501.104, 501.601, 501A.102, 501A.1104, 502.102, 502.201, 547.1, 552A.2, 556.1, 558.72, 669.14

Applicable only to associations originally chartered before July 4, 1935, §499.1
Option to come under chapter 499, §499.43A
Merger or consolidation with other entities; §499.71, 501A.1101 – 501A.1104
Option to come under chapter 501; §501.601
Option to come under chapter 501A; §501A.1104

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497.1 Purposes of cooperative.

Any number of persons, not less than five, may associate themselves as a cooperative association, society, company, or exchange, for the purpose of conducting any agricultural, dairy, ethanol production, mercantile, mining, manufacturing, or mechanical business on the cooperative plan. For the purposes of this chapter, the words "*association*", "*company*", "*corporation*", "*exchange*", "*society*", or "*union*", shall be construed to mean the same.

[SS15, §1641-r1; C24, 27, 31, 35, 39, §**8459;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.1]

92 Acts, ch 1099, §7

Referred to in §497.3, 502.102

497.2 Articles of incorporation.

They shall sign and acknowledge written articles which shall contain the name of said association and the names and residences of the persons forming the same. Such articles shall also contain a statement of the purposes of the association, and shall designate the city or village where its principal place of business shall be located. Such articles shall also state the amount of capital stock, the number of shares, and the par value of each.

[SS15, §1641-r2; C24, 27, 31, 35, 39, §**8460;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.2]

Referred to in §497.3

497.3 Filing — certificate of incorporation.

The original articles of incorporation of associations organized under this chapter shall be filed with the secretary of state, and be by the secretary recorded in a book kept for that purpose; and if such articles comply with the provisions of sections 497.1 and 497.2, the secretary shall issue a certificate of incorporation to the association. No publication of notice of the incorporation of such an association shall be required.

[SS15, §1641-r3; C24, 27, 31, 35, 39, §**8461;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.3]

94 Acts, ch 1055, §9

497.4 Fee.

For filing the articles of incorporation of associations organized under this chapter, there shall be paid to the secretary of state ten dollars, and for the filing of an amendment to such articles, five dollars; provided that when the capital stock of such corporation shall be less than five hundred dollars, such fee for filing either the articles of incorporation or amendments thereto shall be one dollar. In all cases there shall be paid a recording fee of fifty cents per page.

[SS15, §1641-r4; C24, 27, 31, 35, 39, §**8462;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.4]

94 Acts, ch 1055, §10

497.5 Board of directors.

Every such association shall be managed by a board of not less than five directors, who shall be elected by and from the stockholders at such time and for such term of office as the bylaws may prescribe, and shall hold office for the time for which elected and until their successors are elected and qualify.

[SS15, §1641-r5; C24, 27, 31, 35, 39, §**8463;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.5]

497.6 Removal.

A majority of the stockholders shall have the power at any regular or special stockholders' meeting, legally called, to remove any director or officer for cause, and fill the vacancy, and thereupon the director or officer so removed, shall cease to be a director or officer of said corporation.

[SS15, §1641-r5; C24, 27, 31, 35, 39, §**8464;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.6]

497.7 Officers.

The officers of every such association shall be a president, one or more vice presidents, a secretary, and a treasurer, who shall be elected annually by the directors, and each of said officers must be a director of the association. The offices of secretary and treasurer may be combined, and when so combined the person filling the office shall be secretary-treasurer.

[SS15, §1641-r5; C24, 27, 31, 35, 39, §**8465;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.7]

497.8 Amending articles.

The association may amend its articles of incorporation by a majority vote of its stockholders at any regular stockholders' meeting, or at any special stockholders' meeting called for that purpose, on ten days' notice to all stockholders. Said power to amend shall include the power to increase or diminish the amount of capital stock and the number of shares; provided the amount of the capital stock shall not be diminished below the amount of paid-up capital at the time the amendment is adopted.

[SS15, §1641-r6; C24, 27, 31, 35, 39, §**8466;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.8]

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497.9 Record of amendments.

Within thirty days after the adoption of an amendment to its articles of incorporation, an association shall cause a copy of the amendment adopted to be recorded in the office of the secretary of state.

[SS15, §1641-r6; C24, 27, 31, 35, 39, §**8467;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.9]

94 Acts, ch 1055, §11

497.10 Powers.

An association created under this chapter shall have power to conduct any agricultural, dairy, mercantile, mining, manufacturing, or mechanical business, on the cooperative plan, and may buy, sell, and deal in the products of any other cooperative company heretofore or hereafter organized under the provisions hereof.

[SS15, §1641-r7; C24, 27, 31, 35, 39, §**8468;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.10]

497.11 Ownership of shares and voting power limited.

No stockholder in any such association shall own shares of a greater aggregate par value than five thousand dollars, except as hereinafter provided, nor shall a stockholder be entitled to more than one vote.

[SS15, §1641-r8; C24, 27, 31, 35, 39, §**8469;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.11]

497.12 Stockholding.

At any regular meeting, or any regularly called special meeting, at which at least a majority of all of its stockholders shall be present, or represented, an association organized under this chapter, may by a majority vote of the stockholders present or represented, subscribe for shares and invest its reserve fund, not to exceed twenty-five percent of its capital, in the capital stock of any other cooperative association.

[SS15, §1641-r9; C24, 27, 31, 35, 39, §**8470;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.12]

497.13 Issue of shares as payment.

Whenever an association created under this chapter shall purchase the business of another association, person, or persons, it may pay for the same in whole or in part by issuing to the selling association or person shares of its capital stock to an amount, which at fair market value as determined by the executive council, would equal the fair market value of the business so purchased as determined by the executive council as in cases of other corporations.

[SS15, §1641-r10; C24, 27, 31, 35, 39, §**8471;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.13]

Payment in property other than money, §492.6 et seq.

497.14 May act as trustee.

In case the cash value of such purchased business exceeds one thousand dollars, the directors of the association are authorized to hold the shares in excess of one thousand dollars in trust for the vendor, and dispose of the same to such persons, and within such times, as may be mutually satisfactory to the parties in interest, and to pay the proceeds thereof as currently received to the former owner of said business.

[SS15, §1641-r11; C24, 27, 31, 35, 39, §**8472;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.14]

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497.15 Paid-up stock — right to vote.

Certificates of stock shall not be issued to any subscriber until fully paid, but the bylaws of the association may allow subscribers to vote as stockholders; provided part of the stock subscribed for has been paid in cash.

[SS15, §1641-r11; C24, 27, 31, 35, 39, §**8473;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.15]

497.16 Voting by mail.

At any regularly called general or special meeting of the stockholders, a written vote received by mail from any absent stockholder, and signed by that stockholder, may be read in such meeting, and shall be equivalent to a vote of each of the stockholders so signing, provided the stockholder has been previously notified in writing by the secretary of the exact motion or resolution upon which such vote is taken, and a copy of same is forwarded with and attached to the vote so mailed by the stockholder.

[SS15, §1641-r12; C24, 27, 31, 35, 39, §**8474;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.16]

497.17 Reserve fund.

The board of directors, subject to revision by the association at any general or special meeting, shall each year set aside not less than ten percent of the net profits for a reserve fund, until an amount has accumulated therein equal to fifty percent of the paid-up capital stock.

[SS15, §1641-r13; C24, 27, 31, 35, 39, §**8475;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.17]

497.18 Educational fund — dividends.

The board may each year, out of remaining net profits, subject to the approval of the association at any general or special meeting:

1. Provide an educational fund to be used in teaching cooperation, not exceeding five percent of the net profits.
2. Declare and pay a dividend on the stock, not exceeding ten percent.

[SS15, §1641-r13; C24, 27, 31, 35, 39, §**8476;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.18]

497.19 Additional dividends.

The remainder of said net profits shall be distributed by uniform dividends upon the amount of purchases of shareholders, and upon the wages and salaries of employees. In producing associations, such as creameries, canneries, elevators, factories, and the like, dividends shall be on raw material delivered instead of on goods purchased. In case the association is both a selling and a producing concern, the dividends may be on both raw material delivered and goods purchased by patrons.

[SS15, §1641-r13; C24, 27, 31, 35, 39, §**8477;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.19]

497.20 When dividends distributed.

The profits or net earnings of such associations shall be distributed to those entitled thereto, at such times as the bylaws shall prescribe, which shall be as often as once in twelve months.

[SS15, §1641-r14; C24, 27, 31, 35, 39, §**8478;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.20]

497.21 Dissolution.

If such association, for five consecutive years, shall fail to declare a dividend upon the shares of its paid-up capital, five or more stockholders, by petition, setting forth such fact, may apply to the district court of the county wherein is situated its principal place of business

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in this state, for its dissolution. If, upon hearing, the allegations of the petition are found to be true, the court may adjudge a dissolution of the association.

[SS15, §1641-r14; C24, 27, 31, 35, 39, §**8479;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.21]

497.22 Biennial report — penalty.

1. Section 504.1613 applies to a cooperative association organized under this chapter in the same manner as that section applies to a corporation organized under chapter 504. In addition to the information required to be set forth in the biennial report under section 504.1613, the cooperative association shall also set forth the total amount of business transacted, number of members, total expense of operation, total amount of indebtedness, and total profits or losses for each calendar or fiscal year of the two-year period which ended immediately preceding the first day of January of the year in which the report is filed.

2. A cooperative association which fails to comply with this section before April 1 of the year in which the report is due is subject to a penalty of ten dollars.

[SS15, §1641-r15; C24, 27, 31, 35, 39, §**8480;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.22]

97 Acts, ch 171, §26; 2004 Acts, ch 1049, §184, 191, 192; 2021 Acts, ch 76, §150

Referred to in §497.23, 497.25

497.23 Exemption from report.

Any corporation organized under the provisions of this chapter after the first day of January shall be exempt from the provisions of section 497.22 for the year in which incorporated, after which it shall, however, be subject to all of the provisions of said section.

[C27, 31, 35, §8480-a1; C39, §**8480.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.23]

497.24 List of delinquents.

In the month of April of each year the secretary of state shall prepare a list of all delinquent corporations and file the same in the secretary of state's office.

[C27, 31, 35, §8480-a2; C39, §**8480.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.24]

497.25 Notice to delinquents.

On or before the first day of May of the year the report is due the secretary of state shall mail to each delinquent association a notice of such delinquency and of the penalties provided in section 497.22.

[C27, 31, 35, §8480-a3; C39, §**8480.3;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.25]

97 Acts, ch 171, §27

497.26 Cancellation.

If the biennial report required is not filed and penalties paid on or before the last day of June the secretary of state shall, on the first day of July following, cancel the name of any delinquent corporation from the list of live corporations in the secretary of state's office, and enter such cancellation on the proper records.

[C27, 31, 35, §8480-a4; C39, §**8480.4;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.26]

2000 Acts, ch 1022, §6

497.27 Effect of cancellation.

When so canceled the corporate rights of any such corporation shall be forfeited and its corporate period terminated on the date such cancellation shall have been entered on the records of the secretary of state's office.

[C27, 31, 35, §8480-a5; C39, §**8480.5;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.27]

497.28 Reinstatement of corporation.

Any corporation whose corporate rights have been canceled and forfeited in the manner provided herein may, however, before September 1 following such cancellation, make application to the secretary of state for reinstatement and upon being furnished good and sufficient reasons for not having filed its report the secretary shall, upon the filing of

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such report and the payment of the penalty, reinstate said corporation and the decree of cancellation shall be annulled and the corporation shall be entitled to continue to act as a corporation for the unexpired portion of its corporate period as fixed by its articles of incorporation and the limitations prescribed by law.

[C27, 31, 35, §8480-a6; C39, §**8480.6;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.28]

497.29 Chapter extended to former companies.

All cooperative corporations, companies, or associations heretofore organized and doing business under prior statutes, or which have attempted to so organize and do business, shall have the benefit of all the provisions of this chapter and be bound thereby, on filing with the secretary of state, amended and substituted articles of incorporation drawn in accordance with the provisions of this chapter and a written declaration, signed and sworn to by the president and secretary to the effect that said cooperative company or association has by a majority vote of its stockholders decided to accept the benefits of and to be bound by the provisions hereof.

[SS15, §1641-r16; C24, 27, 31, 35, 39, §**8481;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.29]

94 Acts, ch 1055, §12

497.30 Use of term "cooperative" restricted.

No corporation or association organized after July 4, 1915, shall be entitled to use the term "cooperative" as part of its corporate or other business name or title, unless it has complied with the provisions of this chapter, and any corporation or association violating the provisions of this section may be enjoined from doing business under such name at the instance of any stockholder of any association legally organized under the provisions of this chapter.

[SS15, §1641-r17; C24, 27, 31, 35, 39, §**8482;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.30]

497.31 Use of funds.

None of the funds of any association organized under the provisions of this chapter shall be used in the payment of any promotion; as commissions, salaries or expenses of any kind, character, or nature whatsoever.

[SS15, §1641-r18; C24, 27, 31, 35, 39, §**8483;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.31]

497.32 Private property exempt.

The private property of the stockholders shall be exempt from execution for the debts of the corporation.

[SS15, §1641-r19; C24, 27, 31, 35, 39, §**8484;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.32]

497.33 Personal liability.

Except as otherwise provided in this chapter, a director, officer, employee, or member of the corporation is not liable on the corporation's debts or obligations and a director, officer, member, or other volunteer is not personally liable in that capacity, for a claim based upon any action taken, or any failure to take action in the discharge of the person's duties, except for the amount of a financial benefit received by the person to which the person is not entitled, an intentional infliction of harm on the corporation or its members, or an intentional violation of criminal law.

87 Acts, ch 212, §6; 2003 Acts, ch 66, §11; 2004 Acts, ch 1086, §80

497.34 Indemnification.

A cooperative association operating under this chapter may indemnify any present or former director, officer, employee, member, or volunteer in the manner and in the instances authorized in sections 490.850 through 490.859, provided that where sections 490.850 through 490.859 provide for action by shareholders the sections are applicable to action by

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voting members of the cooperative association, and where sections 490.850 through 490.859 refer to the corporation organized under chapter 490 the sections are applicable to the cooperative association organized under this chapter, and where sections 490.850 through 490.859 refer to the director the sections are applicable to a director, officer, employee, member, or volunteer of the cooperative association organized under this chapter.

88 Acts, ch 1170, §6; 94 Acts, ch 1023, §62; 2002 Acts, ch 1154, §104, 125

497.35 Statement to estate of stockholder.

1. The board of directors, upon receiving actual notice of a stockholder's death, shall provide a statement to the administrator or executor of the stockholder's estate, or to the attorney representing the stockholder's estate. The statement shall describe agricultural products owned by the stockholder which are in the possession of the association.

2. This section shall not require an association to conduct a search of the status of its stockholders. The association shall exercise reasonable diligence in determining to whom the statement must be delivered. The statement shall be delivered to the administrator, executor, or attorney, within thirty days following a determination as to whom the statement must be delivered. A statement is not required to be prepared or delivered, if the association is not notified of the stockholder's death within one year after the date of death, or by the date that the stockholder's estate is closed, whichever is later.

91 Acts, ch 230, §1; 2021 Acts, ch 76, §150

CHAPTER 498

NONPROFIT COOPERATIVE ASSOCIATIONS

Referred to in §10B.1, 10B.4, 10B.7, 489.102, 490.1801, 499.43A, 499.60, 499.71, 501.104, 501.601, 501A.102, 501A.1104, 502.102, 502.201, 547.1, 552A.2, 556.1, 558.72, 669.14

Applicable only to associations originally chartered before July 4, 1935; see chapter 499
Permissible organization under later law; §499.43A
Merger or consolidation with other entities; §499.71, 501A.1101 – 501A.1104
Option to come under chapter 501; §501.601
Option to come under chapter 501A; §501A.1104

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498.1 Nature.

Associations organized under the provisions of this chapter are declared to be not for pecuniary profit.

[C27, 31, 35, §8485-b1; C39, §**8485.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.1]

498.2 Purposes of cooperative — limitation.

Any number of persons, not less than five, may associate themselves as a cooperative association, without capital stock, for the purpose of conducting any agricultural, livestock, horticultural, dairy, ethanol production, mercantile, mining, manufacturing, or mechanical business, or the constructing and operating of telephone and high tension electric transmission lines on the cooperative plan and of acting as a cooperative selling agency. Cooperative livestock shipping associations organized under this chapter shall do business with members only.

[C24, 27, 31, 35, 39, §**8486;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.2]

92 Acts, ch 1099, §8

Referred to in §502.102

498.3 Terms defined — products of nonmembers.

For the purpose of this chapter, the words "*association*", "*exchange*", "*society*", or "*union*", shall be construed to mean the same and are defined to mean a corporate body composed of actual producers or consumers of the given commodity handled by the association, whose business is conducted for the mutual benefit of its members and not for the profit of stockholders, and control of which is vested in its members upon the basis of one vote to each member. Associations shall not deal in the products of nonmembers to an amount greater in value than such as are handled by it for members.

[C24, 27, 31, 35, 39, §**8487;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.3]

498.4 Articles — personal liability.

They shall sign and acknowledge written articles, which shall contain the name of the association and the names and residences of the incorporators. Such articles shall also contain a statement of the purposes of the association, the amount of the membership fee, and shall designate the city or village where its principal place of business shall be located, and the manner in which such articles may be amended, and any limitation which the members propose to place upon their personal liability for the debts of the association.

[C24, 27, 31, 35, 39, §**8488;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.4]

498.5 Filing — certificate of incorporation.

The original articles of incorporation shall be filed for record with the secretary of state. Upon approval of such articles, the secretary of state shall issue a certificate of incorporation.

[C24, 27, 31, 35, 39, §**8489;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.5]

498.6 Fees.

For filing the articles of incorporation of associations organized under this chapter, there shall be paid to the secretary of state five dollars, and for the filing of an amendment to such articles, two dollars. In all cases there shall be paid a recording fee of fifty cents per page.

[C24, 27, 31, 35, 39, §**8490;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.6]

498.7 Amendments.

Within thirty days after the adoption of any amendment to its articles of incorporation, the association shall cause a copy of such amendment to be recorded in the office of the secretary of state.

[C24, 27, 31, 35, 39, §**8491;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.7]

498.8 Board of directors — removals.

Every such association shall be managed by a board of not less than five directors, who shall be elected by and from the members at such time and for such term of office as the articles may prescribe. They shall hold office until their successors are elected and qualify;

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but a majority of the members shall have the power at any regular or special meeting of the association legally called, to remove any director or officer for cause, and fill the vacancy.

[C24, 27, 31, 35, 39, §**8492;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.8]

498.9 Officers.

The officers of every such association shall be a president, one or more vice presidents, a secretary, and treasurer, who shall be elected annually by the directors, from amongst their own number. The offices of secretary and treasurer may be held by the same person.

[C24, 27, 31, 35, 39, §**8493;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.9]

498.10 Admission of members.

Under the terms and conditions prescribed in its bylaws, an association may admit as members persons engaged in the production of the products, or in the use or consumption of the supplies, to be handled by or through the association, including the lessors and landlords of lands used for the production of such products, who receive as rent part of the crop raised on the leased premises.

[C24, 27, 31, 35, 39, §**8494;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.10]

498.11 Membership certificates.

Membership certificates in due form shall be issued to all charter members and to such others as shall subsequently be admitted by the association in accordance with its articles and bylaws.

[C24, 27, 31, 35, 39, §**8495;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.11]

498.12 Certificates nontransferable — surrender.

No such certificate shall be transferable by the member to any other person, but shall be surrendered to the association in case of the member's voluntary withdrawal.

[C24, 27, 31, 35, 39, §**8496;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.12]
Referred to in §498.14

498.13 Automatic cancellation — revocation.

It shall become void upon the member's death, or may be revoked by the directors upon proof duly made that the member has ceased to be a producer of products handled by or through the association, in the case of producing or selling associations or has ceased to be the user of products handled by or through the association in case of stores and supply associations, or for failure to observe its bylaws or the member's contractual obligations to it.

[C24, 27, 31, 35, 39, §**8497;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.13]
Referred to in §498.14

498.14 Conditions printed on certificates.

The conditions of membership specified in sections 498.12 and 498.13 shall be printed upon the face of every membership certificate.

[C24, 27, 31, 35, 39, §**8498;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.14]

498.15 Combinations of local associations.

Likewise, associations may be formed under this chapter whose membership shall consist of other associations formed under the provisions of this chapter, the purpose being to federate local associations into central cooperative associations for the more economical and efficient performance of their marketing or other operations.

[C24, 27, 31, 35, 39, §**8499;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.15]

498.16 Powers of central associations.

Such central associations may enter into contracts, agreements and arrangements with their member associations. Each member association in such federated associations shall have an official representative chosen by its own board of directors, who shall cast one vote and no more at all business meetings of the federated association.

[C24, 27, 31, 35, 39, §**8500;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.16]

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498.17 Voting power.

Each member of an association shall be entitled to one vote and no more upon all questions affecting the control and management of the affairs of the association and in the selection of its board of directors.

[C24, 27, 31, 35, 39, §**8501;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.17]

498.18 Proxies — voting by mail.

No vote by proxy shall be permitted, but a written vote received by mail from any absent member, and signed by that member, may be read and counted at any regular or special meeting of the association, provided that the secretary shall notify all members in writing of the exact motion or resolution upon which such vote is to be taken, and a copy of same shall be forwarded with and attached to the vote so mailed by the member.

[C24, 27, 31, 35, 39, §**8502;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.18]

498.19 Power to compel sales and purchases — liquidated damages.

1. The association may require members to sell all or a stipulated part of their specifically enumerated products exclusively through the association or to buy specifically enumerated supplies exclusively through the association, but in such case, a reasonable period during each year shall be specified during which any member, by giving notice in prescribed form, may be released from such obligation thereafter. Where it is desired to enter into the exclusive arrangement provided in this section, the association shall execute a contract with each such member setting forth what goods or wares are to be handled and upon what terms. In order to protect itself in the necessary outlay, which it may make for the maintenance of its services, the association may stipulate that some regular charge shall be paid by the member for each unit of goods covered by such contract whether actually handled by the association or not, and in order to reimburse the association for any loss or damage which it or its members may sustain through the member's failure to deliver the member's products to or to procure the member's supplies from the association.

2. In case it is difficult or impracticable to determine the actual amount of damage suffered by the association or its members through such failure to comply with the terms of such a contract, the association and the member may agree upon a sum to be paid as liquidated damages for the breach of the member's contract, said amount to be stated in the contract.

[C24, 27, 31, 35, 39, §**8503;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.19]

2021 Acts, ch 76, §150

498.20 Financial power.

Every association may borrow money necessary for the conduct of its business, and may issue notes, bonds, or debentures therefor, and may give security in the form of mortgage or otherwise for the repayment thereof.

[C24, 27, 31, 35, 39, §**8504;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.20]

498.21 Personal liability.

Members of such association may limit their personal liability to the amount of their membership fee as provided in their articles of incorporation.

[C24, 27, 31, 35, 39, §**8505;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.21]

498.22 Cost of service — dues.

Associations formed under this chapter shall perform services on a basis of the lowest practicable cost, and may provide for meeting the cost thereof through dues, assessments, or service charges, which shall be prescribed in the bylaws. Such charges shall be set high enough to provide a margin of safety above current operating costs and fixed charges upon borrowed capital.

[C24, 27, 31, 35, 39, §**8506;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.22]

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498.23 Reserve and educational funds — patronage dividends.

Out of any surplus remaining in any given year, the directors shall each year set aside not less than ten percent of such savings for the accumulation of a reserve fund until such reserve shall equal at least forty percent of the invested capital of the association, not less than one percent nor more than five percent for a permanent educational fund from which expenditures shall be made annually at the discretion of the directors for the purpose of teaching cooperation, and the remainder to be returned to the members as a patronage dividend prorated on a uniform basis to each member upon the value of business done by that member through the association.

[C24, 27, 31, 35, 39, §**8507;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.23]

498.24 Biennial report — penalty.

1. Section 504.1613 applies to a cooperative association organized under this chapter in the same manner as that section applies to a corporation organized under chapter 504. In addition to the information required to be set forth in the biennial report under section 504.1613, the cooperative association shall also set forth the total amount of business transacted, number of members, total expense of operation, total amount of indebtedness, and total profits or losses for each calendar or fiscal year of the two-year period which ended immediately preceding the first day of January of the year in which the report is filed.

2. A cooperative association which fails to comply with this section before April 1 of the year in which the report is due is subject to a penalty of ten dollars.

[C24, 27, 31, 35, 39, §**8508;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.24]

97 Acts, ch 171, §28; 2004 Acts, ch 1049, §185, 191, 192; 2021 Acts, ch 76, §150

Referred to in §498.25, 498.27

498.25 Exemption from report.

Any corporation organized under the provisions of this chapter after the first day of January shall be exempt from the provisions of section 498.24 for the year in which incorporated, after which it shall, however, be subject to all of the provisions of said section.

[C27, 31, 35, §8508-a1; C39, §**8508.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.25]

498.26 List of delinquents.

In the month of April of each year the secretary of state shall prepare a list of all delinquent corporations and file the same in the secretary of state's office.

[C27, 31, 35, §8508-a2; C39, §**8508.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.26]

498.27 Notice to delinquents.

On or before the first day of May of the year the report is due the secretary of state shall mail to each delinquent association a notice of such delinquency and of the penalties provided in section 498.24.

[C27, 31, 35, §8508-a3; C39, §**8508.3;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.27]

97 Acts, ch 171, §29

498.28 Cancellation.

If the biennial report required is not filed and penalties paid on or before the last day of June the secretary of state shall, on the first day of July following, cancel the name of any delinquent corporation from the list of live corporations in the secretary of state's office, and enter such cancellation on the proper records.

[C27, 31, 35, §8508-a4; C39, §**8508.4;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.28]

2000 Acts, ch 1022, §7

498.29 Effect of cancellation.

When so canceled the corporate rights of any such corporation shall be forfeited and its corporate period terminated on the date such cancellation shall have been entered on the records of the secretary of state's office.

[C27, 31, 35, §8508-a5; C39, §**8508.5;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.29]

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498.30 Reinstatement of corporation.

Any corporation whose corporate rights have been canceled and forfeited in the manner provided herein may, however, before September 1 following such cancellation, make application to the secretary of state for reinstatement and upon being furnished good and sufficient reasons for not having filed its report the secretary shall, upon the filing of such report and the payment of the penalty, reinstate said corporation and the decree of cancellation shall be annulled and the corporation shall be entitled to continue to act as a corporation for the unexpired portion of its corporate period as fixed by its articles of incorporation and the limitations prescribed by law.

[C27, 31, 35, §8508-a6; C39, §**8508.6;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.30]

498.31 Chapter extended to former associations.

All corporations, or associations heretofore organized and doing business under prior statutes, or which have attempted so to organize and do business cooperatively, shall have the benefit of all the provisions of this chapter and be bound thereby, on filing with the secretary of state amended and substituted articles of incorporation drawn in accordance with the provisions of this chapter and a written declaration signed and sworn to by the president and secretary, to the effect that said company or association has, by a majority vote of its stockholders, decided to accept the benefits of and to be bound by the provisions of this chapter.

[C24, 27, 31, 35, 39, §**8509;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.31]

498.32 Use of term "cooperative" — injunction.

No corporation or association hereafter organized shall be entitled to use the term "cooperative" as part of its corporate or other business name or title, unless it has complied with the provisions of this chapter or of chapter 497, and any corporation or association violating the provisions of this chapter may be enjoined from doing business under such name at the instance of any stockholder of any association legally organized under the provisions of this chapter.

[C24, 27, 31, 35, 39, §**8510;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.32]

498.33 Use of funds — promotion expenses.

None of the funds of any association shall be used for purposes of any promotion as commissions, salaries, or expenses of any kind, character, or nature whatsoever, except that in the case of associations operating in more than one county, if the par value of securities to be sold is in excess of one hundred thousand dollars, a sum not to exceed five percent of the par value of bonds or debentures sold may be used by committees elected by the members for selling or soliciting for the sale of such securities or for hiring responsible salaried solicitors for that purpose.

[C24, 27, 31, 35, 39, §**8511;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.33]

498.34 Duration of incorporation — renewal.

Associations formed under the provisions of this chapter shall continue for a period of twenty-five years, unless earlier dissolved by order of its members or by other processes as by law provided, and the term of its existence may be renewed by the filing of new articles of association, as by law provided.

[C24, 27, 31, 35, 39, §**8512;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §498.34]

498.35 Personal liability.

Except as otherwise provided in this chapter, a director, officer, employee, or member of the association is not liable on the association's debts or obligations and a director, officer, member, or other volunteer is not personally liable in that capacity, for a claim based upon any action taken, or any failure to take action in the discharge of the person's duties, except for the amount of a financial benefit received by the person to which the person is not entitled,

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an intentional infliction of harm on the association or its members, or an intentional violation of criminal law.

87 Acts, ch 212, §7; 2003 Acts, ch 66, §12

498.36 Indemnification.

A cooperative association operating under this chapter may indemnify any present or former director, officer, employee, member, or volunteer in the manner and in the instances authorized in sections 490.850 through 490.859, provided that where sections 490.850 through 490.859 provide for action by shareholders the sections are applicable to action by voting members of the cooperative association, and where sections 490.850 through 490.859 refer to the corporation organized under chapter 490 the sections are applicable to the cooperative association organized under this chapter, and where sections 490.850 through 490.859 refer to the director the sections are applicable to a director, officer, employee, member, or volunteer of the cooperative association organized under this chapter.

88 Acts, ch 1170, §7; 94 Acts, ch 1023, §63; 2002 Acts, ch 1154, §105, 125

498.37 Statement to estate of stockholder.

1. The board of directors, upon receiving actual notice of a member's death, shall provide a statement to the administrator or executor of the member's estate, or to the attorney representing the member's estate. The statement shall describe agricultural products owned by the member which are in the possession of the association.

2. This section shall not require an association to conduct a search of the status of its members. The association shall exercise reasonable diligence in determining to whom the statement must be delivered. The statement shall be delivered to the administrator, executor, or attorney, within thirty days following a determination as to whom the statement must be delivered. A statement is not required to be prepared or delivered, if the association is not notified of the member's death within one year after the date of death, or by the date that the member's estate is closed, whichever is later.

91 Acts, ch 230, §2; 2021 Acts, ch 76, §150

CHAPTER 499

COOPERATIVE ASSOCIATIONS

Referred to in §9.11, 10.1, 10B.1, 10B.4, 10B.7, 357A.1, 427.1(27)(a), 427.1(27)(b), 427.1(27)(c), 427.1(27)(e), 476.1, 476C.1, 489.102, 490.628, 490.1109, 490.1801, 501.104, 501.601, 501A.102, 501A.501, 501A.1104, 502.102, 502.201, 547.1, 552A.2, 556.1, 556.5, 558.72, 669.14, 715D.1

Applicable to associations formed from and after July 4, 1935; §499.1
Option to come under chapter 501; §501.601
Option to come under chapter 501A; §501A.1104

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SUBCHAPTER I

GENERAL PROVISIONS

499.1 Applicable.

This chapter applies only to cooperative associations as defined in section 499.2. All such associations formed from and after July 4, 1935, must be organized under this chapter.

[C35, §8512-g1; C39, §**8512.01;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.1]

499.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Agricultural associations"* are those formed to produce, grade, blend, preserve, process, store, warehouse, market, sell, or handle an agricultural product, or a by-product of an agricultural product; to produce ethanol; to purchase, produce, sell, or supply machinery, petroleum products, equipment, fertilizer, supplies, business services, or educational service to or for those engaged as bona fide producers of agricultural products; to finance any such activities; or to engage in any cooperative activity connected with or for any number of these purposes.

2. *"Agricultural products"* include horticultural, viticultural, forestry, dairy, livestock, poultry, bee and any other farm products.

3. *"Alternative voting method"* means a method of voting other than a written ballot, including voting by electronic, telephonic, internet, or other means that reasonably allows members the opportunity to vote.

4. *"Association"* means a corporation formed under this chapter.

5. A *"cooperative association"* is one which deals with or functions for its members at least to the extent required by section 499.3; and which distributes its net earnings among its members in proportion to their dealings with it, except for limited dividends or other items permitted in this chapter; and in which each voting member has one vote and no more.

6. *"Local deferred patronage dividends"* of an association means that portion of each member's deferred patronage dividends described in section 499.30 which the board of directors of the association has determined arise from earnings of the association other than earnings which have been allocated to the association but which have not been paid in cash to the association by other cooperative organizations of which the association is a member. However, if the board of directors fails to make a determination with respect to a deceased member's deferred patronage dividends prior to the member's death, then *"local deferred patronage dividends"* means that portion of the member's deferred patronage dividends which is proportional to the deferred patronage dividends described in section 499.30 less the amount of undistributed net earnings which have been allocated to the association by other cooperative organizations of which the association is a member, compared to all deferred patronage dividends of the association.

7. *"Local deferred patronage preferred stock"* of an association means preferred stock, if any, of an association which has been issued in exchange for local deferred patronage dividends. If preferred stock has been issued in exchange for deferred patronage dividends prior to the time the board of directors of the association has determined the portion of each member's deferred patronage dividend which represents local deferred patronage dividends, then the board of directors may reasonably determine what portion of the preferred stock was issued in exchange for local deferred patronage dividends and the portion which was issued for other deferred patronage dividends.

8. *"Member"* refers not only to members of nonstock associations but also to common stockholders of stock associations, unless the context of a particular provision otherwise indicates.

[C35, §8512-g2; C39, §**8512.02;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.2]

86 Acts, ch 1196, §1; 88 Acts, ch 1026, §1; 92 Acts, ch 1099, §9; 2011 Acts, ch 23, §1; 2011 Acts, ch 34, §115

Referred to in §499.1, 502.102

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499.3 Dealing with nonmembers.

1. A nonstock livestock shipping association shall not handle livestock of any nonmembers.

2. Any association may restrict the amount of business done with nonmembers and may limit its dealings or any class thereof to members only.

[C35, §8512-g3; C39, §**8512.03;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.3]

2001 Acts, ch 12, §1, 6; 2016 Acts, ch 1011, §121

Referred to in §499.2, 499.49

499.4 Use of term "cooperative" restricted.

1. A person including a corporation hereafter organized, which is not an association as defined in this chapter or a cooperative as defined in chapter 501 or 501A, shall not use the word "cooperative" or any abbreviation thereof in its name or advertising or in any connection with its business, except foreign associations admitted under section 499.54. The attorney general or any association or any member thereof may sue and enjoin such use.

2. This chapter does not control the use of fictitious names. However, if a cooperative association or a foreign cooperative association uses a fictitious name in this state, the cooperative association or foreign cooperative association shall deliver to the secretary of state for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.

[C35, §8512-g4; C39, §**8512.04;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.4]

97 Acts, ch 23, §56; 2001 Acts, ch 12, §2, 6; 2005 Acts, ch 135, §114; 2019 Acts, ch 24, §75

Referred to in §9.11

499.5 Permissible organizers.

1. Five or more individuals, or two or more associations, may organize an association.

2. All individual incorporators of agricultural associations must be engaged in producing agricultural products, which phrase includes landlords and tenants as specified in section 499.13.

3. A nonprofit water utility organized under chapter 357A or 504 may elect to become an association under this chapter upon majority vote of its members by filing with the secretary of state a statement confirming the election and appropriate articles of incorporation. However, the association is subject to the service limitation provisions contained in sections 357.1A and 357A.2.

4. A telephone company organized as a corporation under chapter 491 and qualifying pursuant to an internal revenue service letter ruling under Internal Revenue Code §501(c)(12) as a nonprofit corporation entitled to distribute profits in a manner similar to an association under this chapter may reorganize as an association under this chapter upon the affirmative vote of two-thirds of the votes cast by the shares entitled to vote in an election at a meeting at which a majority of all shares entitled to vote cast a vote.

[C35, §8512-g5; C39, §**8512.05;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.5]

88 Acts, ch 1172, §3; 90 Acts, ch 1164, §1; 96 Acts, ch 1044, §1; 2004 Acts, ch 1049, §191; 2004 Acts, ch 1175, §393

Referred to in §9.11

499.5A Water utilities — members of federated associations.

Notwithstanding section 499.13, a water utility organized under this chapter, a municipal water utility, or a water district organized under chapter 357, 357A, or 504 may be a member of a federated association.

88 Acts, ch 1172, §4; 94 Acts, ch 1137, §2; 2004 Acts, ch 1049, §191; 2004 Acts, ch 1175, §393

499.6 Purposes.

A cooperative association may be organized under this chapter for any lawful purpose or purposes.

[C35, §8512-g6; C39, §**8512.06;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.6]

88 Acts, ch 1026, §2; 88 Acts, ch 1172, §5

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499.7 Powers.

Except as expressly limited in its articles, each association has the following powers:

1. To conduct business, carry on operations, establish and operate offices, and exercise all powers granted by this chapter in or outside this state.

2. To borrow any amounts of money, and give any form of obligation or security therefor.

3. To make advances to patrons or members, or members of member-associations, and take any form of obligation or security therefor.

4. To acquire, hold, transfer or pledge any obligation or security representing funds actually advanced or used for any cooperative activity; or stock, memberships, bonds or obligations of any cooperative organization dealing in any product handled by the association, or any by-product thereof.

5. To make any contract, endorsement or guaranty it deems desirable incident to its transfer or pledge of any obligation or security.

6. To acquire, own or dispose of any real or personal property deemed convenient for its business, including patents, trademarks and copyrights.

7. To exercise any power, right or privilege suitable or necessary for, or incident to, promoting or accomplishing any of its powers, purposes or activities, or granted to ordinary corporations, save such as are inconsistent with this chapter.

8. To exercise any of its powers anywhere. No association organized under this chapter shall engage in the business of banking.

[C35, §8512-g7; C39, §**8512.07;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.7]
88 Acts, ch 1026, §3

499.8 Contracts authorized.

An agricultural association may contract with any member for the member's exclusive sale to or through it, of all or any part of the member's agricultural products or other designated commodities. Such contracts may permit the association to take and sell the property without acquiring title thereto, and pay the member the sale price less costs and expenses of selling, which may include the member's pro rata portion of the association's annual outlay for overhead, interest, preferred dividends, reserves or other specified charges. Such contracts must be for a specified time, not less than one year. Each contract shall fix a period of at least ten days during each year after the first, within which either party may terminate it without affecting any liability previously accrued.

[C35, §8512-g8; C39, §**8512.08;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.8]
Referred to in §499.9

499.9 Penalties — performance — injunction — arbitration.

1. *a.* Contracts permitted by section 499.8 may provide that the member pay the association any sum, fixed in amount or by a specified method of computation, for each violation thereof; also all the association's expenses of any suit thereon, including bond premiums and attorney's fees. All such provisions shall be enforced as written, whether at law or in equity, and shall be deemed proper measurement of actual damages, and not penalties or forfeitures.

b. The association may obtain specific performance of any such contract, or enjoin its threatened or continued breach, despite the adequacy of any legal or other remedy.

c. If the association files a verified petition, showing an actual or threatened breach of any such contract and seeking any remedy therefor, the court shall, without notice or delay but on such bond as it deems proper, issue a temporary injunction against such breach or its continuance.

2. The parties to such contracts may agree to arbitrate any controversy subsequently arising thereunder, and fix the number of arbitrators and method of their appointment. Such agreements shall be valid and irrevocable, except on such grounds as invalidate contracts generally. If they specify no method for appointing arbitrators, or if either party fails to follow such method, or if for any reason arbitrators are not named or vacancies filled, either party may apply to the district court to designate the necessary arbitrator, who shall then

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act under the agreement with the same authority as if named in it. Unless otherwise agreed, there shall be but one arbitrator.

[C35, §8512-g9; C39, §**8512.09;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.9]
2015 Acts, ch 29, §66

499.10 Cooperative agreements.

Any association may make any agreement or arrangement with any other association or cooperative organization for the cooperative or more economical carrying on of any of its business. Any number of such associations or organizations may unite to employ or use, or may separately employ or use, the same methods, means or agencies for conducting their respective businesses.

[C35, §8512-g10; C39, §**8512.10;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.10]

499.11 Legality declared.

No association, contract, method or act which complies with this chapter shall be deemed a conspiracy or combination in restraint of trade or an illegal monopoly, or an attempt to lessen business or fix prices arbitrarily, or to accomplish any improper or illegal purpose.

[C35, §8512-g11; C39, §**8512.11;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.11]

499.12 Exemption of private property.

The private property of the members or stockholders shall be exempt from execution for the debts of the corporation.

[C35, §8512-g12; C39, §**8512.12;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.12]

499.13 Membership — eligibility.

A membership or share of common stock shall not be issued to, or held by, any person unless the person is eligible for membership in the association under its articles. A person may be eligible only if the person is engaged in producing a product marketed by the association, the person customarily consumes or uses the supplies or commodities that the association handles, or the person uses the services that the association renders. A farm tenant or landlord who receives a share of agricultural products as rent may be eligible for membership in an agricultural association as a producer. A cooperative association engaged in any directly or indirectly related activity may be eligible for membership. An association may be formed which includes among its members cooperative associations or restricts its membership to cooperative associations.

[C35, §8512-g13; C39, §**8512.13;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.13]
97 Acts, ch 17, §2
Referred to in §499.5, 499.5A

499.14 Membership in nonstock associations.

Membership in associations without capital stock may be acquired by eligible parties in the manner provided in the articles, which shall specify the rights of members, the issuing price of memberships, if any, and what, if any, fixed dividends accrue thereon. If the articles so provide, membership shall be of two classes, voting and nonvoting. Voting members shall be agricultural producers, and all other members shall be nonvoting members. Nonvoting members shall have all the rights of membership except the right to vote.

[C35, §8512-g14; C39, §**8512.14;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.14]
2001 Acts, ch 12, §3, 6

499.14A Electric cooperative association memberships.

An electric cooperative association may have one or more classes of members. Qualifications, requirements, methods of acceptance, terms, conditions, termination, and other incidents of membership shall be set forth in the articles of incorporation of the association.

93 Acts, ch 94, §1; 2001 Acts, ch 12, §4, 6

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499.15 Certificates of membership or stock.

The association may issue certificates of membership or stock, each of which states the fixed dividend, if any, and the restrictions or limitations upon its ownership, voting, transfer, redemption, or cancellation.

[C35, §8512-g15; C39, §**8512.15;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.15]
2007 Acts, ch 23, §1

499.16 Subscriptions — stock or membership.

If permitted by the association's articles of incorporation, any eligible subscriber for common stock or membership may vote and be treated as a member after making part payment of the amount, if any, required to be paid for the common stock or membership in cash, giving the subscriber's note for the balance, and satisfying any other requirement for the subscription as set forth in the articles. A subscription may be forfeited as provided in section 499.32. Stock or membership shall not be issued until payment of the amount, if any, required to be paid for the stock or membership is fully made. A subscriber shall not hold office until the association has issued the subscriber stock or membership.

[C35, §8512-g16; C39, §**8512.16;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.16]
97 Acts, ch 17, §3; 2001 Acts, ch 12, §5, 6; 2007 Acts, ch 23, §2
Referred to in §499.30

499.17 Transfer of stock or membership.

No common stock shall be transferable, unless the articles expressly provide for transfer to others eligible for membership. Such provision may require that the transfer be preceded by an offer to the association, or be otherwise restricted. No nonstock membership shall be transferable, and if the association issues certificates of membership or stock to a member, the certificates shall be surrendered to the association on the member's voluntary withdrawal.

[C35, §8512-g17; C39, §**8512.17;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.17]
2007 Acts, ch 23, §3

499.18 Expulsion of members.

The directors may expel any member if the member has attempted to transfer that member's membership or stock in violation of its terms, or has willfully violated any article or bylaw which provides for such penalty.

[C35, §8512-g18; C39, §**8512.18;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.18]

499.19 Cancellation of membership or stock.

If a common stockholder or member dies, or becomes ineligible, or is expelled, that person's stock or membership shall forthwith be canceled. In cases of expulsion the association shall pay the stockholder or member its value as shown by the books on the date of cancellation, but not more than its original issuing price, within sixty days thereafter. In cases of death or ineligibility, it shall pay such value to the stockholder or member or the stockholder's or member's personal representative within two years thereafter, without interest.

[C35, §8512-g19; C39, §**8512.19;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.19]

499.20 Withdrawal of members.

The articles may permit and regulate voluntary withdrawal of members and the resulting cancellation of their common stock and memberships.

[C35, §8512-g20; C39, §**8512.20;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.20]

499.21 Obligations not affected.

The death, expulsion or withdrawal of a member shall not impair the member's contracts, debts, or obligations to the association.

[C35, §8512-g21; C39, §**8512.21;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.21]

499.22 Capital stock.

An association with capital stock may divide the shares into common and preferred stock. Par value stock shall not be issued for less than par. The general corporation laws shall

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govern the consideration for which no-par stock is issued. If the articles so provide, common stock may be issued in two classes, voting and nonvoting. Voting stock shall be issued to all agricultural producers and nonvoting stock to all other members. Voting stock or nonvoting stock may be issued to a cooperative association as provided in the articles of incorporation of the association issuing the stock. Nonvoting stock shall have all privileges of membership except the right to vote. Preferred stock held by nonmembers shall not exceed in amount that held by members.

[C35, §8512-g22; C39, §**8512.22;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.22]
97 Acts, ch 17, §4; 98 Acts, ch 1100, §67

499.23 Dividends on common stock.

Unless the articles provide that common stock shall receive no dividends, the directors may declare noncumulative dividends thereon at such rate as they may fix, not exceeding eight percent per annum.

[C35, §8512-g23; C39, §**8512.23;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.23]

499.24 Preferred stock.

Preferred stock shall bear cumulative or noncumulative dividends as fixed by the articles. It shall have no vote. It shall be issued and be transferable without regard to eligibility or membership, and be redeemable on terms specified in the articles and as provided for in this chapter. The directors shall determine the time and amount of its issue.

[C35, §8512-g24; C39, §**8512.24;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.24]
2011 Acts, ch 27, §1

499.25 Issuing preferred stock in purchases.

An association may discharge all or any part of obligations incurred in purchasing any business, property or stock, or an interest therein, by issuing its authorized preferred stock in an amount not exceeding the fair market value of the thing purchased. Issuance of such stock shall be upon the fair market value of the property purchased, as determined through an appraisal made by the directors or a competent appraiser employed by the directors. Such preferred stock shall be valid as though paid for in cash.

[C35, §8512-g25; C39, §**8512.25;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.25]
90 Acts, ch 1164, §2

499.26 Service charges.

Unless the articles otherwise provide, the bylaws or the directors may prescribe charges to be made to each member for services rendered the member or upon products bought from or sold to the member, and the time and manner of their collection.

[C35, §8512-g26; C39, §**8512.26;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.26]

499.27 Meetings.

1. Regular meetings of members shall be held at least once each year, the first of which shall be on the date specified in its articles. Unless otherwise provided in the articles or bylaws, subsequent meetings shall be on the same date in each succeeding year.

2. Unless otherwise provided in the articles, the directors may call special meetings of members, and must do so upon written demand of twenty percent of the members.

3. Unless the member waives it in writing, each member shall have ten days' written notice of the time and place of all meetings, and of the purpose of all special meetings. Such notice shall be given to the member in person or by mail directed to the member's address as shown on the books of the association, or if the articles so provide, by publication in a regular publication of general circulation among its members, or a newspaper of general circulation published at the principal place of business of the association.

4. The board of directors may hold the meeting solely by means of remote communication

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in accordance with section 499.27A and in that case the notice shall describe how members may participate in the meeting.

[C35, §8512-g27; C39, §**8512.27;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.27]
2015 Acts, ch 29, §114; 2021 Acts, ch 165, §236, 248
Referred to in §10.9

499.27A Remote participation in meetings of members.

1. Members of any class may participate in any meeting of members by means of remote communication to the extent the board of directors authorizes such participation for such class. Participation as a member by means of remote communication shall be subject to such guidelines and procedures as the board of directors adopts, and shall be in conformity with subsection 2.

2. Members participating in a meeting of members by means of remote communication shall be deemed present and may vote at such a meeting if the association has implemented reasonable measures to do all of the following:

a. Verify that each person participating remotely as a member is a member.

b. Provide such members a reasonable opportunity to participate in the meeting and to vote on matters submitted to the members, including an opportunity to communicate, and to read or hear the proceedings of the meeting, substantially concurrently with such proceedings.

3. Unless the bylaws require the meeting of members to be held at a place, the board of directors may determine that any meeting of members shall not be held at any place and shall instead be held solely by means of remote communication, but only if the association implements the measures specified in subsection 2.

2021 Acts, ch 165, §237, 248
Referred to in §499.27, 499.64

499.28 Number of votes.

No member may own more than one membership or share of common stock. Each voting member shall be entitled to one vote and no more at all corporate meetings.

[C35, §8512-g28; C39, §**8512.28;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.28]

499.29 Manner of voting.

A vote shall not be cast by proxy. The vote of a member-association shall be cast only by its representative duly authorized in writing. A member may cast that member's vote in advance of the meeting by mail ballot or, if the association's articles or bylaws permit, by an alternative voting method upon any proposition of which the member has been previously notified in writing.

[C35, §8512-g29; C39, §**8512.29;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.29]
96 Acts, ch 1115, §1; 2011 Acts, ch 23, §2

499.30 Distribution of earnings.

The directors shall annually dispose of the earnings of the association in excess of its operating expenses as follows:

1. To provide a reasonable reserve for depreciation, obsolescence, bad debts, or contingent losses or expenses.

2. *a.* (1) To the extent that the cooperative association is operating on a pooling basis, the board of directors of the cooperative association shall determine the portion of the remaining earnings derived from the pool that will be added to the surplus. The cooperative association is operating on a pooling basis, if the association markets, sells, or handles an agricultural product and all of the following apply:

(a) The product is a pool composed by commingling units of the same kind of product which are contributed to the cooperative association by its members.

(b) The earnings of the association are computed without deducting a charge for products delivered by members of the association who are contributing units to be commingled in the product pool.

(2) The board of directors may provide an advance payment to the members of the

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association contributing units of the product to be commingled in the product pool during the contribution period.

b. To the extent that the cooperative association is not operating on a pooling basis as provided in this subsection, at least ten percent of the remaining earnings must be added to surplus until surplus equals either thirty percent of the total of all capital paid in for stock or memberships, plus all unpaid patronage dividends, plus certificates of indebtedness payable upon liquidation, earnings from nonmember business, and earnings arising from the earnings of other cooperative organizations of which the association is a member, or one thousand dollars, whichever is greater. No additions shall be made to surplus when it exceeds either fifty percent of the total, or one thousand dollars, whichever is greater, without the approval of the membership by a majority of votes cast.

3. Not less than one percent nor more than five percent of earnings in excess of reserves may be placed in an educational fund, to be used as the directors deem suitable for teaching or promoting cooperation.

4. After disposing of earnings as provided in subsections 1 and 2, the cooperative association shall pay any fixed dividends on stock or memberships.

5. Notwithstanding an association's articles of incorporation, for each taxable year of the association, the association shall allocate all remaining net earnings to the account of each member, including subscribers described in section 499.16, ratably in proportion to the business the member did with the association during that year. The directors shall determine, or the articles of incorporation or bylaws of the association may specify, the percentage or the amount of the allocation to be currently paid in cash. However, for a cooperative association other than a public utility as defined in section 476.1, the amount to be currently payable in cash shall not exceed twenty percent of the allocation during any period when unpaid local deferred patronage dividends of deceased members for prior years are outstanding. Notwithstanding the twenty percent allocation limitation, the directors of a cooperative association or the articles of incorporation or bylaws of the association may specify any percentage or amount to be currently paid in cash to the estates of deceased natural persons who were members. All the remaining allocation not paid in cash shall be transferred to a revolving fund as provided in section 499.33 and credited to the members and subscribers. The credits in the revolving fund are referred to in this chapter as deferred patronage dividends.

[C35, §8512-g30; C39, §**8512.30;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.30]

86 Acts, ch 1196, §2, 3; 94 Acts, ch 1058, §1; 95 Acts, ch 106, §1; 96 Acts, ch 1115, §2; 2012 Acts, ch 1023, §157

Referred to in §499.2, 499.30A, 499.31

499.30A Reversion of disbursements.

1. As used in this section, *"disbursement"* means an amount of any dividend, patronage dividend, distribution including earnings distribution, or any other increment or sum realized or accruing from a membership or stock, subscription, or other equity interest in a cooperative association.

2. Once a person's membership or stock, subscription, or other member's equity in a cooperative association is deemed abandoned under section 556.5, the cooperative association may retain any disbursement held by the cooperative association for or owing to the person. The cooperative association may also deliver the disbursement to the treasurer of state for disposition as abandoned property pursuant to sections 556.5 and 556.11.

3. If the cooperative association elects to retain the disbursement under this section, the disbursement shall be deposited into a reversion fund established by the cooperative association.

4. A disbursement having an aggregate value of fifty dollars or more that is retained by the cooperative association shall be forfeited to the cooperative association only if the cooperative association publishes at least one notice of the abandoned property in a publication regularly distributed to its membership or in a newspaper having a general circulation in the county where the cooperative association is located. The notice shall include all of the following:

a. The name and address of the cooperative association.

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b. The name of the person who has an interest in the disbursement according to the records of the cooperative association.

c. A brief description of the type of disbursement retained by the cooperative association.

d. A statement that the disbursement will be forfeited to the cooperative association unless the person files a claim for the disbursement within the period provided for in this section.

5. *a.* Subject to this subsection, a person asserting an interest in the disbursement may file a claim for it with the cooperative association in a manner and according to procedures required by the cooperative association. If a person is entitled to an abandoned membership, stock, subscription, or other interest as provided in section 556.20 or 556.21, the cooperative association shall also pay the person the disbursement deposited in the reversion fund that is realized or accrued from the membership or stock, subscription, or other interest.

b. If a person has not filed a claim for the disbursement within six months after the first date that the notice of abandoned property is first published as provided in this section, the disbursement shall be forfeited to the cooperative association.

6. The disbursements deposited into the reversion fund that are forfeited to the cooperative association shall be used as provided in this subsection. The cooperative association may authorize the payment of forfeited disbursements to persons claiming interests in forfeited disbursements as provided in the cooperative association's articles of incorporation or bylaws. Otherwise, forfeited disbursements shall be used as the directors deem suitable for any of the following purposes:

a. Teaching and promoting cooperation. The directors may deposit the amounts of disbursements into the education fund as provided in section 499.30.

b. Economic development including private or joint public and private investments involving the creation of economic opportunities for its members or the retention of existing sources of income that would otherwise be lost.

2001 Acts, ch 142, §3; 2004 Acts, ch 1028, §1
Referred to in §490.628, 556.5

499.31 Control of allocation by members.

The members may at any meeting control the amount to be allocated to surplus or educational fund, within the limits specified in section 499.30, or the amount to be allocated to reserves.

[C35, §8512-g31; C39, §**8512.31;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.31]

499.32 Patronage dividends of subscribers.

Patronage dividends to subscribers whose stock or membership is not fully paid in cash shall be applied toward such payment until it is completed. If the articles or bylaws so provide, subscriptions not fully paid within two years may be canceled and all payments or patronage dividends thereon forfeited.

[C35, §8512-g32; C39, §**8512.32;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.32]
Referred to in §499.16

499.33 Use of revolving fund.

1. The directors may use a revolving fund to pay the obligations or add to the capital of the association or retire its preferred stock. In that event the deferred patronage dividends credited to members constitute a charge on the revolving fund, on future additions to the revolving fund, and on the corporate assets, subordinate to existing or future creditors and preferred stockholders. Except as otherwise provided in subsection 2, deferred patronage dividends for any year have priority over those for subsequent years.

2. *a.* Prior to other payments of deferred patronage dividends or redemption of preferred stock held by members, the directors of a cooperative association, other than a cooperative association which is a public utility as defined in section 476.1, shall pay local deferred patronage dividends and redeem local deferred patronage preferred stock of deceased natural persons who were members, and may pay deferred patronage dividends or may redeem preferred stock of deceased natural persons who were members or of members who become ineligible, without reference to the order of priority.

b. The directors of a cooperative association which is a public utility as defined in section

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476.1 may pay deferred patronage dividends and redeem preferred stock of deceased natural persons who were members, and may pay all other deferred patronage dividends or redeem preferred stock of members without reference to priority.

3. Payment of deferred patronage dividends or the redemption of preferred stock shall be carried out to the extent and in the manner specified in the bylaws of the association.

[C35, §8512-g33; C39, §**8512.33;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.33]
86 Acts, ch 1196, §4; 95 Acts, ch 106, §2
Referred to in §499.30, 499.35

499.34 Patronage dividend certificates.

If its articles or bylaws so provide, an association may issue transferable or nontransferable certificates for deferred patronage dividends.

[C35, §8512-g34; C39, §**8512.34;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.34]
Referred to in §499.35

499.35 Time of payment.

Credits or certificates referred to in sections 499.33 and 499.34 shall not mature until the dissolution or liquidation of the association, but shall be callable by the association at any time in the order of priority specified in section 499.33.

[C35, §8512-g35; C39, §**8512.35;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.35]

499.36 Directors.

1. The affairs of each association shall be managed by a board of directors.

2. *a.* A director must be a member of the association or an officer or a member of a member-association. A director shall be elected by the members as prescribed by the association's articles of incorporation.

b. At least five directors shall serve on the association's board. The number of directors shall be established in accordance with the association's articles of incorporation or bylaws. If a board has the power to fix or change the number of directors, the board may increase or decrease by thirty percent or less the number of directors last approved by the members. Only the members may increase or decrease by more than thirty percent the number of directors last approved by the members.

c. The articles of incorporation may establish a variable range for the size of the board by fixing a minimum and maximum number of directors. If a variable range is established, the number of directors may be fixed or changed from time to time, within the minimum and maximum number, by the members or the board. After shares are issued, only the members may change the range for the size of the board, change from a fixed to a variable-range-size board, or change from a variable-size to a fixed-size board.

3. *a.* Unless the articles or bylaws otherwise provide, if a vacancy occurs on the board, including a vacancy resulting from an increase in the number of directors, the vacancy may be filled by any of the following:

(1) The shareholders.

(2) The board.

(3) If the directors remaining in office constitute fewer than a quorum of the board, the directors may fill the vacancy by the affirmative vote of all the directors remaining in office.

b. A vacancy that will occur at a specific later date, by reason of a resignation effective at a later date, may be filled before the vacancy occurs. The new director shall not take office until the vacancy occurs.

4. The articles or bylaws may permit the directors to select an executive committee from their own number; and may prescribe its authority, which may be coextensive with that of the whole board.

5. Directors shall be elected by districts, if the articles specify the districts, the number of directors from each district, the manner of nomination, redistricting, or reapportionment, and whether directors are to be directly elected by the members or by delegates chosen by them. Districts shall be formed and redistricting shall be ordered, from time to time, so that the districts contain as nearly as possible an equal number of members. The bylaws shall describe the district boundaries currently in effect.

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6. Unless the articles of incorporation or bylaws provide otherwise, the board of directors may permit any or all directors to participate in a regular or special meeting through the use of any means of communication by which all directors participating are able to simultaneously hear each other during the meeting. A director participating in a meeting pursuant to this subsection is deemed to be present in person at the meeting.

7. Unless the articles of incorporation or bylaws provide otherwise, an action required or permitted by this chapter to be taken at a board of directors' meeting may be taken without a meeting if the action is taken by all members of the board. The action must be evidenced by one or more written consents describing the action taken, signed by each director, and filed with the corporate records reflecting the action taken. An action taken under this subsection is effective when the last director signs the consent, unless the consent specifies a different effective date. A consent signed under this subsection is deemed to have the same effect as a meeting vote and may be described as such in any document.

[C35, §8512-g36; C39, §**8512.36;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.36]
86 Acts, ch 1196, §5; 92 Acts, ch 1147, §1; 94 Acts, ch 1023, §64; 97 Acts, ch 17, §5
Referred to in §499.38, 499.40

499.36A Standards of conduct for directors.

1. A director shall discharge the duties of the position of director in good faith, in a manner the director reasonably believes to be in the best interests of the association, and with the care that a person in a like position would reasonably believe appropriate under similar circumstances. A person who so performs those duties is not liable by reason of being or having been a director of the association.

2. *a.* A director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by any of the following:

(1) One or more officers or employees of the association whom the director reasonably believes to be reliable and competent in the matters presented.

(2) Legal counsel, public accountants, or other persons as to matters that the director reasonably believes are within the person's professional or expert competence.

(3) A committee of the board upon which the director does not serve, duly established by the board as to matters within its designated authority, if the director reasonably believes the committee to merit confidence.

b. Paragraph "*a*" does not apply to a director who has knowledge concerning the matter in question that makes the reliance otherwise permitted by that paragraph unwarranted.

3. A director who is present at a meeting of the board when an action is approved by the affirmative vote of a majority of the directors present is presumed to have assented to the action approved, unless any of the following applies:

a. The director objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened, and does not participate in the meeting after the objection, in which case the director is not considered to be present at the meeting for any purpose of this chapter.

b. The director votes against the action at the meeting.

c. The director is prohibited by a conflict of interest from voting on the action.

4. In discharging the duties of a director, the director may, in addition to consideration of the effects of any action on the association and its members, consider any or all of the following community interest factors:

a. The effects of the action on the association's employees, suppliers, creditors, and customers.

b. The interests of and effects on communities and the cooperative system in which the association and its members operate.

c. The long-term as well as short-term interests of the association and its members, including the possibility that these interests may be best served by the continued independence of the association.

2008 Acts, ch 1141, §1; 2009 Acts, ch 133, §166
Referred to in §499.37A, 499.47D

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499.37 Officers.

1. The board of directors of the association shall select the association's officers as provided in its articles of incorporation or bylaws, and shall fill vacancies in such offices. The articles of incorporation or bylaws shall delegate to an officer the responsibility for all of the following:

a. Preparing minutes of meetings of the directors and the shareholders.

b. Authenticating the association's records.

2. Unless the association's articles of incorporation or bylaws otherwise provide, the association's officers shall serve for annual terms beginning at the close of the first regular meeting of members in each year.

[C35, §8512-g37; C39, §**8512.37;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.37]

2003 Acts, ch 66, §13

499.37A Standards of conduct for officers.

1. An officer, when performing in such capacity, shall act in conformity with all of the following:

a. In good faith.

b. With the care that a person in a like position would reasonably exercise under similar circumstances.

c. In a manner the officer reasonably believes to be in the best interests of the association.

2. In discharging the officer's duties, an officer who does not have knowledge that makes such reliance unwarranted is entitled to rely on any of the following:

a. The performance of properly delegated responsibilities by one or more employees of the association whom the officer reasonably believes to be reliable and competent in performing the responsibilities delegated.

b. Information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by one or more employees of the association whom the officer reasonably believes to be reliable and competent in the matters presented.

c. Legal counsel, public accountants, or other persons retained by the association as to matters involving skills or expertise the officer reasonably believes are matters within the particular person's professional or expert competence or as to which the particular person merits confidence.

3. An officer shall not be liable as an officer to the association or its members for any decision to take or not to take action, or any failure to take any action, if the duties of the officer are performed in compliance with this section. Whether an officer who does not comply with this section is liable depends in such instance on applicable law, including those principles of section 499.36A that have relevance.

2008 Acts, ch 1141, §2

499.38 Removal of officers and directors.

At any meeting called for that purpose, any officer or director may be removed by vote of a majority of all voting members of the association. A director chosen under section 499.36, subsection 5, may likewise be removed by vote of a majority of all members in the director's district.

[C35, §8512-g38; C39, §**8512.38;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.38]

499.39 Referendum.

If provided for in the articles of incorporation, any action of directors shall, on demand of one-third of the directors made and recorded at the same meeting, be referred to a regular or special meeting of members called for such purpose. Such action shall stand until and unless annulled by a majority of the votes cast at such meeting, which vote shall not impair rights of third parties previously acquired.

[C35, §8512-g39; C39, §**8512.39;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.39]

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499.40 Articles.

Articles of incorporation must be signed and acknowledged by each incorporator. They may deal with any fiscal or internal affair of the association or any subject hereof in any manner not inconsistent with this chapter. All articles must state in the English language:

1. The name of the association, which must include the word "cooperative"; and the address of its principal office.
2. The purposes for which it is formed, and a statement that it is organized under this chapter.
3. Its duration, which may be perpetual.
4. The name, occupation and post office address of each incorporator.
5. The following information regarding the directors:

a. Their number.

b. Whether there is a fixed number or a variable range as provided in section 499.36. If a variable range is established, the information shall include the minimum and maximum number.

c. Their qualifications.

d. Their terms of office.

e. How they shall be chosen and removed from office.

6. Who are eligible for membership, how members shall be admitted and membership lost, how earnings shall be distributed among members, how assets shall be distributed in liquidation, and, in addition, either:

a. That the association shall have capital stock; the classes, par value and authorized number of shares of each class thereof; how shares shall be issued and paid for; and what rights, limitations, conditions and restrictions pertain to the stock, which shall be alike as to all stock of the same class; or

b. That the association shall have no capital stock, and what limitations, conditions, restrictions and rights pertain to membership; and if the rights are unequal, the rules respecting them shall be specifically stated.

7. The date of the first regular meeting of members.
8. The name and street address of the association's initial registered agent.

[C35, §8512-g40; C39, §**8512.40;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.40]
93 Acts, ch 126, §15; 97 Acts, ch 17, §6
Referred to in §499.42

499.41 Amendments.

1. Notwithstanding the provisions of the articles of incorporation of any association pertaining to amendment thereto now in effect, any association may amend its articles of incorporation by a vote of sixty-six and two-thirds percent of the members present, or voting by mailed ballot or alternative voting method, and having voting privileges, at any annual meeting or any special meeting called for that purpose, provided that at least ten days before said annual meeting or special meeting a copy of the proposed amendment or summary thereof be sent to all members having voting rights; or said articles of incorporation may be amended in accordance with the amendment requirements contained in the articles or bylaws of said association that are adopted subsequent to July 4, 1963, or are in effect on or after July 4, 1964, provided said amendment requirements in the articles or bylaws are not less than established in this section.
2. Amendments shall be executed and filed as provided in section 499.44.

[C35, §8512-g41; C39, §**8512.41;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.41]
90 Acts, ch 1164, §3; 2011 Acts, ch 23, §3
Referred to in §9.11, 499.42, 499.43A, 499.43B

499.41A Greater voting or quorum requirements.

An amendment to the articles of incorporation of an association that adds, changes, or deletes a greater voting or quorum requirement by the members than required by this chapter

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must be adopted by the voting or quorum requirements then in effect or proposed to be adopted, whichever is greater.

2008 Acts, ch 1141, §3

499.42 Renewal.

1. An association may extend its duration perpetually, or for any definite time, by resolution adopted by a majority of all its members, or any different vote for which the articles may provide, at a meeting called for that purpose and held before its original expiration.

2. Unless the association has meanwhile wound up, its duration may be extended in like manner within three years after its original expiration, with the same effect as if done prior thereto, by a vote of two-thirds of all its members.

3. The resolution must state the name of the association, its original expiration date, and for how long thereafter its duration is extended, and must also adopt, and designate officers to execute, renewal articles of incorporation containing the things required in section 499.40.

4. The renewal articles shall be executed and filed as required by section 499.41. Renewal shall not relieve the association from fees, charges, or penalties which may have accrued against it.

[C35, §8512-g42; C39, §**8512.42;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.42]

90 Acts, ch 1164, §4; 2018 Acts, ch 1041, §127

Referred to in §9.11

499.43 Existing corporations — option. Repealed by 2006 Acts, ch 1062, §2, 3. See §499.43A.

499.43A Existing cooperatives organized under chapter 497 or 498 — conversion option.

1. As used in this section, "*cooperative association*" means any of the following:

a. An association organized under chapter 497, regardless of whether it is referred to as an "association", "company", "corporation", "exchange", "society", or "union" as provided in that chapter.

b. A cooperative association organized under chapter 498, regardless of whether it is referred to as an "association", "exchange", "society", or "union" as provided in that chapter.

2. A cooperative association may elect to be governed by and to comply with the provisions of this chapter. The election shall be governed by the following procedures:

a. The board of directors and members must adopt a resolution reciting that the cooperative association elects to be governed by and to comply with this chapter. The cooperative association, to the extent necessary, shall change its name to comply with the provisions of this chapter. The resolution shall be adopted according to the same procedures as provided in section 499.41. Upon the adoption of the resolution, the cooperative association shall execute an instrument on forms prescribed by the secretary of state. The instrument must be signed by the president and secretary and verified by one of the officers signing the instrument. The instrument shall include all of the following:

(1) The name of the cooperative association, before and after this election.

(2) A description of each resolution adopted by the cooperative association pursuant to this section, including the date each resolution was adopted.

b. The instrument shall be filed with the secretary of state. The cooperative association shall amend its articles of incorporation pursuant to section 499.41 to comply with the provisions of this chapter. The secretary of state shall not file the instrument unless the cooperative association organized under chapter 497 is in compliance with the provisions of chapter 497 at the time of filing. The secretary of state shall not file the instrument unless the cooperative association organized under chapter 498 is in compliance with the provisions of chapter 498 at the time of filing. A cooperative association shall file a biennial report which is due pursuant to section 499.49.

3. Upon filing the instrument with the secretary as required in this section, all of the following shall apply:

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a. The cooperative association shall be deemed to be organized under this chapter and the provisions of this chapter shall apply to the cooperative association.

b. The secretary of state shall issue a certificate to the cooperative association acknowledging that it is deemed to be organized under this chapter.

4. The application of this chapter to the cooperative association does not affect any of the following:

a. For a cooperative association organized under chapter 497, a right accrued or established, or liability or penalty incurred, pursuant to chapter 497 prior to the filing of the instrument with the secretary of state as required in this section.

b. For a cooperative association organized under chapter 498, a right accrued or established, or liability or penalty incurred, pursuant to chapter 498 prior to the filing of the instrument with the secretary of state as required in this section.

92 Acts, ch 1066, §2; 94 Acts, ch 1055, §13; 2000 Acts, ch 1022, §8; 2006 Acts, ch 1062, §1, 3
Referred to in §9.11

499.43B Existing cooperatives organized under chapter 490 or 491 — option.

A cooperative association organized under chapter 490 or 491 may elect to be governed by and to comply with the provisions of this chapter. The election shall be governed by the following procedures:

1. The board of directors and shareholders must adopt a resolution reciting that the cooperative association elects to be governed by and to comply with this chapter. The cooperative association, to the extent necessary, shall change its name to comply with the provisions of this chapter. The resolution shall be adopted according to the same procedures as provided in section 499.41. Upon the adoption of the resolution, the cooperative association shall execute an instrument on forms prescribed by the secretary of state. The instrument must be signed by the president and secretary and verified by one of the officers signing the instrument. The instrument shall include all of the following:

a. The name of the cooperative association, before and after this election.

b. A description of each resolution adopted by the cooperative association pursuant to this section, including the date each resolution was adopted.

2. The instrument shall be filed with the secretary of state. The cooperative association shall amend its articles of incorporation pursuant to section 499.41 to comply with the provisions of this chapter. The secretary of state shall not file the instrument unless the cooperative association is in compliance with the provisions of the chapter in which it was organized at the time of filing. A cooperative association shall file a biennial report which is due pursuant to section 499.49. Upon filing the instrument with the secretary, all of the following shall apply:

a. The cooperative association shall be deemed to be organized under this chapter and the provisions of this chapter shall apply to the cooperative association.

b. The secretary of state shall issue a certificate to the cooperative association acknowledging that it is deemed to be organized under this chapter.

3. The application of this chapter to the cooperative association does not affect a right accrued or established, or liability or penalty incurred pursuant to the chapter in which the cooperative association was formally organized, prior to the filing of the instrument with the secretary of state.

2003 Acts, ch 59, §1
Referred to in §9.11

499.44 Execution and filing of documents.

1. Except as provided in subsection 6, the secretary of state shall record all documents submitted to and required to be filed with the secretary of state under this chapter.

2. *a.* A document required to be filed with the secretary of state pursuant to this chapter must be executed. The person executing the document must be the association's presiding officer of the board of directors, or the association's president or other officer. However, if the board of directors has not been selected or the association has not been formed, the document must be signed by an incorporator of the association. If the association is under the control of

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a person acting as a fiduciary of the association, including a trustee or receiver, the document must be signed by the fiduciary.

b. A document required to be executed shall contain the printed name of the person executing the document and the capacity in which the person serves the association. The signature of the person must appear above or opposite the person's printed name and capacity. In the discretion of the secretary of state, a document containing a copy of the person's signature may be accepted for filing. The document may also contain a corporate seal, an attestation by the secretary of state or person charged by the secretary, or an acknowledgment, verification, or proof that the execution is valid.

3. Articles of incorporation, amendments to articles, or renewal of articles must be filed with the secretary of state. The association's corporate existence shall begin upon approval by the secretary of state of the articles and issuance of the certificate of incorporation.

4. A document required to be filed with the secretary of state pursuant to this chapter is effective at the later of the following times:

a. The time of filing on the date it is filed, as evidenced by the secretary of state's date and time endorsement on the original document.

b. The delayed effective time and date specified in the document. If a delayed effective date but no time is specified in the document, the document is effective at the close of business on that date. A delayed effective date for a document shall not be later than the ninetieth day after the date it is filed.

5. *a.* A document filed under this section may be corrected if the document contains an incorrect statement or the execution of the document was defective. A document is corrected by filing with the secretary articles of correction which describe the document to be corrected, including its filing date or a copy of the document. The articles must specify the incorrect statement or defective execution, and correct the incorrect statement or defective execution.

b. Articles of correction are deemed to be effective on the date that the document corrected took or takes effect. However, as applied to persons relying upon the uncorrected document or adversely affected by the articles of correction, the effective date of the articles of correction is the date that the articles are filed.

6. *a.* The secretary of state may require a document to be delivered by mail or in person if the secretary of state receives credible information that the document is being submitted for filing fraudulently or may be used to accomplish a fraudulent, criminal, or unlawful purpose.

b. As used in paragraph *"a"*, *"credible information"* means any of the following:

(1) An affidavit of unauthorized use as provided in section 499.50.

(2) Information provided to the secretary of state by another government agency.

(3) Information collected by the secretary of state from a credible third-party data set.

[C35, §8512-g44; C39, §**8512.44;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.44]
90 Acts, ch 1164, §6; 97 Acts, ch 65, §1; 2007 Acts, ch 23, §4; 2026 Acts, ch 1145, §25, 26
Referred to in §9.11, 9.14, 499.41, 499.67
Subsection 1 amended
NEW subsection 6

499.44A Secretary of state — extra services — surcharge.

Upon the request of a filer of a document under this chapter, the secretary of state shall provide an extra filing service and assess a surcharge as provided in chapter 9, subchapter II.

2021 Acts, ch 165, §259

499.45 Fees.

1. A fee of twenty dollars shall be paid to the secretary of state upon filing articles of incorporation, amendments, or renewals.

2. Except as provided in this section, the association shall pay the fees prescribed by section 490.122 when the documents described in that section are delivered to the secretary of state for filing.

[C35, §8512-g45; C39, §**8512.45;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.45]
93 Acts, ch 126, §16; 94 Acts, ch 1107, §30; 97 Acts, ch 171, §30; 2019 Acts, ch 24, §104
Referred to in §9.11

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499.46 Bylaws.

The directors, by a vote of seventy-five percent of the directors, may adopt, alter, amend, or repeal bylaws for the association, which shall remain in force until altered, amended, or repealed by a vote of seventy-five percent of the members present or represented having voting privileges, at any annual meeting or special meeting of the membership, provided that at least ten days' prior written notice of the impending membership vote has been mailed to all members of the association with a copy or summary of the proposed adoption, alteration, amendment, or repeal of the bylaws. Proposals by members to adopt, alter, amend, or repeal bylaws by vote of the membership shall be presented to the association's registered office for mailing to the membership by the association at least twenty days prior to the meeting at which the proposed change is to be considered. Bylaws shall be kept by the secretary subject to inspection by any member at any time. Bylaws may deal with the fiscal or internal affairs of the association or any subject of this chapter in any manner not inconsistent with this chapter or the articles.

[C35, §8512-g46; C39, §**8512.46;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.46]
96 Acts, ch 1115, §3

499.47 Dissolution.

1. An association whose duration has expired, or which is sooner dissolved by voluntary act of its members, shall continue to exist for the purpose of winding up its affairs until its complete liquidation under subsection 3 hereof.

2. An association may be dissolved by two-thirds of all votes cast at any meeting called for that purpose at which a majority of all voting members vote.

3. Upon the expiration or voluntary dissolution of an association, the members shall designate three of their number as trustees to replace the officers and directors and wind up its affairs. The trustees shall have all the powers of the board, including the power to sell and convey real or personal property and execute conveyances. Within the time fixed in their designation, or any extension of that time, the trustees shall liquidate the association's assets, pay its debts and expenses, and distribute remaining funds among the members. Upon distribution of remaining assets the association shall stand dissolved and cease to exist. The trustees shall make and sign a report of the dissolution. The report shall be filed with the secretary of state.

4. The trustees and their successors in office shall be chosen, and the time for their action fixed and extended, by a majority of all votes cast at any meeting called for such purpose.

[C35, §8512-g47; C39, §**8512.47;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.47]
90 Acts, ch 1164, §7; 2007 Acts, ch 23, §5; 2007 Acts, ch 215, §254
Referred to in §9.11

499.47A Sale or other disposition of assets in regular course of business and mortgage or pledge of assets.

The sale, lease, exchange, or other disposition of the property and assets of a cooperative association, when made in the usual and regular course of the business of the cooperative association, and the mortgage or pledge of any or all of the property and assets of the cooperative association, may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of money or property, real or personal, including shares of any other corporation or cooperative association, domestic or foreign, as authorized by its board of directors; and in such case no authorization or consent of the members shall be required.

87 Acts, ch 88, §1

499.47B Sale or other disposition of assets other than in regular course of business.

A sale, lease, exchange, or other disposition of all, or substantially all, the property and assets, with or without the goodwill, of a cooperative association organized under this chapter, if not made in the usual and regular course of its business, may be made upon the terms and conditions and for such consideration, which may consist in whole or in part of

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money or property, real or personal, including shares of any other cooperative association organized under this chapter, as may be authorized in the following manner:

1. The board of directors shall adopt a resolution recommending the sale, lease, exchange, or other disposition and directing the submission thereof to a vote at a meeting of the membership, which may either be an annual or a special meeting. The board of directors may condition its recommendation and submission of the sale, lease, exchange, or other disposition to the members for approval under this section on any basis.

2. Written or printed notice shall be given to each member of record entitled to vote at the meeting within the time and in the manner provided in this chapter for the giving of notice of meetings of members, and, whether the meeting be an annual or a special meeting, shall state that the purpose, or one of the purposes, of the meeting is to consider the proposed sale, lease, exchange, or other disposition of substantially all of the property and assets of the cooperative association.

3. At the meeting, the membership may authorize the sale, lease, exchange, or other disposition and may fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the consideration to be received by the cooperative association. Such authorization for the sale, lease, exchange, or other disposition shall be approved by the members as follows:

a. Except as provided in paragraph *"b"*, the sale, lease, exchange, or other disposition must be approved by a two-thirds vote of the members in which vote a majority of all voting members participate.

b. (1) If the cooperative association's articles of incorporation require approval by more than two-thirds of its members in which vote a majority of all voting members participate, the sale, lease, exchange, or other disposition must be approved by the greater number as provided in the articles of incorporation.

(2) If the board of directors adopts additional conditions for the approval of the sale, lease, exchange, or other disposition as provided in subsection 1, the additional conditions must be satisfied in order for the sale, lease, exchange, or other disposition to be approved.

4. After such authorization by a vote of members, the board of directors nevertheless, in its discretion, may abandon the sale, lease, exchange, or other disposition of assets, subject to the rights of third parties under any contracts relating thereto, without further action or approval by the members.

87 Acts, ch 88, §2; 2008 Acts, ch 1141, §4; 2011 Acts, ch 23, §4, 5; 2012 Acts, ch 1023, §69, 70

Referred to in §499.47C

499.47C Sale or other disposition of assets in exchange for common stock.

1. In addition to the requirements of section 499.47B, in any case where a cooperative association issues its common stock or membership, or subscriptions for common stock or membership, or both, as a part or all of the consideration for the sale, lease, exchange, or other disposition of all, or substantially all, the property and assets of another cooperative association, the issuance of such common stock or membership, or subscriptions for common stock or membership, or both, shall be authorized by the issuing cooperative association in the following manner:

a. The board of directors shall adopt a resolution recommending the issuance of the common stock or membership, or subscriptions for common stock or membership, or both, and directing the submission thereof to a vote at a meeting of the membership, which may be either an annual or special meeting.

b. Written or printed notice shall be given to each member of record entitled to vote at the meeting within the time and in the manner provided in this chapter for the giving of notice of meetings to members, and, whether the meeting be an annual or a special meeting, shall state that the purpose, or one of the purposes of the meeting, is to consider the proposed issuance of common stock or membership, or subscriptions for common stock or membership, or both, as consideration for all or a part of the property and assets of the other cooperative association.

c. At the meeting the membership may authorize the issuance and may fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the

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property and assets to be received as consideration. Such authorization shall be approved if a majority of the voting members present vote in the affirmative.

d. After such authorization by a vote of members, the board of directors nevertheless, in its discretion, may abandon the issuance, without further action or approval by the members.

2. If a cooperative association, in connection with its acquisition of property or assets of another cooperative association, agrees to solicit common stock or membership, or subscriptions for common stock or membership to the members of the cooperative association selling such property or assets, the agreement shall not itself constitute the issuance of common stock or membership, or subscriptions for common stock or membership as described in this section. This section shall not apply to a merger as defined in section 499.61.

87 Acts, ch 88, §3; 2012 Acts, ch 1023, §157

499.47D Consideration of acquisition proposals — community interests.

1. A director, in determining what is in the best interest of the association when considering a tender offer or proposal of acquisition, proposal of merger, proposal of consolidation, or similar proposal, may, in addition to consideration of the effects of any action on the association and its members, consider any or all of the community interest factors described in section 499.36A.

2. If on the basis of the community interest factors described in section 499.36A, the board of directors determines that a tender offer or proposal to acquire, merge, or consolidate the association or any similar proposal is not in the best interest of the association, it may reject the tender offer or proposal. If the board of directors rejects any such tender offer or proposal, the board of directors has no obligation to facilitate, to remove any barriers to, or to refrain from impeding the tender offer or proposal. Consideration of any or all of the community interest factors is not a violation of the business judgment rule or of any duty of the director to the members, or a group of members, even if the director reasonably determines that a community interest factor or factors outweigh the financial or other benefits to the association or a member or group of members.

2008 Acts, ch 1141, §5

499.48 Distribution in liquidation.

1. On dissolution or liquidation, the assets of the association shall be used to pay liquidation expenses first, next the association's obligations other than patronage dividends or patronage dividend certificates which it has issued, and the remainder shall be distributed in the following priority:

a. To pay to each person the full amount originally paid by that person in cash for stock or other equity interest in the association.

b. To pay to each person in proportion to the total of each person's revolving fund, stock, or other equity interest in the association remaining after the payment under paragraph *"a"*.

2. In applying subsection 1, paragraphs *"a"* and *"b"*, all classes of stock, all revolving funds, and all other equity interests in the association shall be treated equally based on their stated values. However, an association may establish its own method of distributing the assets remaining, after paying liquidation expenses and obligations other than patronage dividends or patronage dividend certificates which it has issued, in articles of incorporation adopted, amended, or restated after July 1, 1986.

[C35, §8512-g48; C39, §**8512.48;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.48]

86 Acts, ch 1196, §6; 2012 Acts, ch 1023, §92

499.49 Biennial report.

Section 504.1613 applies to a cooperative organized under this chapter in the same manner as that section applies to a corporation organized under chapter 504. In addition to the information required to be set forth in the biennial report under section 504.1613, the cooperative shall also set forth the number of members of the cooperative, the percentage of the cooperative's business done with or for its own members during each of the fiscal or calendar years of the preceding two-year period, the percentage of the cooperative's

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business done with or for each class of nonmembers specified in section 499.3, and any other information deemed necessary by the secretary of state to advise the secretary whether the cooperative is actually functioning as a cooperative.

[C35, §8512-g49; C39, §**8512.49;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.49]
93 Acts, ch 126, §17; 97 Acts, ch 171, §31; 2004 Acts, ch 1049, §186, 191, 192
Referred to in §9.11, 499.43A, 499.43B, 499.76

499.50 Statement of removal — removal of information not authorized to be provided.

1. *a.* A person whose name, street address, mailing address, or email address has, without that person's authorization, been provided to the secretary of state as that of the registered agent or of the principal office in an association filing may deliver to the secretary of state a notarized, sworn affidavit of unauthorized use that does all of the following:

(1) Identifies the association registration by name and business number.

(2) Indicates the affiant's mailing address.

(3) States that neither the affiant nor any agent of the affiant has authorized the filing identifying the affiant as the registered agent, providing the affiant's street address or mailing address as an address of the registered agent or principal office, or providing the affiant's email address as that of the registered agent.

b. The affiant shall specify in the affidavit the information of unauthorized use that was not authorized to be provided.

c. The secretary of state may reject an affidavit of unauthorized use that is incomplete or that the secretary of state believes was delivered to the secretary of state with the intent to harass or defraud the association or the individual named as affiant.

d. The office of the secretary of state shall adopt an affidavit of unauthorized use form in accordance with this section.

2. The secretary of state shall conduct an administrative review to determine whether the filing was authorized to identify the stated information as applicable.

3. If the secretary of state concludes that the filing was not authorized to provide the information identified in the affidavit, the secretary of state shall promptly file a statement of removal with respect to the identified information, and shall promptly cause the identified information to cease to be listed as identified for the association.

4. The secretary of state shall not charge a fee for the filing of an affidavit of unauthorized use under subsection 1 or a statement of removal under subsection 3. The filing office shall not return any fee paid for filing the association filing identified in the affidavit.

5. Upon filing a statement of removal, the secretary of state shall send to the principal office address or registered agent's mailing address on record for the association, if any, a notice stating that the statement of removal has been filed and is effective immediately. The notice shall also state that the association is without a registered agent or registered agent address, as applicable.

6. The secretary of state shall adopt rules pursuant to chapter 17A necessary or desirable to administer this section.

2026 Acts, ch 1145, §27
Referred to in §499.44, 499.51, 499A.1
NEW section

499.51 Interrogatories.

1. *a.* The secretary of state may serve one or more written interrogatories regarding any matter that pertains to an association and that is within the purview of the secretary of state if the secretary of state receives credible information that an association is being used to accomplish a fraudulent, criminal, or unlawful purpose.

b. As used in paragraph "*a*", "*credible information*" means any of the following:

(1) An affidavit of unauthorized use as provided in section 499.50.

(2) Information provided to the secretary of state by another government agency.

(3) Information collected by the secretary of state from a credible third-party data set.

2. The secretary of state shall serve such interrogatories on the association that is the subject of the interrogatories by mail at the address of the registered agent that appears on the secretary of state's records at the time the information required by subsection 1 is received, or

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if the association has no registered agent, at the association's principal office address shown on the association's most recent biennial report filed with the secretary of state.

3. The interrogatories must be answered by a person with the authority to answer on behalf of the association that is the subject of the interrogatories. Each interrogatory must be answered in writing separately and in a manner that is responsive to the interrogatory. The declaration on the completed interrogatories form must be signed by a person with the authority to sign on behalf of the association.

4. To be considered responsive, the completed and signed interrogatories form must be received by the secretary of state by mail or in-person delivery within twenty-one calendar days after the form was mailed.

5. A response to any interrogatory that indicates to the secretary of state that the association violated any provision of this chapter constitutes the association's concession to such violation.

6. A failure to respond to any interrogatory within the allotted time constitutes the association's concession that the association violated a provision or provisions of this chapter that are the subjects of the interrogatories.

7. If the secretary of state receives a response to each interrogatory that indicates to the secretary of state that the association has not violated any provision of this chapter, the secretary of state shall take no action.

8. The secretary of state shall adopt rules pursuant to chapter 17A necessary or desirable to administer this section.

2026 Acts, ch 1145, §28
Referred to in §499.77
NEW section

499.52 Reserved.

499.53 Quo warranto.

The right of an association to exist or continue under this chapter may be inquired into by the attorney general, but not otherwise. If from its biennial report or otherwise, the secretary of state is informed that it is not functioning as a cooperative, the secretary shall so notify the attorney general who, if the attorney general finds reasonable cause so to believe, shall bring action to oust it and wind up its affairs.

[C35, §8512-g53; C39, §**8512.53;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.53]
2000 Acts, ch 1022, §9

499.54 Foreign associations.

1. Any foreign corporation organized under generally similar laws of any other state shall be admitted to do business in Iowa upon compliance with the general laws relating to foreign corporations and payment of the same fees as would be required under section 490.122 if the foreign cooperative corporation is a foreign corporation for profit seeking authority to transact business in Iowa under chapter 490. Upon the secretary of state being satisfied that the foreign corporation is so organized and has so complied, the secretary shall issue a certificate authorizing the foreign corporation to do business in Iowa.

2. Such a foreign corporation thus admitted shall be entitled to all remedies provided in this chapter, and to enforce all contracts theretofore or thereafter made by the foreign corporation which any association might make under this chapter.

3. If such a foreign corporation amends its articles it shall forthwith file a copy of the amendment with the secretary of state, certified by the secretary or other proper official of the state under whose laws it is formed, and shall pay the fees prescribed for amendments by section 490.122. Foreign corporations shall also file statements and pay fees otherwise prescribed by section 490.122.

[C35, §8512-g54; C39, §**8512.54;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.54]
93 Acts, ch 126, §18; 2018 Acts, ch 1041, §127
Referred to in §9.11, 499.4, 501.104

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499.55 Individual exemptions applicable.

All exemptions or privileges applying to agricultural products in the possession or control of the individual producer shall apply to such products in the possession or control of any association which have been delivered to it by its members.

[C35, §8512-g55; C39, §**8512.55;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.55]

499.56 Conflicting laws.

Any law conflicting with any part of this chapter shall be construed as not applicable to associations formed hereunder.

[C35, §8512-g56; C39, §**8512.56;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.56]

499.57 State powers.

The state reserves the right to modify, amend or repeal this chapter, or any part hereof, and to cancel, modify, repeal or extend any grant, power, permit or franchise obtained or secured under this chapter, at any future time.

[C35, §8512-g57; C39, §**8512.57;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.57]

499.58 Reserved.

499.59 Personal liability.

Except as otherwise provided in this chapter, a director, officer, employee, or member of the association is not liable on the association's debts or obligations, and a director, officer, member, or other volunteer is not personally liable in that capacity, for a claim based upon any action taken, or any failure to take action in the discharge of the person's duties, except for the amount of a financial benefit received by the person to which the person is not entitled, an intentional infliction of harm on the association or its members, or an intentional violation of criminal law.

87 Acts, ch 212, §8; 88 Acts, ch 1134, §93; 2003 Acts, ch 66, §14

499.59A Indemnification.

A cooperative association operating under this chapter may indemnify any present or former director, officer, employee, member, or volunteer in the manner and in the instances authorized in sections 490.850 through 490.859, provided that where sections 490.850 through 490.859 provide for action by shareholders the sections are applicable to action by voting members of the cooperative association, and where sections 490.850 through 490.859 refer to the corporation organized under chapter 490 the sections are applicable to the cooperative association organized under this chapter, and where sections 490.850 through 490.859 refer to the director the sections are applicable to a director, officer, employee, member, or volunteer of the cooperative association organized under this chapter.

88 Acts, ch 1170, §8; 94 Acts, ch 1023, §65; 2002 Acts, ch 1154, §106, 125

499.60 Chapters inapplicable.

The provisions of chapters 497 and 498 are hereby declared inoperative as to corporations chartered from and after July 4, 1935, but said chapters shall continue in force and effect as to corporations organized or operating thereunder prior to July 4, 1935, so long as any such corporations elect to operate under or renew their charters under said chapters.

[C35, §8512-g61; C39, §**8512.60;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499.60]

SUBCHAPTER II

MERGER AND CONSOLIDATION

499.61 Definitions.

When used in this subchapter, unless the context otherwise requires:

1. *"Consolidation"* means the uniting of two or more cooperative associations into one

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cooperative association, in such manner that a new cooperative association is formed, and the new cooperative association absorbs the others, which cease to exist as separate entities.

2. *"Merger"* means the uniting of two or more cooperative associations into one cooperative association, in such manner that one of the merging associations retains its corporate existence and absorbs the others, which cease to exist as corporate entities. *"Merger"* does not include the acquisition, by purchase or otherwise, of the assets of one cooperative association by another, unless the acquisition only becomes effective by the filing of articles of merger by the associations and the issuance of a certificate of merger pursuant to sections 499.67 and 499.68.

3. *"New association"* is the cooperative association resulting from the consolidation of two or more cooperative associations.

4. *"Qualified corporation"* means a corporation organized and existing under chapter 490, which is structured and operated on a cooperative basis pursuant to 26 U.S.C. §1381(a)(2) and which meets the definitional requirements of an association as provided in 12 U.S.C. §1141j(a) or 7 U.S.C. §291.

5. *"Qualified merger"* means the uniting of one or more cooperative associations with one or more qualified corporations to form one cooperative association or qualified corporation, in such a manner that one entity participating in the merger continues to exist and absorbs the others, with the others ceasing to exist as cooperative or corporate entities.

6. *"Qualified survivor"* means the cooperative association or qualified corporation which continues to exist after a qualified merger.

7. *"Surviving association"* is the cooperative association resulting from the merger of two or more cooperative associations.

[C71, 73, 75, 77, 79, 81, §499.61]

87 Acts, ch 88, §4; 97 Acts, ch 17, §7; 2014 Acts, ch 1026, §143

Referred to in §499.47C

499.62 Merger.

1. Any two or more cooperative associations may merge into one cooperative association in the manner provided in this section.

2. The board of directors of each cooperative association shall, by resolution adopted by a majority vote of all members of each board, approve a plan of merger which shall set forth:

a. The names of the cooperative associations proposing to merge and the name of the surviving association.

b. The terms and conditions of the proposed merger.

c. A statement of any changes in the articles of incorporation of the surviving association.

d. Other provisions deemed necessary or desirable.

[C71, 73, 75, 77, 79, 81, §499.62]

2012 Acts, ch 1023, §93

Merger with other business entities; §501A.1101 – 501A.1103

499.63 Consolidation.

1. Any two or more cooperative associations may be consolidated into a new cooperative association in the manner provided in this section.

2. The board of directors of each cooperative association shall, by resolution adopted by a majority vote of all members of each board, approve a plan of consolidation setting forth:

a. The names of the cooperative associations proposing to consolidate and the name of the new association.

b. The terms and conditions of the proposed consolidation.

c. With respect to the new association, all of the statements required to be set forth in articles of incorporation for cooperative associations.

d. Other provisions deemed necessary or desirable.

[C71, 73, 75, 77, 79, 81, §499.63]

2012 Acts, ch 1023, §94

Consolidation with other business entities; §501A.1101

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499.64 Vote of members.

1. The board of directors of a cooperative association, upon recommending a plan of merger or consolidation be approved by the members, shall, by motion or resolution, direct that the plan be submitted to a vote at a meeting of members, which may be either an annual or special meeting. The board of directors may condition its recommendation and submission of a plan of merger or consolidation to the members for approval under this section on any basis. Written notice shall be given not less than twenty days prior to the meeting, either personally or by mail to each voting member and shareholder of record. The notice shall state the time, place, and purpose of the meeting, and a summary of the plan of merger or consolidation shall be included in or enclosed with the notice.

2. The board of directors may hold the meeting solely by means of remote communication in accordance with section 499.27A and in that case the notice shall describe how members may participate in the meeting.

3. At the meeting, a vote of the members who are entitled to vote in the affairs of the association shall be taken on the proposed plan of merger or consolidation. The plan of merger or consolidation shall be approved as follows:

a. Except as provided in paragraph *"b"*, the proposed plan of merger or consolidation must be approved by a two-thirds vote of the members in which vote a majority of all voting members participate.

b. (1) If the cooperative association's articles of incorporation require approval by more than two-thirds of its members in which vote a majority of all voting members participate, the proposed plan of merger or consolidation must be approved by the greater number as provided in the articles of incorporation.

(2) If the board of directors adopts additional conditions for the approval of the plan of merger or consolidation as provided in subsection 1, the additional conditions must be satisfied in order for the plan of merger or consolidation to be approved.

[C71, 73, 75, 77, 79, 81, §499.64]

97 Acts, ch 17, §8; 2008 Acts, ch 1141, §6; 2011 Acts, ch 23, §6; 2012 Acts, ch 1023, §71, 72; 2021 Acts, ch 165, §238, 248

499.65 Objection of members — purchase of shares upon demand.

1. If a voting member or voting shareholder of a cooperative association which is a party to a merger or consolidation files with the cooperative association, prior to or at the meeting of members at which the plan is submitted to a vote, a written objection to the plan of merger or consolidation, and votes in opposition to the plan, and the member or shareholder, within twenty days after the merger or consolidation is approved by the other members, makes written demand on the surviving or new association for payment of the fair value of that member's or shareholder's interest as of the day prior to the date on which the vote was taken approving the merger or consolidation, the surviving or new association shall pay to the member or shareholder, upon surrender of that person's certificate of membership or shares of stock, the fair value of that person's interest as provided in section 499.66. A member or shareholder who fails to make demand within the twenty-day period is conclusively presumed to have consented to the merger or consolidation and is bound by its terms.

2. In the event that a dissenting member or shareholder does business with the surviving or new association before payment has been made for that person's membership or stock, the dissenting member or shareholder is deemed to have consented to the merger or consolidation and to have waived all further rights as a dissenting member or shareholder.

[C71, 73, 75, 77, 79, 81, §499.65]

86 Acts, ch 1196, §7; 92 Acts, ch 1147, §2; 2018 Acts, ch 1041, §127

Referred to in §499.66

499.66 Value determined.

1. As used in this section:

a. *"Dissenting member"* means a voting member who votes in opposition to the plan of merger or consolidation and who makes a demand for payment of the fair value under section 499.65.

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b. *"Old association"* means the association in which the member owns or owned a membership.

c. *"New association"* means the surviving or new association after the merger or consolidation.

d. *"Issue price"* means the amount paid for an interest in the old association or the amount stated in a notice of allocation of patronage dividends.

e. *"Fair market value"* means the cash price that would be paid by a willing buyer to a willing seller, neither being under any compulsion to buy or sell.

2. *a.* Within twenty days after the merger or consolidation is effected, the new association shall make a written offer to each dissenting member to pay a specified sum deemed by the new association to be the fair value of that dissenting member's interest in the old association. This offer shall be accompanied by a balance sheet of the old association as of the latest available date, a profit and loss statement of the old association for the twelve-month period ending on the date of this balance sheet, and a list of the dissenting member's interests in the old association. If the dissenting member does not agree that the sum stated in this notice represents the fair value of the member's interest, then the member may file a written objection with the new association within twenty days after receiving this notice. A dissenting member who fails to file this objection within the twenty-day period is conclusively presumed to have consented to the fair value stated in the notice.

b. If the surviving or new association receives any objections to fair values, then within ninety days after the merger or consolidation is effected, the new association shall file a petition in the Iowa district court asking for a finding and determination of the fair value of each type of equity. The action shall be prosecuted as an equitable action.

c. The fair value of a dissenting member's interest in the old association shall be determined as of the day preceding the merger or consolidation by taking the lesser of either the issue price of the dissenting member's membership, common stock, deferred patronage dividends, and preferred stock, or the amount determined by subtracting the old association's debts from the fair market value of the old association's assets, dividing the remainder by the total issue price of all memberships, common stock, preferred stock, and revolving funds, and then multiplying the quotient from this equation by the total issue price of a dissenting member's membership, common stock, preferred stock, and revolving fund interest.

3. The new association shall pay to each dissenting member in cash within sixty days after the merger or consolidation the amount paid in cash by the dissenting member for that member's interest in the old association. The new association shall pay the remainder of each dissenting member's fair value in ten annual equal payments. The final payment must be made not later than fifteen years after the merger or consolidation. The value of the deferred patronage dividends and preferred stock shall be considered a liability of the new association as reflected in the accounts of the new association until the value of the patronage dividends or preferred stock is paid in full to the dissenting member. A dissenting member who is a natural person who dies before receiving the fair value shall have all of the person's fair value paid with the same priority as if the person was a member at the time of death.

[C71, 73, 75, 77, 79, 81, §499.66]

86 Acts, ch 1196, §8; 87 Acts, ch 16, §1, 2; 92 Acts, ch 1147, §3; 2012 Acts, ch 1023, §157; 2014 Acts, ch 1092, §107

Referred to in §10.9, 499.65

499.67 Articles of merger or consolidation.

1. Upon approval, articles of merger or articles of consolidation shall be executed by each cooperative association as provided in section 499.44. The articles must include the following:

a. The plan of merger or the plan of consolidation.

b. As to each cooperative association, the number of individuals or cooperative associations entitled to vote.

c. As to each cooperative association, the number of individuals or cooperative associations who voted for and against the plan at the meeting called for that purpose.

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2. The articles of merger or articles of consolidation shall be delivered to the secretary of state for filing.

3. The secretary of state, upon the filing of articles of merger or articles of consolidation, shall issue a certificate of merger or a certificate of consolidation, and send the certificate to the surviving or new association, or to its representative.

[C71, 73, 75, 77, 79, 81, §499.67]

90 Acts, ch 1164, §8, 9; 94 Acts, ch 1055, §14; 2012 Acts, ch 1023, §157

Referred to in §9.11, 499.61

499.68 When effective — effect.

A merger or consolidation shall become effective upon the date that the certificate of merger or the certificate of consolidation is issued by the secretary of state, or the effective date specified in the articles of merger or articles of consolidation, whichever is later. When a merger or consolidation has become effective:

1. The several cooperative associations which are parties to the plan of merger or consolidation shall be a single cooperative association, which, in the case of a merger, shall be that cooperative association designated in the plan of merger as the surviving association, and, in the case of consolidation, shall be that cooperative association designated in the plan of consolidation as the new association.

2. The separate existence of all cooperative associations which are parties to the plan of merger or consolidation, except the surviving or new association, shall cease.

3. The surviving or new association shall have all the rights, privileges, immunities, and powers and shall be subject to all the duties and liabilities of a cooperative association organized under the laws of this state.

4. The surviving or new association shall possess all the rights, privileges, immunities, and franchises, public as well as private, of each of the merging or consolidating cooperative associations.

5. All property, real, personal, and mixed, and all debts due on whatever account, including subscriptions to shares, and all other choses in action, and all and every other interest, of or belonging to or due to each of the cooperative associations merged or consolidated, shall be transferred to and vested in the surviving or new association without further act or deed. The title to any real estate, or any interest in real estate vested in any of the cooperative associations merged or consolidated, shall not revert or be in any way impaired by reason of the merger or consolidation.

6. A surviving or new association shall be responsible and liable for all obligations and liabilities of each of the cooperative associations merged or consolidated.

7. Any claim existing or action or proceeding pending by or against any of the cooperative associations merged or consolidated may be prosecuted as if the merger or consolidation had not taken place, or the surviving or new association may be substituted for the merged or consolidated association. Neither the rights of creditors nor any liens upon the property of any cooperative association shall be impaired by a merger or consolidation.

8. In the case of a merger, the articles of incorporation of the surviving association shall be deemed to be amended to the extent that changes in its articles of incorporation are stated in the plan of merger. In the case of a consolidation, the statements set forth in the articles of consolidation which are required or permitted to be set forth in the articles of incorporation of cooperative associations organized under the laws of the state of Iowa shall be deemed to be the original articles of incorporation of the new cooperative association.

9. The aggregate amount of the net assets of the merging or consolidating cooperative associations which was available for the payment of dividends immediately prior to the merger or consolidation, to the extent that the amount is not transferred to stated capital by the issuance of shares or otherwise, shall continue to be available for the payment of dividends by the surviving or new association.

[C71, 73, 75, 77, 79, 81, §499.68]

97 Acts, ch 65, §2; 2012 Acts, ch 1023, §95

Referred to in §499.61, 499.69A

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499.69 Foreign and domestic mergers or consolidations.

1. One or more foreign cooperative associations and one or more domestic cooperative associations may be merged or consolidated in the following manner, if such merger or consolidation is permitted by the laws of the state under which each foreign cooperative association is organized:

a. Each domestic cooperative association shall comply with the provisions of this subchapter with respect to the merger or consolidation of domestic cooperative associations, and each foreign cooperative association shall comply with the applicable provisions of the laws of the state under which it is organized.

b. If the surviving or new association is to be governed by the laws of any state other than this state, it shall comply with the provisions of the laws of this state with respect to the qualifications of foreign cooperative associations if it is to transact business in this state, and in every case it shall file with the secretary of state of this state:

(1) An agreement that it may be served with process in this state in any proceeding for the enforcement of any obligation of any domestic cooperative association which is a party to the merger or consolidation, and in any proceeding for the enforcement of the rights of a dissenting shareholder of any such domestic cooperative association, against the surviving or new association.

(2) An irrevocable appointment of the secretary of state of this state as its agent to accept service of process in any proceeding.

(3) An agreement that it will promptly pay to the dissenting shareholders of any domestic cooperative association the amount to which they are entitled under the provisions of this subchapter with respect to the rights of dissenters.

2. The effect of such merger or consolidation shall be the same as the effect of the merger or consolidation of domestic cooperative associations, if the surviving or new association is to be governed by the laws of this state. If the surviving or new association is to be governed by the laws of any other state, the effect of merger or consolidation shall be the same as in the case of the merger or consolidation of domestic cooperative associations, except as the laws of the other state otherwise provide.

[C71, 73, 75, 77, 79, 81, §499.69]
2012 Acts, ch 1023, §96; 2014 Acts, ch 1026, §143
Referred to in §9.11, 499.69A

499.69A Qualified mergers.

1. One or more cooperative associations and one or more qualified corporations may participate in a qualified merger as provided in this section.

2. Each participating cooperative association and qualified corporation must approve a written plan of qualified merger.

a. The plan shall set forth all of the following:

(1) The name of each cooperative association and qualified corporation participating in the qualified merger, and the name of the qualified survivor.

(2) The terms and conditions of the qualified merger.

(3) The manner and basis of converting the interests, including shares or other securities, and obligations in each nonsurviving cooperative association or qualified corporation into the interests and obligations of the qualified survivor.

(4) Any amendments to the articles of incorporation of the qualified survivor as are desired to be effected by the qualified merger, or a statement that no amendment is desired.

(5) The date that the qualified merger becomes effective, if the date is different than the date when a certificate of merger is to be issued for a cooperative association, or if the date is different than the date when the articles of merger are filed with the secretary of state for a qualified corporation.

(6) Other provisions relating to the qualified merger as are deemed necessary or desirable.

b. A proposed plan for a qualified merger complying with the requirements of this section shall be approved as follows:

(1) For a cooperative association which is a party to the proposed qualified merger, the cooperative association shall approve the plan as provided in this chapter.

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(2) For a qualified corporation which is a party to the proposed qualified merger, the qualified corporation shall approve the plan as provided in chapter 490, subchapter XI.

c. After the proposed plan for the qualified merger is approved, a cooperative association or qualified corporation may abandon the merger in the manner provided in the plan, prior to the filing of the articles of merger.

3. After a proposed plan of the qualified merger is approved, the qualified survivor shall deliver articles of merger for the qualified merger to the secretary of state for filing. The articles of merger shall be executed by each cooperative association and qualified corporation which is a party to the qualified merger. The articles of merger shall set forth all of the following:

a. The name of each cooperative association and qualified corporation which is a party to the qualified merger.

b. The plan for the qualified merger.

c. The effective date of the qualified merger, if later than the date of filing the articles of merger.

d. The name of the qualified survivor.

e. A statement that the plan for the qualified merger was approved by each participating cooperative association and qualified corporation in a manner required for the cooperative association and qualified corporation as provided in this section.

4. For a surviving cooperative association, a qualified merger becomes effective upon the filing of the articles of merger with the secretary of state and the issuance of a certificate of merger pursuant to section 499.68 or the date stated in the articles of merger, whichever is later. For a surviving qualified corporation, a qualified merger becomes effective upon the filing of the articles of merger with the secretary of state pursuant to section 490.1106 or the date stated in the articles, whichever is later.

5. The effect of a qualified merger for a qualified survivor which is a cooperative association shall be as provided for in this chapter. The effect of a qualified merger for a qualified survivor which is a qualified corporation shall be as provided for corporations under chapter 490, subchapter XI.

6. The provisions governing the right of a shareholder or member of a cooperative association to object to a merger or the right of a member to dissent and obtain payment of the fair value of an interest in the cooperative association in the case of a merger as provided in this chapter shall apply to a qualified merger. The provisions governing the right of a shareholder of a corporation to exercise appraisal rights and obtain payment of the fair value of the shareholder's shares in the case of a merger as provided in chapter 490, subchapter XIII, shall apply to a qualified merger.

7. A foreign cooperative association may participate in a qualified merger as provided in this section, if the foreign cooperative association complies with the requirements for a cooperative association under this section and the requirements for a foreign cooperative association under section 499.69. A foreign corporation may participate in a qualified merger as provided in this section if it complies with the requirements of a qualified corporation under this section and the requirements for a foreign corporation under section 490.1102.

97 Acts, ch 17, §9; 2002 Acts, ch 1154, §107, 125; 2019 Acts, ch 24, §104; 2021 Acts, ch 165, §224, 225, 230

Referred to in §490.1109

499.70 Abandonment before filing.

At any time prior to the filing of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to provisions set forth in the plan of merger or consolidation.

[C71, 73, 75, 77, 79, 81, §499.70]

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499.71 Other laws applicable.

The provisions of this subchapter shall also apply to cooperative associations organized under chapters 497 and 498.

[C71, 73, 75, 77, 79, 81, §499.71]

2014 Acts, ch 1026, §143

SUBCHAPTER III

REGISTERED OFFICE AND REGISTERED AGENT

499.72 Registered office and registered agent.

Each association must continuously maintain in this state both of the following:

1. A registered office that may be the same as any of its places of business.
2. A registered agent, who may be any of the following:

a. An individual who resides in this state and whose business office is identical with the registered office.

b. A domestic corporation or not-for-profit domestic corporation whose business office is identical with the registered office.

c. A foreign corporation or not-for-profit foreign corporation authorized to transact business in this state whose business office is identical with the registered office.

93 Acts, ch 126, §19

499.73 Change of registered office or registered agent.

1. An association may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth all of the following:

a. The name of the association.

b. The street address of its current registered office.

c. If the current registered office is to be changed, the street address of the new registered office.

d. The name of its current registered agent.

e. If the current registered agent is to be changed, the name of the new registered agent and the new agent's written consent, either on the statement or attached to it, to the appointment.

f. That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

2. If a registered agent changes the street address of the registered agent's business office, the registered agent may change the street address of the registered office of any association for which the person is the registered agent by notifying the association in writing of the change and signing, either manually or in facsimile, and delivering to the secretary of state for filing a statement that complies with the requirements of subsection 1 and recites that the association has been notified of the change.

3. If a registered agent changes the registered agent's business address to another place, the registered agent may change the business address and the address of the registered agent by filing a statement as required in subsection 2 for each association, or a single statement for all associations named in the notice, except that it need be signed only by the registered agent or agents and need not be responsive to subsection 1, paragraph "*e*", and must recite that a copy of the statement has been mailed to each association named in the notice.

4. An association may also appoint or change its registered office or registered agent in its biennial report.

93 Acts, ch 126, §20; 2000 Acts, ch 1022, §10

Referred to in §9.11

499.73A Change of principal office.

An association may change its principal office by delivering to the secretary of state for filing a statement of change that sets forth all of the following:

1. The name of the association.

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2. The street address of its current principal office.
3. The street address of its new principal office.

2007 Acts, ch 23, §6
Referred to in §9.11

499.74 Resignation of registered agent.

1. A registered agent may resign the agent's agency appointment by signing and delivering to the secretary of state for filing the signed original and two exact or conformed copies of a statement of resignation. The statement may include a statement that the registered office is also discontinued.

2. After filing the statement the secretary of state shall mail one copy to the registered office, if not discontinued, and the other copy to the association at its principal office.

3. A statement of resignation takes effect on the earlier of the following:

a. 12:01 a.m. on the thirty-first day after the date on which it is filed with the secretary of state.

b. The designation of a new registered agent for the association.

93 Acts, ch 126, §21; 2020 Acts, ch 1058, §6
Referred to in §9.11

499.75 Service on association.

1. An association's registered agent is the association's agent for service of process, notice, or demand required or permitted by law to be served on the association.

2. If an association has no registered agent, or the agent cannot with reasonable diligence be served, the association may be served by registered or certified mail, return receipt requested, addressed to the secretary of the association at its principal office. Service is perfected under this subsection at the earliest of any of the following:

a. The date the association receives the mail.

b. The date shown on the return receipt, if signed on behalf of the association.

c. Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

3. This section does not prescribe the only means, or necessarily the required means, of serving an association.

93 Acts, ch 126, §22
Referred to in §499.77, 499.78, 499.78A

SUBCHAPTER IV

ADMINISTRATIVE DISSOLUTION

499.76 Grounds for administrative dissolution.

The secretary of state may commence a proceeding under section 499.77 to administratively dissolve an association if any of the following apply:

1. The association has not delivered a biennial report to the secretary of state in a form that meets the requirements of section 499.49, within sixty days after it is due.

2. The association is without a registered agent or registered office in this state for sixty days or more.

3. The association does not notify the secretary of state within sixty days that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued.

4. The association's period of duration stated in its articles of incorporation expires.

5. The association concedes that the association has violated a provision or provisions of this chapter that are the subjects of the interrogatories served on the association pursuant to section 599.51.*

93 Acts, ch 126, §23; 97 Acts, ch 171, §32; 2000 Acts, ch 1022, §11; 2026 Acts, ch 1145, §29
Referred to in §499.77
*Reference to section 499.51 probably intended; corrective legislation is pending
NEW subsection 5

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499.77 Procedure for and effect of administrative dissolution.

1. If the secretary of state determines that one or more grounds exist under section 499.76, subsections 1 through 4, for dissolving an association, the secretary of state shall serve the association by ordinary mail with written notice of the secretary of state's determination pursuant to section 499.75.

2. Except as specified in subsection 5, if the association does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty days after service of the notice is perfected pursuant to section 499.75, the secretary of state shall administratively dissolve the association by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the association pursuant to section 499.75.

3. An association administratively dissolved continues its existence but shall not carry on any business except that necessary to wind up and liquidate its business and affairs and notify claimants.

4. The administrative dissolution of an association does not terminate the authority of its registered agent.

5. If the association concedes that it has violated a provision or provisions of this chapter that are the subjects of the interrogatories served on the association pursuant to section 499.51, the secretary of state may immediately administratively dissolve the association by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the association under section 499.75.

93 Acts, ch 126, §24; 2026 Acts, ch 1145, §30, 31
Referred to in §499.76, 499.78
Subsections 1 and 2 amended
NEW subsection 5

499.78 Reinstatement following administrative dissolution.

1. An association administratively dissolved under section 499.77 may apply to the secretary of state for reinstatement at any time after the effective date of dissolution. The application must meet all of the following requirements:

a. Recite the name of the association at its date of dissolution and the effective date of its administrative dissolution.

b. State that the ground or grounds for dissolution have been eliminated.

2. If the secretary of state determines that the application contains the information required by subsection 1 and that the information is correct, the secretary of state shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites the secretary of state's determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the association pursuant to section 499.75.

3. When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution as if the administrative dissolution had never occurred.

93 Acts, ch 126, §25; 97 Acts, ch 171, §33; 2006 Acts, ch 1089, §41

499.78A Appeal from denial of reinstatement.

1. If the secretary of state denies an association's application for reinstatement following administrative dissolution, the secretary of state shall serve the association pursuant to section 499.75 with a written notice that explains the reason or reasons for denial.

2. The association may appeal the denial of reinstatement to the district court within thirty days after service of the notice of denial is perfected. The association appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the secretary of state's certificate of dissolution, the association's application for reinstatement, and the secretary of state's notice of denial.

3. The court may summarily order the secretary of state to reinstate the dissolved association or may take other action the court considers appropriate.

4. The court's final decision may be appealed as in other civil proceedings.

93 Acts, ch 126, §26

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SUBCHAPTER V

OTHER MATTERS

499.79 Statement to estate of members and stockholders.

1. The board of directors, upon receiving actual notice of the death of a member or stockholder, shall provide a statement to the administrator or executor of the member's or stockholder's estate, or to the attorney representing such estate. The statement shall describe agricultural products owned by the member or stockholder which are in the possession of the association.

2. This section shall not require an association to conduct a search of the status of its members or stockholders. The association shall exercise reasonable diligence in determining to whom the statement must be delivered. The statement shall be delivered to the administrator, executor, or attorney, within thirty days following a determination as to whom the statement must be delivered. A statement is not required to be prepared or delivered, if the association is not notified of the member's or stockholder's death within one year after the date of death, or by the date that the member's or stockholder's estate is closed, whichever is later.

91 Acts, ch 230, §3; 2016 Acts, ch 1011, §121

499.80 Member information.

1. If a member of a cooperative association intends to distribute information to other members of a cooperative association and the member does not have a list of the members of the cooperative association, the member may request the board of directors to distribute the information for the member.

2. The board of directors shall adopt a policy which permits the distribution of materials or information to members of a cooperative association by request of a member when the purpose of the request concerns directly the action of the board of directors of the cooperative association.

3. The board of directors shall distribute for a member such material or information requested, provided that the board of directors may charge the member for the mailing costs incurred by the cooperative association in distributing the information.

4. Cooperative associations subject to regulation under chapter 476 are exempt from the provisions of this section.

92 Acts, ch 1147, §4; 2016 Acts, ch 1011, §121

CHAPTER 499A

MULTIPLE HOUSING

Referred to in §441.21, 489.102, 490.1801, 499C.1, 501A.102, 558.72, 558B.1, 572.31, 669.14

1991 additions, amendments, and repeals apply to cooperatives organized on or after December 1, 1990; for prior law, see Code 1991; 91 Acts, ch 30, §18

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SUBCHAPTER I

COOPERATIVE HOUSING ACT

Referred to in §499A.104

499A.1 Articles.

1. Any two or more persons of full age, a majority of whom are citizens of the state, may organize themselves for the following or similar purposes: Ownership of residential, business property on a cooperative basis. A corporation or limited liability company is a person within the meaning of this chapter. The organizers shall adopt, and sign and acknowledge the articles of incorporation, stating the name by which the cooperative shall be known, the location of its principal place of business, its business or objects, the number of directors to conduct the cooperative's business or objects, the names of the directors for the first year, the time of the cooperative's annual meeting, the time of the annual meeting of its directors, and the manner in which the articles may be amended. The articles of incorporation shall be filed with the secretary of state who shall, if the secretary approves the articles, endorse the secretary of state's approval on the articles, record the articles, and forward the articles to the county recorder of the county where the principal place of business is to be located, and there the articles shall be recorded, and upon recording be returned to the cooperative. The articles shall not be filed by the secretary of state until a filing fee of five dollars together with a recording fee of fifty cents per page is paid, and upon the payment of the fees and the approval of the articles by the secretary of state, the secretary shall issue to the cooperative a certificate of incorporation as a cooperative not for pecuniary profit. The county recorder shall collect recording fees pursuant to section 331.604 for articles forwarded for recording under this section.

2. Amendments to the articles shall be filed and receive approval as provided in this chapter for articles, and the fee for amendments shall be five dollars in each instance. An amendment is not effective until the amendment is approved and the fee is paid.

3. *a.* The secretary of state may require a document to be delivered by mail or in person if the secretary of state receives credible information that the document is being submitted for filing fraudulently or may be used to accomplish a fraudulent, criminal, or unlawful purpose.

b. As used in paragraph "*a*", "*credible information*" means any of the following:

(1) An affidavit of unauthorized use. The secretary of state shall accept and review an affidavit of unauthorized use completed and submitted to the secretary of state under this section in the same manner as the secretary of state accepts and reviews a submitted affidavit of unauthorized use under section 499.50.

(2) Information provided to the secretary of state by another government agency.

(3) Information collected by the secretary of state from a credible third-party data set.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499A.1]

91 Acts, ch 30, §1; 2009 Acts, ch 27, §27; 2014 Acts, ch 1095, §1, 6; 2026 Acts, ch 1145, §32
NEW subsection 3

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499A.2 Powers — duration.

Upon filing such articles the persons signing and acknowledging the same and their associates and successors shall become a body corporate with the name therein stated and shall have power:

1. To have perpetual succession by its name, unless a limited period of duration is stated in its articles of incorporation, or they are sooner dissolved by three-fourths vote of all the members thereof, or by act of the general assembly or by operations of law.
2. To sue and be sued in its corporate name.
3. To build and construct apartment houses or dwellings.
4. To purchase, take, receive, lease as lessee, take by gift, devise or bequest, or otherwise acquire, and to own, hold, use and otherwise deal in and with any real or personal property or any interest therein.
5. To sell, convey, mortgage, pledge, lease as lessor, and otherwise dispose of all or any part of its property and assets.
6. To make contracts and incur liabilities which may be appropriate to enable it to accomplish any or all of its purposes; to borrow money for its corporate purposes at such rates of interest as the cooperative may determine, to issue its notes, bonds and other obligations; and to secure any of its obligations by mortgage, pledge, or deed of trust of all or any of its property.
7. To elect or appoint officers and agents of the cooperative, and to define their duties and fix their compensation.
8. To make and alter bylaws not inconsistent with its articles of incorporation or with the laws of this state, for the administration and the regulation of the affairs of the cooperative.
9. To cease its cooperative activities and surrender its cooperative franchise.
10. To have and exercise all powers necessary or convenient to effect any or all of the purposes for which the cooperative is organized.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499A.2]
91 Acts, ch 30, §16

499A.2A Bylaws.

1. The initial bylaws of the cooperative shall be adopted by the cooperative's board of directors. Prior to the admission of members to the cooperative, the power to alter, amend, or repeal the bylaws or adopt new bylaws is vested in the board of directors. Following the admission of members to the cooperative, the power to alter, amend, or repeal the bylaws or adopt new bylaws is vested in the members in accordance with the method set forth in the bylaws.
2. The bylaws may contain any provisions for the regulation and management of the affairs of the cooperative not inconsistent with law or the articles of incorporation. However, the bylaws must provide for:

a. The number of members of the board of directors and the term of the members.
b. The election of a president, vice president, treasurer, and secretary by the board of directors.
c. The qualifications, powers and duties, terms of office, and manner of electing and removing board members and officers and filling vacancies of such members.
d. The method of amending the bylaws.

91 Acts, ch 30, §7; 2012 Acts, ch 1023, §157

499A.3 Members.

A cooperative shall have only one class of members. The designation of that class and the rights of the members of the class shall be set forth in the articles of incorporation or the bylaws. The cooperative must issue membership certificates evidencing the ownership interest of each member of the cooperative.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499A.3]
91 Acts, ch 30, §2

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499A.3A Meetings of members.

1. Meetings of members may be held at such places as may be provided in the articles of incorporation or the bylaws, or as may be fixed from time to time in accordance with the provisions of the articles or the bylaws. In the absence of any such provision, all meetings shall be held at the registered office of the cooperative.

2. An annual meeting of the members shall be held at such time as may be provided in the articles of incorporation or the bylaws. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the cooperative.

3. Special meetings of the members may be called by the president or by the board of directors. Special meetings of the members may also be called by such officers or persons, or by a number or proportion of members as may be provided in the articles of incorporation or the bylaws. In the absence of a provision fixing the number or proportion of members entitled to call a meeting, a special meeting of members may be called by members having one-twentieth of the votes entitled to be cast at the meeting.

91 Acts, ch 30, §8; 2018 Acts, ch 1041, §127

499A.3B Notice of members meetings.

Unless the articles of incorporation or the bylaws otherwise provide, written notice stating the place, day, and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered no less than ten nor more than fifty days before the date of the meeting, either personally or by mail, by or at the direction of the president, the secretary, or the officer or persons calling the meeting, to each member entitled to vote at the meeting. If mailed, notice is deemed to be delivered when deposited in the United States mail addressed to the member at the member's address as it appears on the records of the cooperative, with postage prepaid.

91 Acts, ch 30, §9

499A.3C Voting.

1. Each member is entitled to one vote on each matter submitted to a vote of the members. A membership interest in the cooperative jointly owned by two or more persons is nevertheless entitled to one vote.

2. A member entitled to vote may vote in person or by proxy in the manner prescribed in the bylaws.

91 Acts, ch 30, §10; 2018 Acts, ch 1041, §127

499A.4 Dividends.

A dividend or distribution of property among the members shall not be made until dissolution of the cooperative.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499A.4]

91 Acts, ch 30, §3

499A.5 and 499A.6 Reserved.

499A.7 Reorganizing prior to expiration of term.

The directors or members of any cooperative organized under this chapter may reorganize the cooperative, and all the property and rights of the cooperative shall vest in the cooperative as reorganized.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499A.7]

91 Acts, ch 30, §4

499A.8 Reorganizing after expiration of term.

When the term of a cooperative organized under this chapter has expired, but the organization has continued to act as such cooperative, the directors or members thereof may

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reorganize, and the property and rights therein shall vest in the reorganized cooperative for the use and benefit of all of the members in the original cooperative.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499A.8]

91 Acts, ch 30, §16

499A.9 Amendments of articles.

Any cooperative organized under this chapter may change its name or amend its articles of incorporation by a vote of a majority of the members, in such manner as may be provided in its articles; but if no such provision is made in the articles the same may be amended at any regular meeting or special meeting called for that purpose by the president or secretary or a majority of the board of directors. Notice of any meeting at which it is proposed to amend the articles of incorporation, shall be given by mailing to each member at the member's last known post office address at least ten days prior to such meeting, a notice signed by the secretary setting forth the proposed amendments in substance, or by two publications of said notice in some daily or weekly newspaper in general circulation in the county wherein said cooperative has its principal place of business. The last publication of said notice shall be not less than ten days prior to the date of said meeting. There shall be paid to the secretary of state at the time of the filing of such change or amendment a recording fee of fifty cents per page.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499A.9]

91 Acts, ch 30, §16

Referred to in §499A.10

499A.10 Record — effect.

The change or amendment provided for in section 499A.9 shall be recorded as the original articles are recorded. From the date of filing such change or amendment for record, the provisions of said section having been complied with, the change or amendment shall take effect as a part of the original articles, and the cooperative thus constituted shall have the same rights, powers and franchises, be entitled to the same immunities, and liable upon all contracts to the same extent, as before such change or amendment.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499A.10]

91 Acts, ch 30, §16

499A.11 Ownership — certificate of membership.

The cooperative has the right to purchase real estate for the purpose of erecting, owning, and operating apartment houses or apartment buildings. The interest of each individual member in the cooperative shall be evidenced by the issuance of a certificate of membership. The certificate of membership is coupled with a possessory interest in the real and personal property of the cooperative, entitling each member to a proprietary lease with the cooperative under which each member has an exclusive possessory interest in an apartment unit and a possessory interest in common with all other members in that portion of the cooperative's real and personal property not constituting apartment units, and which creates a legal relationship of landlord and tenant between the cooperative and member. The certificate of membership shall be executed by the president of the cooperative and attested by its secretary in the name and in the behalf of the cooperative.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499A.11]

91 Acts, ch 30, §5

499A.12 and 499A.13 Reserved.

499A.14 Taxation.

The real estate shall be taxed in the name of the cooperative, and each member of the cooperative shall pay that member's proportionate share of the tax in accordance with the proration formula set forth in the bylaws, and each member occupying an apartment as a residence shall receive that member's proportionate homestead tax exemption and credit and each veteran of the military services of the United States identified as such under the laws

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of the state of Iowa or the United States shall receive as a credit that member's veterans tax benefit as prescribed by the laws of the state of Iowa.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499A.14]

91 Acts, ch 30, §6; 2023 Acts, ch 71, §46, 48, 49

Homestead tax exemption and credit, chapter 425

Veterans exemption, §426A.11

2023 amendment applies retroactively to assessment years beginning on or after January 1, 2023; 2023 Acts, ch 71, §49

499A.15 through 499A.17 Reserved.

499A.18 Homestead.

Each individual apartment constitutes a homestead and is exempt from execution, provided the member otherwise qualifies within the laws of the state of Iowa for such exemption.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499A.18]

91 Acts, ch 30, §13

499A.18A Upkeep of the cooperative.

It is the duty of the cooperative to maintain generally all portions of the cooperative's real property other than the apartment units. The maintenance, repair, and replacement costs of the cooperative's real property shall be contributed to by each of the members in accordance with the proration formula set forth in the bylaws. Each member is responsible for maintenance and repair of the person's apartment unit in the manner provided for in the bylaws and as prescribed by each member's proprietary lease.

91 Acts, ch 30, §11

499A.19 Election of directors.

1. The directors shall be elected by the members of the cooperative. The election of officers shall be made by the board of directors. The annual election of the directors shall be held during the month of January of each year, and they shall serve until their successors are elected and qualified.

2. The board of directors shall elect as officers, a president, a vice president, a secretary, and a treasurer.

3. It is the duty of the secretary to keep the records of the cooperative, and a correct list of the members, and all such records shall be submitted to any member upon demand at any reasonable time.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499A.19]

91 Acts, ch 30, §14; 2018 Acts, ch 1041, §127

499A.20 and 499A.21 Reserved.

499A.22 Lien for assessments.

1. *a.* The cooperative has a lien on a member's interest in the cooperative for all operating charges or other assessments payable by the member pursuant to the member's proprietary lease from the time the operating charge or other assessment becomes due. If carrying charges and assessments are payable in installments, the full amount of the charge or assessment is a lien from the first time the first installment becomes due. Upon nonpayment of a carrying charge or assessment, the member may be evicted from the member's apartment unit in the same manner as provided by law in the case of an unlawful holdover by a tenant and the lien may be foreclosed by judicial sale in like manner as a mortgage on real estate, or may be foreclosed by the power of sale provided in this section.

b. A lien under this section is prior to all other liens and encumbrances on a member's cooperative interest except liens and encumbrances on the cooperative's real property which the cooperative creates, assumes, or takes subject to, and liens for real estate taxes and other governmental assessments or charges against the cooperative or the member's cooperative interest.

2. The cooperative, upon a member's nonpayment of carrying charges and assessments and the cooperative's compliance with this section, may sell the defaulting member's

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cooperative interest. Sale may be at a public sale or by private negotiation, and at any time and place, but every aspect of the sale, including the method, advertising, time, place, and terms must be reasonable. The cooperative shall give to the member and any sublessees of the member reasonable written notice of the time and place of a public sale or, if a private sale is intended, of the intention of entering into a contract to sell and of the time after which a private disposition may be made. The same notice shall also be sent to any other person who has a recorded interest in the defaulting member's cooperative interest which would be extinguished by the sale. The notices required by this subsection may be sent to any address reasonable under the circumstances. Sale may not be held until five weeks after the sending of the notice. The cooperative may buy at a public sale, and, if the sale is conducted by a fiduciary or other person not related to the cooperative, at a private sale.

3. *a.* The proceeds of a sale under the preceding subsection shall be applied in the following order:

(1) The reasonable expenses of sale.

(2) The reasonable expenses of securing possession before sale, and the reasonable expenses of holding, maintaining, and preparing the cooperative interest for sale. These expenses include, but are not limited to, the payment of taxes and other governmental charges, premiums on liability insurance, and to the extent provided for by agreement between the cooperative and the member, reasonable attorney fees and other legal expenses incurred by the cooperative.

(3) Satisfaction of the cooperative's lien.

(4) Satisfaction in the order of priority of any subordinate claim of record.

(5) Remittance of any excess to the member.

b. Unless otherwise agreed, the member is liable for any deficiency.

4. If a cooperative interest is sold pursuant to this section, a good faith purchaser for value acquires the member's interest in the cooperative free of the debt that gave rise to the lien under which the sale occurred, and free of any subordinate interest.

5. At any time before the cooperative has disposed of the cooperative interest or entered into a contract for its disposition under the power of sale, the member or the holder of any subordinate security interest may cure the member's default and prevent sale or other disposition by tendering the performance due, including any amounts due arising from the exercise of the rights under this section, plus the reasonable expenses of proceeding to foreclosure incurred to the time of tender, including reasonable attorney fees of the creditor.

6. The property of a member other than the member's membership interest in the cooperative is not subject to claims of the cooperative's creditors, whether or not the member's membership interest is subject to those claims.

91 Acts, ch 30, §12; 2012 Acts, ch 1023, §97

499A.23 Effect of documents and instruments.

1. Unless amended or terminated by this chapter or by the following documents or instruments, all terms, conditions, covenants, and provisions contained in the following documents or instruments shall remain in full force and effect as long as the cooperative remains in existence:

a. The articles of incorporation of the cooperative and any amendments thereto.

b. The bylaws of the cooperative and any amendments thereto.

c. Any proprietary leases, contracts, or other agreements between the cooperative and a member of the cooperative or between members of the cooperative.

d. Any property interests created by any documents or instruments specified in paragraph "*a*", "*b*", or "*c*".

2. A document or instrument specified in subsection 1, and any property interests created by such document or instrument, shall not be extinguished, limited, or impaired by application of section 558.68 or 614.24.

2014 Acts, ch 1095, §2, 6
Referred to in §558.68, 614.24

499A.24 Reserved.

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499A.25 Title of Act.
This subchapter shall be known and cited as *"The Cooperative Housing Act"*.
[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §499A.20]
91 Acts, ch 30, §15
CS91, §499A.25

499A.26 through 499A.100 Reserved.

SUBCHAPTER II

LOW-INCOME OR SWEAT EQUITY HOUSING COOPERATIVES

499A.101 Definitions.
As used in this subchapter, unless the context otherwise requires:
1. *"Advisor"* means a member of the association's advisory committee.
2. *"Association"* means a sweat equity housing cooperative association created pursuant to this subchapter.
3. *"Authority"* means a local housing authority created pursuant to section 499A.102.
4. *"Low income"* means the income of *"very low income families"* as defined in section 16.1.
5. *"Partner"* means a low-income sweat equity member of the association, and member of the sweat equity partners' committee.
6. *"Sweat equity"* means any contribution made by a partner to the operations of the association, including but not limited to physical labor.
90 Acts, ch 1120, §1

499A.102 Local housing authority.
1. A local housing authority may be created to encourage and assist the formation of housing cooperatives under this chapter. The following persons are authorized to form an authority, separately, or in combination with other authorized persons:
a. A city.
b. A county.
c. A nonprofit community organization.
d. A nonprofit religious organization.
2. The local housing authority shall be funded from the following sources:
a. State grants, loans, or other appropriations administered by the Iowa finance authority.
b. Funds solicited from third parties by the local housing authority.
c. Local government appropriations to the local housing authority.
d. Any other available sources, including but not limited to bequests, devises, and federal moneys.
3. The Iowa finance authority may provide assistance for initial organization of local housing authorities.
90 Acts, ch 1120, §2
Referred to in §499A.101

499A.103 Low-income participants.
The local housing authority shall recruit low-income persons to participate as sweat equity partners in a housing cooperative association organized by the local housing authority.
90 Acts, ch 1120, §3

499A.104 Sweat equity housing cooperative association.
1. The local housing authority may form one or more sweat equity housing cooperative associations under this chapter. A sweat equity housing cooperative association shall operate as a multiple housing cooperative association under subchapter I, except as specifically provided otherwise under this subchapter.

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2. A sweat equity housing cooperative association shall meet the following additional conditions:

a. A sweat equity partners' committee shall be established, with each partner entitled to one vote on the committee.

b. The sweat equity committee shall hold twenty-five percent of the stock of the association upon incorporation of the association.

c. An advisory committee shall be established, made up of equity investors, skill contributors, and other community representatives including, but not limited to:

(1) Tradesperson volunteers.

(2) Community college trade representatives and business educators.

(3) Financial and legal advisors to association management.

d. The advisory committee shall hold seventy-five percent of the stock of the association upon incorporation of the association.

3. The association shall be controlled by the board of directors, with representation of partners and advisors on the board proportional to each group's equity interest at the time of the last election of directors to the board.

4. An association shall do all of the following:

a. Acquire existing housing or small business building stock in need of rehabilitation.

b. Establish a rehabilitation plan, which shall include, but not be limited to, all of the following elements:

(1) Statement of purpose.

(2) Financial plan.

(3) Construction timetable.

(4) Materials schedule.

(5) Construction training program schedule for partners. If a contract is executed with a person to perform skilled labor or to supervise skilled work, the person must be certified by an organization recognized as representing a membership of persons with common skills.

(6) Financial and managerial training program for partners.

(7) Bylaws of the association.

(8) A contract between the partners and advisors including the terms of transfer of stock from the advisory committee to the partners' committee.

c. Establish a program to ensure that partners are equipped with skills necessary for full participation in society.

d. Encourage participation by partners in the activities of the community.

90 Acts, ch 1120, §4; 2001 Acts, ch 61, §17
Referred to in §499A.105

499A.105 Association financing.

1. *Organizational and construction phase.* Upon incorporation, and after adoption of a rehabilitation plan pursuant to section 499A.104, the association may apply to the Iowa finance authority or other sources for financial assistance. The Iowa finance authority shall review the rehabilitation plan, and subject to the availability of moneys, may approve for the association state grants, loans, or other appropriations administered by the Iowa finance authority.

2. *Stock transfer.* Advisory committee stock shall be transferred to the partners' committee for distribution to partners in accordance with the terms of the rehabilitation plan contract.

3. *Operational phase.* Upon completion of the rehabilitation plan and implementation of the contract, the association shall be wholly owned by partners. The partners shall rent space only to other association partners. New partners may be admitted subject to completion of required partner training programs and sweat equity contributions, as required by the association's bylaws. Partners shall make mortgage payments in proportion to their equity interest in the property, with total payments sufficient to repay the mortgage loan, maintain the property, and accumulate a capital reserve fund for future repairs and improvements. The

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capital reserve fund and enforcement of partner obligations is the responsibility of the board of directors.

90 Acts, ch 1120, §5

499A.106 Reimbursement of sweat equity contribution.

The association shall establish criteria for the reimbursement of a partner terminating membership in the association, in accordance with the partner's sweat equity contribution.

90 Acts, ch 1120, §6

CHAPTER 499B

HORIZONTAL PROPERTY (CONDOMINIUMS)

Referred to in §354.9, 425.11, 427A.1, 499C.1, 535B.1, 558B.1, 572.1, 572.31, 669.14

499B.1 Short title.
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499B.15 Contents of bylaws.
499B.16 Disposition of property — destruction or damage.
499B.17 Lien against owner of unit.
499B.18 Common expenses before foreclosure.
499B.19 Common expenses after voluntary conveyance.
499B.20 Conversions to meet building codes.
499B.21 Effect of documents and instruments.

499B.1 Short title.

This chapter shall be known as the *"Horizontal Property Act"*.

[C66, 71, 73, 75, 77, 79, 81, §499B.1]

499B.2 Definitions.

Unless it is plainly evident from the context that a different meaning is intended, as used in this chapter:

1. *"Apartment"* means one or more rooms occupying all or a part of a floor or floors in a building of one or more floors or stories and notwithstanding whether the apartment be intended for use or used as a residence, office, for the operation of any industry or business or for any other use not prohibited by law.

2. *"Building"* means and includes one or more buildings, whether attached to one or more buildings or unattached; provided, however, that if there is more than one building, all such buildings shall be described and included in the declaration, or an amendment thereto, and comprise an integral part of a single horizontal property regime.

3. *"Co-owner"* means a person, corporation, or other legal entity capable of holding or owning any interest in real property who owns all or an interest in an apartment within the building.

4. *"Council of co-owners"* means all the co-owners of the building. The business and affairs of the council of co-owners may be conducted by organizing a corporation not for pecuniary profit of which the co-owners are members.

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5. *"General common elements"*, unless otherwise provided in the declaration or lawful amendments thereto, means and includes:

a. The land on which the building is erected.

b. The foundations, basements, floors, exterior walls of each apartment and of the building, ceilings and roofs, halls, lobbies, stairways, and entrances and exits or communication ways, elevators, garbage incinerators and in general all devices or installations existing for common use.

c. Compartments or installations of central services for public utilities, common heating and refrigeration units, reservoirs, water tanks and pumps servicing other than one apartment.

d. Premises for lodging of service personnel engaged in performing services other than services within a single apartment.

6. *"Limited common elements"* means and includes those common elements which are specified in or determined under the declaration to be reserved for the use of one or more apartments to the exclusion of the other apartments, such as special corridors, stairways and elevators, sanitary services common to the apartments of a particular floor, and the like.

7. *"Majority of co-owners"* or *"percent of co-owners"* means the owners of more than one-half or owners of that percent of interest in the building irrespective of the total number of co-owners.

8. *"Property"* includes the land whether committed to the horizontal property regime in fee or as a leasehold interest, the building, all other improvements located thereon, and all easements, rights and appurtenances belonging thereto.

9. All pronouns used herein include the male, female and neuter genders and include the singular or plural numbers, as the case may be.

[C66, 71, 73, 75, 77, 79, 81, §499B.2]

2016 Acts, ch 1073, §140

Referred to in §103.22, 103.23, 499C.1

499B.3 Recording of declaration to submit property to regime.

1. When the sole owner or all of the owners, or the sole lessee or all of the lessees of a lease desire to submit a parcel of real property upon which a building is located or to be constructed to the horizontal property regime established by this chapter, a declaration to that effect shall be executed and acknowledged by the sole owner or lessee or all of such owners or lessees and shall be recorded in the office of the county recorder of the county in which such property lies. The county recorder shall collect recording fees pursuant to section 331.604.

2. If the declaration is to convert an existing structure, the declarant shall file the declaration of the horizontal property regime with the city in which the regime is located or with the county if not located within a city at least sixty days before being recorded in the office of the county recorder to enable the city or county, as applicable, to establish that the converted structure meets appropriate building code requirements as provided in section 499B.20. However, if the city or county, as applicable, does not have a building code, the declarant shall file the declaration with the state building code commissioner instead of the applicable city or county at least sixty days before the recording of the declaration to enable the commissioner to establish that the converted structure meets the state building code, as adopted pursuant to section 103A.7.

3. A declaration under this section for a horizontal property regime proposed to be located within an area of review established by a city under section 354.9 shall, in addition to being submitted to the county, be submitted to the city for review and approval.

[C66, 71, 73, 75, 77, 79, 81, §499B.3]

2000 Acts, ch 1142, §1, 5; 2004 Acts, ch 1086, §81; 2009 Acts, ch 27, §28; 2010 Acts, ch 1051, §2

Referred to in §499B.4, 499B.12

499B.4 Contents of declaration.

The declaration provided for in section 499B.3 shall contain:

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1. A description of the land.
2. A description of the building, stating the number of stories and basements, the number of apartments and the principal materials of which it is or is to be constructed.
3. The apartment number of each apartment, and a statement of its location, approximate area, number of rooms, an immediate common area to which it has access, and any other data necessary for its proper identification.
4. A description of the general common elements and facilities.
5. A description of the limited common elements and facilities, if any, stating to which apartments their use is reserved.
6. The fractional or percentage interest which each apartment bears to the entire horizontal property regime. The sum of such shall be one if expressed in fractions and one hundred if expressed in percentage.
7. The provision as to the percentage of votes by the apartment owners which shall be determinative of whether to rebuild, repair, restore, or sell the property in the event of damage or destruction of all or part of the property.
8. Any further details in connection with the property which the person executing the declaration may deem desirable to set forth consistent with this chapter.
9. The method by which the declaration may be amended, consistent with the provisions of this chapter.

[C66, 71, 73, 75, 77, 79, 81, §499B.4]
Referred to in §499B.5, 499B.7, 499B.12

499B.5 Contents of deeds of apartments.

Deeds of apartments shall include the following particulars:

1. Description of land as provided in section 499B.4, including the document reference number and date of recording of the declaration.
2. The apartment number of the apartment in the declaration and any other data necessary for its proper identification.
3. The percentage of undivided interest appertaining to the apartment in the common areas and facilities.
4. Any further details which the grantor and grantee may deem desirable to set forth consistent with the declaration and this chapter.

[C66, 71, 73, 75, 77, 79, 81, §499B.5]
2009 Acts, ch 27, §29

499B.6 Copy of the floor plans to be filed.

There shall be attached to the declaration, at the time it is filed, a full and an exact copy of the plans of the building, which copy shall be entered of record along with the declaration. The plans shall show graphically all particulars of the building including but not limited to the dimensions, area, and location of common elements affording access to each apartment. Other common elements, both limited and general, shall be shown graphically insofar as possible and shall be certified to by an engineer, architect, or land surveyor, who is licensed to practice that profession in this state.

[C66, 71, 73, 75, 77, 79, 81, §499B.6; 82 Acts, ch 1068, §1]
2007 Acts, ch 22, §85; 2017 Acts, ch 131, §2

499B.7 Interest in common elements — reference to them in instrument.

1. The fractional or percentage interest in the general common elements and the fractional or percentage interest in the limited common elements where such exist are hereby declared to be appurtenant to each of the separate apartments.
2. Any conveyance, encumbrance, lien, alienation, or devise of an apartment under a horizontal property regime by any instrument which describes the land and apartment as set forth in section 499B.4 shall also convey, encumber, alienate, devise, or be a lien upon the fractional or percentage interest appurtenant to each such apartment under section 499B.4, subsection 6, to the general common elements, and the respective share or percentage interest to limited common elements where applicable, whether such general common elements or

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limited common elements are described as in section 499B.4, subsections 4 and 5, by general reference only, or not at all.

[C66, 71, 73, 75, 77, 79, 81, §499B.7]

2015 Acts, ch 29, §67

499B.8 Removal from provisions of this chapter.

1. All of the apartment owners may remove a property from the provisions of this chapter by an instrument to that effect, duly recorded, provided that the holders of all liens affecting any of the apartments consent thereto or agree, in either case by instruments duly recorded, that their liens be transferred to the percentage of the undivided interest of the apartment owner in the property as hereinafter provided.

2. Upon removal of the property from the provisions of this chapter, the property shall be deemed to be owned in common by the apartment owners. The undivided interest in the property owned in common which shall appertain to each apartment owner shall be the percentage of undivided interest previously owned by such owner in the common area and facilities.

[C66, 71, 73, 75, 77, 79, 81, §499B.8]

Referred to in §499B.9

499B.9 Removal no bar to subsequent resubmission.

The removal provided for in section 499B.8 shall in no way bar the subsequent resubmission of the property to the provisions of this chapter.

[C66, 71, 73, 75, 77, 79, 81, §499B.9]

499B.10 Individual apartments and interest in common elements are alienable.

When real property containing a building is committed to a horizontal property regime, each individual apartment located in the building and the interests in the general common elements and limited common elements if any, appurtenant thereto, shall constitute for all purposes a separate parcel of real property and shall be as completely and freely alienable as any separate parcel of real property is or may be under the laws of this state, except as limited by the provisions of this chapter.

[C66, 71, 73, 75, 77, 79, 81, §499B.10]

2000 Acts, ch 1142, §2, 5

499B.11 Real property tax and special assessments — levy on each apartment.

1. All real property taxes and special assessments shall be assessed and levied on each apartment and its respective appurtenant fractional share or percentage of the land, general common elements and limited common elements where applicable as these apartments and appurtenances are separately owned, and not on the entire horizontal property regime. The fair market value determined for an apartment includes the value of its appurtenant share or percentage of the land, general common elements, and limited common elements.

2. Any exemption from taxes that may exist on real property or the ownership thereof shall not be denied by virtue of the registration of the property under the provisions of this chapter.

[C66, 71, 73, 75, 77, 79, 81, §499B.11]

99 Acts, ch 187, §1, 2; 2000 Acts, ch 1142, §3; 2001 Acts, ch 116, §26

499B.12 Liens against apartments — removal from lien — effect of part payment.

1. Subsequent to recording the declaration provided for in section 499B.3, and while the property remains enrolled in a horizontal property regime, no lien shall thereafter arise or be effective against the property. During such period liens or encumbrances shall arise or be created only against the individual apartment and the general common elements and limited common elements where applicable, appurtenant to such apartment, in the same manner and under the same conditions in every respect as liens or encumbrances may arise or be created upon or against any other separate parcel of real property subject to individual ownership.

2. In the event a lien against two or more apartments becomes effective, the owners of

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the separate apartments may remove their apartment and the general common elements and limited common elements where applicable appurtenant to such apartment from the lien by payment of the fractional or proportional amounts attributable to each of the apartments affected. Such individual payments shall be computed by reference to the fractions or percentages appearing on the declaration provided for in section 499B.4, subsection 6. Subsequent to any such payment, discharge or other satisfaction the individual apartment and the general common elements and limited common elements applicable appurtenant thereto shall thereafter be free and clear of the lien so paid, satisfied or discharged. Such partial payment, satisfaction or discharge shall not prevent the lienor from proceeding to enforce the lienor's rights against any apartment and the general common elements, limited common elements where applicable appurtenant thereto not so paid, satisfied or discharged.

[C66, 71, 73, 75, 77, 79, 81, §499B.12]

499B.13 Limitation upon availability of partition — exception as to limitation of partition by joint ownership.

1. The provisions of chapter 651, relating to partition of real property shall not be available to any owner of any interest in real property included within a regime established under this chapter as against any other owner or owners of any interest or interests in the same regime, so as to terminate the regime.

2. Nothing contained in the chapter shall be construed as a limitation on partition by joint owners of one or more apartments in a regime as to individual ownership of such apartment or apartments without terminating the regime, or as to ownership of such apartment or apartments and lands outside the limits of the regime.

[C66, 71, 73, 75, 77, 79, 81, §499B.13]

499B.14 Bylaws.

The administration of every property shall be governed by bylaws, a true copy of which shall be annexed to the declaration and made a part thereof. No modification of or amendment to the bylaws shall be valid unless set forth in an amendment to the declaration and such amendment is duly recorded.

[C66, 71, 73, 75, 77, 79, 81, §499B.14]

499B.15 Contents of bylaws.

The bylaws must provide for at least the following:

1. The form of administration, indicating whether this shall be in charge of an administrator or of a board of administration, or otherwise, and specifying the powers, manner of removal, and, where proper, the compensation thereof.

2. If the form of administration is a board of administration, board meetings must be open to all apartment owners except for meetings between the board and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege. Notice of each board meeting must be mailed or delivered to each apartment owner at least seven days before the meeting. Minutes of meetings of the board of administration must be maintained in written form or in another form that can be converted into written form within a reasonable time. The official records of the board of administration must be open to inspection and available for photocopying at reasonable times and places. Any action taken by a board of administration at a meeting that is in violation of any of the provisions of this subsection is not valid or enforceable.

3. Method of calling or summoning the co-owners to assemble; what percentage, if other than a majority of apartment owners, shall constitute a quorum; who is to preside over the meeting; and who will keep the minute book wherein the resolutions shall be recorded.

4. Maintenance, repair, and replacement of the common areas and facilities and payments therefor including the method of approving payment vouchers.

5. Manner of collecting from the apartment owners their share of the common expenses.

6. Designation and removal of personnel necessary for the maintenance, repair and replacement of the common areas and facilities.

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7. The percentage of votes required to amend the bylaws.

[C66, 71, 73, 75, 77, 79, 81, §499B.15]

2010 Acts, ch 1080, §1; 2015 Acts, ch 29, §68

499B.16 Disposition of property — destruction or damage.

If within thirty days of the date of the damage or destruction to all or part of the property, it is not determined by the council of co-owners to repair, reconstruct or rebuild, then and in that event:

1. The property shall be deemed to be owned in common by the apartment owners;
2. The undivided interest in the property owned in common which shall appertain to each apartment owner shall be the percentage of undivided interest previously owned by such owner in the common areas and facilities;
3. Any liens affecting any of the apartments shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the apartment owner in the property as provided herein; and
4. The property shall be subject to an action for partition at the suit of any apartment owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the property, if any, shall be considered as one fund and shall be divided among all the apartment owners in a percentage equal to the percentage of undivided interest owned by each owner in the property, after first paying out of the respective shares of the apartment owners, to the extent sufficient for the purpose, all liens on the undivided interest in the property owned by each apartment owner.

[C66, 71, 73, 75, 77, 79, 81, §499B.16]

499B.17 Lien against owner of unit.

All sums assessed by the council of co-owners but unpaid for the share of the common expenses chargeable to any apartment shall constitute a lien on such apartment prior to all other liens except only tax liens on the apartment in favor of any assessing unit and special district and all sums unpaid on a first mortgage of record. Such lien may be foreclosed by suit by the council of co-owners or the representatives thereof, acting on behalf of the apartment owners, in like manner as a mortgage of real property. In the event of any such foreclosure, the apartment owner shall be required to pay a reasonable rental for the apartment if so provided in the bylaws, and the plaintiff in such foreclosure shall be entitled to the appointment of a receiver to collect the same. The council of co-owners or the representatives thereof, acting on behalf of the apartment owners, shall have power, unless prohibited by the declaration, to bid in the apartment at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same.

[C66, 71, 73, 75, 77, 79, 81, §499B.17]

2011 Acts, ch 25, §60

499B.18 Common expenses before foreclosure.

Where the mortgagee of a first mortgage of record or other purchaser of an apartment obtains title to the apartment as a result of foreclosure of the first mortgage, such acquirer of title, the acquirer's successors and assigns, shall not be liable for the share of the common expenses or assessments by the council of co-owners chargeable to such apartment which became due prior to the acquisition of title to such apartment by such acquirer. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the apartment owners including such acquirer, the acquirer's successors and assigns.

[C66, 71, 73, 75, 77, 79, 81, §499B.18]

499B.19 Common expenses after voluntary conveyance.

In a voluntary conveyance the grantee of an apartment shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for the grantor's share

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of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the council of co-owners or its representatives, setting forth the amount of the unpaid assessments against the grantor and such grantee shall not be liable for, nor shall the apartment conveyed be subject to a lien for, any unpaid assessments against the grantor in excess of the amount therein set forth.

[C66, 71, 73, 75, 77, 79, 81, §499B.19]

499B.20 Conversions to meet building codes.

After April 25, 2000, an existing structure shall not be converted to a horizontal property regime unless the converted structure meets local city or county, as applicable, building code requirements in effect on the date of conversion or the state building code requirements, as adopted pursuant to section 103A.7, if the local city or county does not have a building code. For purposes of this section, if the structure is located in a city, the city building code applies and if the structure is located in the unincorporated area of the county, the county building code applies.

2000 Acts, ch 1142, §4, 5; 2004 Acts, ch 1086, §82

Referred to in §499B.3

499B.21 Effect of documents and instruments.

1. Unless amended or terminated by the following documents or instruments, all terms, conditions, covenants, and provisions contained in the following documents or instruments shall remain in full force and effect as long as the horizontal property regime remains in existence:

a. The declaration of the horizontal property regime and any amendments thereto.

b. The articles of incorporation of the horizontal property regime and any amendments thereto.

c. The bylaws of the horizontal property regime and any amendments thereto.

d. Any rules and regulations adopted pursuant to the declaration of the horizontal property regime and the bylaws of the horizontal property regime.

e. Any property interests created by any documents or instruments specified in paragraph "*a*", "*b*", "*c*", or "*d*".

2. A document or instrument specified in subsection 1, and any property interests created by such document or instrument, shall not be extinguished, limited, or impaired by application of section 558.68 or 614.24.

2014 Acts, ch 1095, §3, 6

Referred to in §558.68, 614.24

CHAPTER 499C

UNIT OWNERS ASSOCIATIONS — ACCESS TO RECORDS

Referred to in §331.301, 414.1, 669.14

499C.1 Definitions.
499C.2 Records and documents — access.

499C.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Bylaws*" means the instruments, however denominated, that contain the procedures for conducting the affairs of a unit owners association or an executive board regardless of the form in which the association is organized, including any amendments to such instruments.

2. "*Common element*" means:

a. For a cooperative under chapter 499A or a horizontal property regime under chapter 499B, all portions of the common interest community other than the units.

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b. For a planned community, any real estate within the planned community which is owned or leased by the unit owners association, other than a unit.

c. For all common interest communities, any other interests in real estate for the benefit of unit owners identified in the declaration.

3. *a.* "*Common interest community*" means real estate described in a declaration with respect to which a person, by virtue of the person's ownership of a unit, is obligated to pay for a share of real estate taxes, insurance premiums, maintenance, or improvement of, or services or other expenses related to, common elements, other units, or other real estate described in the declaration. "*Common interest community*" includes a planned community, a cooperative under chapter 499A, and a horizontal property regime under chapter 499B.

b. "*Common interest community*" does not include:

(1) A covenant that requires the owners of separate parcels of real estate to share costs or other obligations related to a wall, driveway, well, or other similar structure, unless all such owners consent in writing to the creation of a common interest community.

(2) Real estate described in paragraph "*a*" if all units are owned by a single owner.

(3) Real estate described in paragraph "*a*" that is managed by the original developer of the real estate.

4. "*Declarant*" means a person or group of persons who, as the record title owner of real estate, by a declaration, creates a common interest community.

5. "*Declaration*" means the instrument, however denominated, that creates a common interest community, including any amendments to the instrument.

6. "*Executive board*" means the body, regardless of name, designated in the declaration or bylaws to act on behalf of a unit owners association.

7. "*Planned community*" means a common interest community that is not solely a cooperative under chapter 499A or solely a horizontal property regime under chapter 499B, and includes property owner or homeowner associations. A cooperative under chapter 499A or a horizontal property regime under chapter 499B, however, may be part of a planned community.

8. "*Rule*" means a policy, guideline, restriction, procedure, or regulation, however denominated, which is not set forth in the declaration or bylaws. For a common interest community comprised of less than one thousand units, "*rule*" does not include, mean, or attempt to effectuate a restrictive covenant that has expired.

9. "*Unit*" means a portion of a common interest community designated for separate ownership or occupancy or as otherwise defined in the statute under which the common interest community is organized, including but not limited to an apartment as defined in section 499B.2.

10. "*Unit owner*" means a declarant or other person that owns a unit, but does not include a person having an interest in a unit solely as security for an obligation. In a horizontal property regime under chapter 499B or a planned community, the declarant is the owner of a unit. In a cooperative under chapter 499A, the declarant is the owner of any unit to which an interest has been allocated until that unit has been conveyed to another person.

11. "*Unit owners association*" means an association, regardless of name, organized as a for-profit or nonprofit corporation, trust, limited liability company, partnership, unincorporated association, or any other form of organization authorized by the laws of this state, the membership of which consists solely of unit owners except following termination of the common interest community, at which time the association shall consist of all former unit owners entitled to distributions of proceeds or their heirs, successors, or assigns.

2023 Acts, ch 137, §1
Referred to in §331.301, 364.3, 462A.17A

499C.2 Records and documents — access.

1. A unit owners association, a unit owners association's designee, or a unit owners association's management company shall make all of the following records and documents available to a unit owner or the unit owner's authorized agent within ten business days of a request by the unit owner or the unit owner's authorized agent:

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a. The organizational documents for the common interest community, including all amendments.

b. The unit owners association's bylaws, including all amendments.

c. The rules of the common interest community, including all amendments.

d. The minutes of the most recently held unit owners meeting, including any financial reports. The minutes must indicate the date, time, and place of the meeting, the names of all persons present at the meeting, each action taken at the meeting, and the results of each vote taken at the meeting.

e. The minutes of the most recently held executive board meeting, including any financial reports. The minutes must indicate the date, time, and place of the meeting, the names of all persons present at the meeting, each action taken at the meeting, and the results of each vote taken at the meeting.

f. A certification concerning the payment of dues, fees, or assessments that states whether the dues, fees, or assessments are paid in full or delinquent, and identifies any future dues, fees, or assessments which have been formally approved by a unit owners association for payment at a future date.

g. A schedule and disclosure of all fees related to the transfer of real property ownership within the common interest community.

2. A unit owners association, a unit owners association's designee, or a unit owners association's management company may make the records and documents under subsection 1 available to a unit owner or the unit owner's authorized agent via any of the following methods:

a. Paper copy.

b. Electronically to an electronic mail address provided by the unit owner or the unit owner's authorized agent.

c. By posting the records and documents to an internet site maintained by the unit owners association, the unit owners association's designee, or the unit owners association's management company to which the unit owner or the unit owner's authorized agent has reasonable access.

3. A unit owners association, a unit owners association's designee, or a unit owners association's management company may charge a reasonable fee for all records and documents provided under this section, including costs associated with developing and making available the certification required under subsection 1, paragraph "*f*". The fee shall not exceed the estimated cost of production or reproduction of the records or documents, or the reasonable cost associated with developing and making available the certification required under subsection 1, paragraph "*f*". Upon request, the unit owner or the unit owner's authorized agent shall be provided reasonable documentation supporting the fee charged.

2023 Acts, ch 137, §2; 2026 Acts, ch 1055, §1, 2
Subsection 1, NEW paragraphs f and g
Subsection 3 amended

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CHAPTER 500

COLLECTIVE MARKETING

Referred to in §669.14

500.1 Authorization.
500.2 Liquidated damages.
500.3 Applicability of chapter.

500.1 Authorization.

Persons engaged in the conduct of any agricultural, horticultural, dairy, livestock, mercantile, mining, or manufacturing business in the manner provided in section 500.3 may act together in associations, corporate or otherwise, for the purpose of collectively producing, processing, preparing for market, handling, and marketing the products of their

members. Such persons may organize and operate such associations, and such associations may make the necessary contracts and agreements to effect that purpose, any law to the contrary notwithstanding.

[C24, 27, 31, 35, 39, §**8513;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §500.1]
Referred to in §500.3

500.2 Liquidated damages.

Contracts and agreements entered into between associations and the members thereof may, where damages that may be sustained for the breach thereof are difficult of ascertainment, provide for such penalties as may be agreed upon, which penalties, if the parties thereto so agree, shall be construed as liquidated damages and be enforceable in the full amount thereof both at law and in equity.

[C24, 27, 31, 35, 39, §**8514;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §500.2]

500.3 Applicability of chapter.

The provisions of this chapter shall apply:

1. To corporations organized under the provisions of chapter 497.

2. *a.* To other incorporated associations or companies organized without capital stock, not for pecuniary profit and for the mutual benefit of their members.

b. For purposes of this subsection, *"not for pecuniary profit"* includes but is not necessarily limited to an incorporated association organized to assist its members to make profits for themselves as producers by the means authorized in section 500.1, but not to make income or profit for distribution to its members, directors, or officers, except as provided in chapter 504.

[C24, 27, 31, 35, 39, §**8515;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §500.3; 81 Acts, ch 162, §1]

2004 Acts, ch 1049, §191; 2004 Acts, ch 1175, §393; 2012 Acts, ch 1023, §157
Referred to in §500.1

CHAPTER 501

CLOSED COOPERATIVES

Referred to in §9.11, 10B.1, 10B.4, 10B.7, 15.319, 15.496, 15.508, 15.533, 15E.202, 16.79, 203.1, 489.102, 490.1801, 499.4, 501A.102, 501A.501, 501A.1104, 502.102, 502.201, 547.1, 556.1, 558.72, 669.14

Statement of purpose; 96 Acts, ch 1010, §1
Option to come under chapter 501A; §501A.1104

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SUBCHAPTER I

GENERAL PROVISIONS

501.101 Definitions.

As used in this chapter, unless the context requires otherwise:

1. *"Alternative voting method"* means a method of voting other than a written ballot, including voting by electronic, telephonic, internet, or other means that reasonably allows members the opportunity to vote.
2. *"Articles"* means the cooperative's articles of association.
3. *"Authorized person"* means a person who is one of the following:

a. A farming entity.

b. A person who owns at least one hundred fifty acres of agricultural land and receives as rent a share of the crops or the animals raised on the land if that person is a natural person or a general partnership as organized under chapter 486, Code 1999, or chapter 486A in which all partners are natural persons.

c. An employee of the cooperative who performs at least one thousand hours of service for the cooperative in each calendar year.

4. *"Board"* means the cooperative's board of directors.
5. *"Cooperative"* means a cooperative association organized under this chapter or converted to this chapter pursuant to section 501.601.
6. *"Farming"* means the same as defined in section 9H.1.
7. *"Farming entity"* means any one of the following:

a. A natural person or a fiduciary for a natural person who regularly participates in physical labor or operations management in a farming operation and files schedule F as part of the person's annual form 1040 or form 1041 filing with the United States internal revenue service.

b. A family farm corporation, family farm limited liability company, family farm limited partnership, or family trust, as defined in section 9H.1.

c. A general partnership as organized under chapter 486, Code 1999, or chapter 486A in which all the partners are natural persons actively engaged in farming as provided in section 9H.1.

8. *"Interest"* means a voting interest or other interest in a cooperative as described in the cooperative's articles of association.
9. *"Interest holder"* means a person who owns an interest in a cooperative, whether or not that interest has voting rights.
10. *"Member"* means a person who owns a voting interest in a cooperative.
11. *"Membership"* means the interest established by a member owning a voting interest.
12. *"Voting interest"* means an interest in a cooperative that has voting rights.

96 Acts, ch 1010, §3; 98 Acts, ch 1152, §1 – 6, 69; 99 Acts, ch 96, §40, 41; 2011 Acts, ch 23, §7; 2011 Acts, ch 131, §68, 158

501.102 Purposes and powers.

1. A cooperative organized under this chapter has the purpose of engaging in any lawful business unless a more limited purpose is set forth in the articles.
2. Unless its articles provide otherwise, a cooperative has perpetual duration and

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succession in its cooperative name and has the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including, but not limited to, all of the following:

a. Sue and be sued, complain, and defend in its name.

b. Have a seal, which may be altered at will, and use it, or a facsimile of it, by impressing or affixing it or in any other manner reproducing it.

c. Make and amend bylaws, not inconsistent with its articles of association or with the laws of this state, for managing the business and regulating the affairs of the cooperative.

d. Purchase, receive, lease, or otherwise acquire, and own, hold, improve, use, and otherwise deal with, real or personal property, or any legal or equitable interest in property, wherever located.

e. Sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property.

f. Purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of, and deal in and with shares or other interests in, or obligations of, any other entity.

g. Make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other obligations, which may be convertible into or include the option to purchase other interests of the cooperative, and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income.

h. Lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment.

i. Be a promoter, partner, member, associate, or manager of any partnership, joint venture, trust, or other entity.

j. Conduct its business, locate offices, and exercise the powers granted by this chapter within or without this state.

k. Elect directors and appoint officers, employees, and agents of the cooperative, define their duties, fix their compensation, and lend them money and credit.

l. Pay pensions and establish pension plans, pension trusts, profit-sharing plans, bonus plans, and benefit or incentive plans for any or all of its current or former directors, officers, employees, and agents.

m. Make donations for the public welfare or for charitable, scientific, or educational purposes.

n. Transact any lawful business that will aid governmental policy.

o. Make payments or donations, or do any other act, not inconsistent with law, that furthers the business and affairs of the cooperative.

96 Acts, ch 1010, §4; 98 Acts, ch 1152, §7, 69

501.103 Permissible members — limited farming activities.

1. Notwithstanding section 9H.4, any person or entity, subject to the limitations set forth in section 501.305, and subject to the cooperative's articles and bylaws, is permitted to own interests, including voting interests, in a cooperative.

2. Notwithstanding section 9H.4, a cooperative may, directly or indirectly, acquire or otherwise obtain or lease agricultural land in this state, for as long as the cooperative continues to meet the following requirements:

a. Farming entities own sixty percent of the interests and are eligible to cast sixty percent of the votes at member meetings.

b. Authorized persons own at least seventy-five percent of the interests and are eligible to cast at least seventy-five percent of the votes at member meetings.

c. The cooperative does not, either directly or indirectly, acquire or otherwise obtain or lease agricultural land, if the total agricultural land either directly or indirectly owned or leased by the cooperative would then exceed six hundred forty acres.

3. A cooperative that claims that it is exempt from the restrictions of section 9H.4 pursuant to subsection 2 shall file a biennial report with the secretary of state on or before March 31 of each even-numbered year on forms supplied by the secretary of state. The report shall

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be signed by the president or the vice president of the cooperative and shall contain the following:

a. The cooperative's name and address.

b. A certification that the cooperative meets both of the requirements of subsection 2.

c. The number of acres of agricultural land owned, leased, or held by the cooperative, including the following:

(1) The total number of acres in the state.

(2) The number of acres in each county identified by county name.

(3) The number of acres owned.

(4) The number of acres leased.

(5) The number of acres held other than by ownership or lease.

(6) The number of acres used for the production of row crops.

4. The president or the vice president of the cooperative who falsifies a report is guilty of perjury as provided in section 720.2.

5. In the event of a transfer of an interest in a cooperative by operation of law as a result of death, divorce, bankruptcy, or pursuant to a security interest, the cooperative may disregard the transfer for purposes of determining compliance with subsection 2 for a period of two years after the transfer.

96 Acts, ch 1010, §5; 97 Acts, ch 171, §34; 98 Acts, ch 1152, §8, 69; 2005 Acts, ch 19, §73

Referred to in §10.3, 10.5, 10.7, 10.10, 10B.4A, 502.102

Suspension of filing requirement, §10B.4A

501.104 Name.

The name of a cooperative organized under this chapter must comply with all of the following:

1. The name must contain the word "*cooperative*", "*coop*", or "*co-op*".

2. The name must be distinguishable from all of the following:

a. The name of a cooperative organized under this chapter.

b. The name of a cooperative or cooperative association organized under another chapter, including chapter 497, 498, 499, or 501A.

c. The name of a foreign cooperative, cooperative association, or corporation authorized to do business in this state, including as provided in section 499.54 or section 501A.221.

d. The name of a cooperative which has been administratively dissolved pursuant to section 501.812 for a period of less than five years from the effective date of the dissolution.

96 Acts, ch 1010, §6; 2006 Acts, ch 1089, §42

Referred to in §501.202, 501.813

501.105 Execution and filing of documents.

1. The secretary of state may prescribe and furnish on request forms for the proper administration of this chapter. If the secretary of state has prescribed a mandatory form for a document, then that form must be on the prescribed form.

2. Articles must be signed by all of the organizers; and all other documents filed with the secretary of state must be signed by one of the cooperative's officers. The printed name and capacity of each signatory must appear in proximity to the signatory's signature. The secretary of state may accept a document containing a copy of the signature. A document is not required to contain a seal, an acknowledgment, or a verification.

3. The secretary of state shall collect the following fees:

a. Twenty dollars upon the filing of original or amended articles or articles of merger.

b. Five dollars upon the filing of all other required documents.

c. Five dollars per document and fifty cents per page for copying and certifying a document.

4. A document is effective at the later of the following times:

a. The time of filing on the date it is filed, as evidenced by the secretary of state's date and time endorsement on the original document.

b. The delayed effective time and date specified in the document. If a delayed effective date but no time is specified in the document, the document is effective at the close of business

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on that date. A delayed effective date for a document shall not be later than the ninetieth day after the date it is filed.

5. A document filed under this section may be corrected if the document contains an incorrect statement or the execution of the document was defective. A document is corrected by filing with the secretary of state articles of correction which describe the document to be corrected, including its filing date or a copy of the document. The articles must specify and correct the incorrect statement or defective execution. Articles of correction are effective on the effective date of the document it corrects except as to persons relying on the original document and adversely affected by the correction. As to those persons, articles of correction are effective when filed.

6. The secretary of state shall forward for recording a copy of each original, amended, and restated articles, articles of merger, articles of consolidation, and articles of dissolution to the recorder of the county in which the cooperative has its principal place of business, or in the case of a merger or consolidation, to the recorders of each of the counties in which the merging or consolidating cooperatives have their principal offices. The county recorder shall collect recording fees pursuant to section 331.604 for documents forwarded for recording under this subsection.

7. *a.* The secretary of state may require a document to be delivered by mail or in person if the secretary of state receives credible information that the document is being submitted for filing fraudulently or may be used to accomplish a fraudulent, criminal, or unlawful purpose.

b. As used in paragraph *"a"*, *"credible information"* means any of the following:

(1) An affidavit of unauthorized use as provided in section 501.713A.

(2) Information provided to the secretary of state by another government agency.

(3) Information collected by the secretary of state from a credible third-party data set.

96 Acts, ch 1010, §7; 98 Acts, ch 1152, §9, 69; 2009 Acts, ch 27, §30; 2026 Acts, ch 1145, §33
Referred to in §9.11, 9.14, 501.617, 501.713
NEW subsection 7

501.105A Secretary of state — extra services — surcharge.

Upon the request of a filer of a document under this chapter, the secretary of state shall provide an extra filing service and assess a surcharge as provided in chapter 9, subchapter II.

2021 Acts, ch 165, §260

501.106 Registered office and registered agent.

1. A cooperative must continuously maintain in this state a registered office that may be the same as any of its places of business, and a registered agent, who may be any of the following:

a. An individual who resides in this state and whose business office is identical with the registered office.

b. A domestic corporation or not-for-profit domestic corporation whose business office is identical with the registered office.

c. A foreign corporation or not-for-profit foreign corporation authorized to transact business in this state whose business office is identical with the registered office.

2. A cooperative may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth all of the following:

a. The name of the cooperative.

b. The street address of its current registered office.

c. If the street address of the current registered office is to be changed, the street address of the new registered office.

d. The name of its current registered agent.

e. If the current registered agent is to be changed, the name of the new registered agent and the new agent's written consent, either on the statement or attached to it, to the appointment.

f. That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

3. *a.* If a registered agent changes the street address of the registered agent's business

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office, the registered agent may change the street address of the registered office of any cooperative for which the person is the registered agent by notifying the cooperative in writing of the change and signing, either manually or in facsimile, and delivering to the secretary of state for filing, a statement that provides for a registered office and a registered agent as provided in this section, and which recites that the cooperative has been notified of the change.

b. If a registered agent changes the registered agent's business address to another place, the registered agent may change the business address and the address of the registered agent by filing a statement as required in paragraph "*a*" for each cooperative, or a single statement for all cooperatives named in the notice, except that it need be signed only by the registered agent or agents or be responsive to subsection 2, paragraph "*e*". The statement must recite that a copy of the statement has been mailed to each cooperative named in the notice.

4. A cooperative may also change its registered office or registered agent in its biennial report.

5. *a.* A registered agent may resign the agent's agency appointment by signing and delivering to the secretary of state for filing the signed original statement of resignation. The statement may include a statement that the registered office is also discontinued. The registered agent shall send a copy of the statement of resignation by certified mail to the cooperative at its principal office and to the registered office, if not discontinued. The registered agent shall certify to the secretary of state that the copies have been sent to the cooperative, including the date the copies were sent.

b. A statement of resignation takes effect on the earlier of the following:

(1) 12:01 a.m. on the thirty-first day after the day on which it is filed with the secretary of state.

(2) The designation of a new registered agent for the association.

6. *a.* A cooperative's registered agent is the cooperative's agent for service of process, notice, or demand required or permitted by law to be served on the cooperative.

b. If a cooperative has no registered agent, or the agent cannot with reasonable diligence be served, the cooperative may be served by registered or certified mail, return receipt requested, addressed to the secretary of the cooperative at its principal office. Service is perfected under this paragraph at the earliest of any of the following:

(1) The date that the cooperative receives the mail.

(2) The date shown on the return receipt, if signed on behalf of the cooperative.

(3) Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

c. A cooperative may be served pursuant to this section or as provided in other provisions of this chapter, unless the manner of service is otherwise specifically provided for by statute.

96 Acts, ch 1010, §8; 98 Acts, ch 1152, §10, 11, 69; 2000 Acts, ch 1022, §12; 2020 Acts, ch 1058, §7

Referred to in §9.11, 501.713, 501.812, 501.813, 501.814

501.107 Repealed by 98 Acts, ch 1152, §68, 69. See §501.701 et seq.

501.108 Quo warranto.

The attorney general alone shall have the right to inquire into whether a cooperative has the right to exist or continue under this chapter. If the secretary of state is informed that a cooperative is not functioning as a cooperative, the secretary of state shall notify the attorney general. If the attorney general finds reasonable cause that the cooperative is not functioning as provided under this chapter, the attorney general shall bring action to wind up the affairs of the cooperative.

96 Acts, ch 1010, §10

501.109 through 501.200 Reserved.

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SUBCHAPTER II

ARTICLES AND BYLAWS

501.201 Cooperative formation.

Three or more individuals may organize a cooperative under this chapter by executing and delivering articles to the secretary of state.

96 Acts, ch 1010, §11

501.202 Documents of organization.

1. The initial articles must set forth all of the following:

a. The name, address, and occupation of each organizer.

b. The names and addresses of the initial directors.

c. The street address of the cooperative's initial registered office and the name of its initial registered agent at that office.

2. The articles must set forth all of the following:

a. The name that satisfies the requirements of section 501.104.

b. A statement that it is organized under this chapter.

c. Its duration, which may be perpetual.

d. The classes of interests and the authorized number of interests of each class.

e. The quorum required for each member meeting.

f. The member voting rules.

3. The articles may set forth any other provision consistent with law.

96 Acts, ch 1010, §12; 98 Acts, ch 1152, §12, 13, 69

Referred to in §501.203

501.203 Amended and restated documents of organization.

1. A cooperative may amend its articles at any time to add or change a provision that is required or permitted in the articles or to delete a provision not required in the articles.

2. A cooperative may restate its articles at any time. A restatement of the articles must contain the information required by section 501.202, subsection 2, and may set forth any other provision consistent with law.

3. If the board recommends the amendment or restatement to the members, the amendment or restatement must be adopted by the members by a vote of two-thirds of the votes cast.

4. If the board does not recommend the amendment or restatement to the members, then the amendment or restatement must be adopted by the members by a vote of two-thirds of the votes cast in which vote a majority of all votes are cast.

96 Acts, ch 1010, §13; 2011 Acts, ch 23, §8; 2012 Acts, ch 1023, §73

501.204 Bylaws.

The board may adopt or amend the cooperative's bylaws by a vote of three-fourths of the board. The members may adopt or amend the cooperative's bylaws by a vote of three-fourths of the votes cast in which vote a majority of all votes are cast. A bylaw provision adopted by the members shall not be amended or repealed by the directors.

96 Acts, ch 1010, §14; 2011 Acts, ch 23, §9; 2012 Acts, ch 1023, §74

501.205 through 501.300 Reserved.

SUBCHAPTER III

MEMBERS

501.301 Liability of members.

A member is not personally liable for the acts or debts of the cooperative.

96 Acts, ch 1010, §15

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501.302 Calling and notice of meetings.

1. A cooperative shall hold an annual member meeting at a time and place fixed in accordance with the bylaws.

2. The board may call special member meetings, and the board shall call a special member meeting upon the written demand of twenty percent of the members.

3. A cooperative shall give each member at least ten days' advance notice of the time, place, and the issues to be considered at each member meeting. This notice may be given in person or by mail to the last known address of the member, or the notice requirement may be met by the member waiving the notice.

4. The record date for determining the members entitled to notice of and to vote at a member meeting is the close of business on the day before the first notices for the meeting are delivered or mailed.

96 Acts, ch 1010, §16
Referred to in §501.802

501.303 Conduct of meetings.

1. Only those issues included in the notice of a member meeting may be considered at that meeting.

2. A member may vote at a member meeting in person or by mail ballot that specifies the issue and the member's vote on that issue. If the board makes available a ballot form, then that form must be used to cast a mail ballot on that issue. If the cooperative's articles or bylaws permit it, a member may cast a vote by an alternative voting method. The cooperative shall take reasonable measures to authenticate that a vote is cast by a member eligible to cast that vote.

3. The board may hold the meeting solely by means of remote communication in accordance with section 501.303A and in that case the notice shall describe how members may participate in the meeting.

96 Acts, ch 1010, §17; 2011 Acts, ch 23, §10; 2021 Acts, ch 165, §239, 248

501.303A Remote participation in meetings of members.

1. Members of any class or series may participate in any meeting of members by means of remote communication to the extent the board authorizes such participation for such class or series. Participation as a member by means of remote communication shall be subject to such guidelines and procedures as the board adopts, and shall be in conformity with subsection 2.

2. Members participating in a meeting of members by means of remote communication shall be deemed present and may vote at such a meeting if the cooperative has implemented reasonable measures to do all of the following:

a. Verify that each person participating remotely as a member is a member.

b. Provide such members a reasonable opportunity to participate in the meeting and to vote on matters submitted to the members, including an opportunity to communicate, and to read or hear the proceedings of the meeting, substantially concurrently with such proceedings.

3. Unless the bylaws require the meeting of members to be held at a place, the board may determine that any meeting of members shall not be held at any place and shall instead be held solely by means of remote communication, but only if the cooperative implements the measures specified in subsection 2.

2021 Acts, ch 165, §240, 248
Referred to in §501.303

501.304 Member information.

1. Within ten days from receiving a demand of a member, the cooperative shall produce and furnish the member with the names and addresses of all members of the cooperative.

2. The board shall adopt a policy which permits the distribution of information to all of the members upon the request of a member when the purpose of the request concerns directly the action of the board. Upon receipt of the information and the request of a member, the

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board shall distribute the information to all of the members. The cooperative may charge the requesting member the costs incurred by the cooperative in distributing the information.

96 Acts, ch 1010, §18
Referred to in §501.702

501.305 Multiple membership prohibited.

A person who is a member owning fifteen percent or more of a cooperative shall not be eligible to be a member of any other cooperative organized under this chapter. A person violating this section is subject to a civil penalty of not more than one hundred dollars. The person's membership in a cooperative shall terminate if the person's acquisition of an interest in that cooperative caused the person to be in violation of this section.

96 Acts, ch 1010, §19
Referred to in §501.103

501.306 Number of votes.

A person who is a member shall not own more than one membership. The person shall be entitled to cast not more than one vote regarding any matter in which a vote is conducted, including any matter subject to a vote during a cooperative meeting.

96 Acts, ch 1010, §20; 98 Acts, ch 1152, §14, 69

501.307 Financial information.

The cooperative shall make available financial information to its membership by doing either of the following:

1. Preparing and providing to its members a financial statement for the cooperative's last fiscal year.

a. The financial statement must be based upon an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, a qualification in an opinion is valid, if it is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited is invalid for purposes of this section.

b. The financial statement must disclose the assets, liabilities, and net worth of the cooperative. The financial statement must be prepared according to generally accepted accounting principles. Assets must be shown at original cost less depreciation, or based upon a valuation in accordance with a competent appraisal. Unpriced contracts for agricultural commodities or products must be shown as a liability and valued at the applicable current market price of the agricultural commodities or products as of the date the financial statement is prepared.

2. Honoring a demand to provide access at all reasonable hours at its offices to the books, records, accounts, papers, documents, and computer programs or other recordings relating to the property, assets, business, and financial affairs of the cooperative. The demand shall be in writing and signed by at least fifty percent of all the members of the cooperative. The cooperative shall honor the demand within one day from its receipt. Upon receipt of the demand, the cooperative must provide access to one or more persons selected by the fifty percent of the members to conduct the examination.

96 Acts, ch 1010, §21

501.308 through 501.400 Reserved.

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SUBCHAPTER IV

DIRECTORS, OFFICERS, AND AGENTS

PART 1

GENERAL PROVISIONS

501.401 Number and election.

1. The affairs of a cooperative shall be managed by a board of not less than three directors.
2. The members shall elect the directors as prescribed in the articles or bylaws.
3. Each director shall serve the term prescribed in the articles or bylaws. The terms may be staggered.

96 Acts, ch 1010, §22

501.402 Vacancies.

1. A director may resign at any time by delivering written notice to the board chairperson or the board secretary. A resignation is effective when the notice is delivered unless the notice specifies a later effective date.
2. The members may remove one or more directors with or without cause unless the articles provide that directors may be removed only for cause.
3. The articles may authorize the board to remove a director for a cause specified in the articles.
4. Unless the articles or bylaws provide otherwise, the board shall fill each vacancy until the members elect a director to fill the vacancy at the next scheduled meeting of the members. If the directors remaining in office constitute fewer than a quorum of the board, they may fill the vacancy by the affirmative vote of a majority of all the directors remaining in office.

96 Acts, ch 1010, §23

501.403 Board action.

1. The board may hold regular or special meetings in or out of this state. A quorum of the board consists of a majority of the directors.
2. Unless the articles or bylaws provide otherwise:

a. Regular board meetings may be held without notice of the date, time, place, or purpose of the meeting.

b. Special board meetings must be preceded by at least two days' notice of the date, time, and place of the meeting; but the notice need not describe the purpose of the special meeting.

c. The board may create one or more committees composed of directors, and specify the duties and authority of each committee.

d. The board may permit any number of directors to participate in a regular or special meeting by, or conduct the meeting through, the use of any means of communication by which all directors participating may simultaneously hear each other during the meeting.

e. Action required or permitted by this chapter to be taken at a board meeting may be taken without a meeting if the action is taken by all members of the board. The action must be evidenced by one or more written consents describing the action taken, signed by each director, and included in the minutes or filed with the cooperative's records reflecting the action taken. Action taken under this section is effective when the last director signs the consent, unless the consent specifies a different effective date. A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

3. A director may waive any notice required by this chapter, the articles, or the bylaws before or after the date and time stated in the notice. The waiver must be in writing, signed by the director entitled to the notice, and filed with the minutes or records of the cooperative. A director's attendance at or participation in a meeting waives any required notice to that director of the meeting unless the director at the beginning of the meeting or promptly upon

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the director's arrival objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

96 Acts, ch 1010, §24; 98 Acts, ch 1152, §15, 16, 69

501.404 Director conflict of interest.

1. A conflict of interest transaction is a transaction with the cooperative in which a director has a direct or indirect interest. A director shall be deemed to have a conflict of interest in a matter concerning a transaction between the cooperative and another entity, if the director owns a twenty-five percent or greater ownership interest in the other entity. A conflict of interest transaction is not voidable by the cooperative solely because of the director's interest in the transaction if any one of the following is true:

a. The material facts of the transaction and the director's interest were disclosed or known to the board or a board committee and the board or committee authorized, approved, or ratified the transaction. For purposes of this paragraph, a conflict of interest transaction is authorized, approved, or ratified if it receives the affirmative vote of a majority of the directors on the board or on the committee who have no direct or indirect interest in the transaction, but a transaction may not be authorized, approved, or ratified under this section by a single director. If a majority of the directors who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this paragraph. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction does not affect the validity of any action taken under this paragraph, if the transaction is otherwise authorized, approved, or ratified as provided in this paragraph.

b. The material facts of the transaction and the director's interest were disclosed or known to the members entitled to vote and they authorized, approved, or ratified the transaction. For purposes of this paragraph, a conflict of interest transaction is authorized, approved, or ratified if it receives a majority of the votes entitled to be counted under this paragraph. Voting interests owned by or voted under the control of a director who has a direct or indirect interest in the transaction, and voting interests owned by or voted under the control of an entity described in subsection 2, paragraph *"a"*, shall not be counted in a vote of members to determine whether to authorize, approve, or ratify a conflict of interest transaction under this paragraph. The vote of those voting interests, however, is counted in determining whether the transaction is approved under other sections of this chapter. A majority of the votes, whether or not the members are present, that are entitled to be counted in a vote on the transaction under this paragraph constitutes a quorum for the purpose of taking action under this paragraph.

c. The transaction was fair to the cooperative.

2. For purposes of this section, a director of the cooperative has an indirect interest in a transaction if either:

a. Another entity in which the director has a material financial interest is a party to the transaction.

b. Another entity of which the director is a director, officer, or trustee is a party to the transaction and the transaction is or should be considered by the board.

96 Acts, ch 1010, §25; 97 Acts, ch 23, §57; 98 Acts, ch 1152, §17, 69

501.405 Officers.

A cooperative shall have officers described in its bylaws or appointed by the board in accordance with the bylaws. The bylaws or the board shall delegate to one of the officers responsibility for preparing minutes of the directors' and members' meetings and for authenticating records of the cooperative. Each officer has the authority and shall perform the duties set forth in the bylaws or, to the extent consistent with the bylaws, the duties prescribed by the board. The same individual may simultaneously hold more than one office.

96 Acts, ch 1010, §26

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501.406 Standards of conduct.

1. A director or officer shall discharge the director's or officer's duties in conformity with all of the following:

a. In good faith.

b. With the care an ordinarily prudent person in a like position would exercise under similar circumstances.

c. In a manner the director or officer reasonably believes to be in the best interests of the cooperative.

2. In discharging duties by a director or officer, the director or officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by any of the following:

a. One or more officers or employees of the cooperative whom the director or officer reasonably believes to be reliable and competent in the matters presented.

b. A person, including but not limited to a legal counsel or public accountant, regarding a matter that the director or officer reasonably believes is within the person's professional or expert competence.

c. A committee of the board of which the director or officer is not a member if the director or officer reasonably believes the committee merits confidence.

3. A director or officer is not acting in good faith if the director or officer has knowledge concerning a matter in question that makes reliance otherwise permitted by subsection 2 unwarranted.

4. A director or officer is not liable for any action taken as a director or officer, or the failure to take action, if the director or officer performs the duties of the office in compliance with this section or if, and to the extent that, liability for the action or failure to act has been limited by the articles pursuant to section 501.407.

96 Acts, ch 1010, §27

Referred to in §501.805

501.407 Personal liability — indemnification.

1. The articles may contain a provision eliminating or limiting the personal liability of a director, officer, or interest holder of the cooperative for money damages for any action taken, or any failure to take action as a director, officer, or interest holder, except liability for any of the following:

a. An intentional infliction of harm on the cooperative or its members.

b. An intentional violation of criminal law.

c. The amount of a financial benefit received by the person to which the person is not entitled.

d. An act or omission occurring prior to the date when the provision in the articles becomes effective.

2. The articles may contain a provision permitting or making obligatory indemnification of a director or officer for liability, as defined in section 501.411, to any person for any action taken, or any failure to take any action, as a director or officer, except liability for any of the following:

a. Receipt of a financial benefit to which the person is not entitled.

b. An intentional infliction of harm on the cooperative or its members.

c. An intentional violation of criminal law.

96 Acts, ch 1010, §28; 98 Acts, ch 1152, §18, 19, 69; 2003 Acts, ch 66, §15; 2004 Acts, ch 1101, §69

Referred to in §501.406, 501.412, 501.414

501.408 Repealed by 98 Acts, ch 1152, §68, 69. See §501.411 et seq.

501.409 and 501.410 Reserved.

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PART 2

INDEMNIFICATION

501.411 Definitions.

As used in this part, unless the context otherwise requires:

1. *"Cooperative"* includes any domestic or foreign predecessor entity of a cooperative in a merger.

2. *"Director"* or *"officer"* means an individual who is or was a director or officer, respectively, of a cooperative who, while a director or officer of the cooperative, is or was serving at the cooperative's request as a director, officer, partner, trustee, employee, or agent of another domestic or foreign cooperative, corporation, partnership, joint venture, trust, employee benefit plan, or other entity. A director or officer is considered to be serving an employee benefit plan at the cooperative's request if the director's or officer's duties to the cooperative also impose duties on, or otherwise involve services by, that director or officer to the plan or to participants in or beneficiaries of the plan. *"Director"* or *"officer"* includes, unless the context requires otherwise, the estate or personal representative of a director or officer.

3. *"Disinterested director"* means a director who at the time of a vote referred to in section 501.414, subsection 3, or a vote or selection referred to in section 501.416, subsection 2 or 3, is not either of the following:

a. A party to the proceeding.

b. An individual having a familial, financial, professional, or employment relationship with the director whose indemnification or advance for expenses is the subject of the decision being made, which relationship would in the circumstances, reasonably be expected to exert an influence on the director's judgment when voting on the decision being made.

4. *"Expenses"* includes counsel fees.

5. *"Liability"* means the obligation to pay a judgment, settlement, penalty, fine, including an excise tax assessed with respect to an employee benefit plan, or reasonable expenses incurred with respect to a proceeding.

6. *"Official capacity"* means:

a. When used with respect to a director, the office of director in a cooperative.

b. When used with respect to an officer, as contemplated in section 501.417, the office in a cooperative held by the officer.

"Official capacity" does not include service for any other domestic or foreign cooperative or any corporation, partnership, joint venture, trust, employee benefit plan, or other entity.

7. *"Party"* means an individual who was, is, or is threatened to be made a defendant or respondent in a proceeding.

8. *"Proceeding"* means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal.

98 Acts, ch 1152, §20, 69; 2003 Acts, ch 66, §16

Referred to in §501.407

501.412 Permissible indemnification.

1. Except as otherwise provided in this section, a cooperative may indemnify an individual who is a party to a proceeding because the individual is a director against liability incurred in the proceeding if either of the following apply:

a. All of the following apply:

(1) The individual acted in good faith.

(2) The individual reasonably believed:

(a) In the case of conduct in the individual's official capacity, that the individual's conduct was in the best interests of the cooperative.

(b) In all other cases, that the individual's conduct was at least not opposed to the best interests of the cooperative.

(3) In the case of any criminal proceeding, the individual had no reasonable cause to believe the individual's conduct was unlawful.

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b. The individual engaged in conduct for which broader indemnification has been made permissible or obligatory under a provision of the articles of organization as authorized by section 501.407, subsection 2.

2. A director's conduct with respect to an employee benefit plan for a purpose the director reasonably believed to be in the interests of the participants in and beneficiaries of the plan is conduct that satisfies the requirement of subsection 1, paragraph *"a"*, subparagraph (2), subparagraph division (b).

3. The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the director did not meet the relevant standard of conduct described in this section.

4. Unless ordered by a court pursuant to section 501.415, subsection 1, paragraph *"c"*, a cooperative shall not indemnify a director in either of the following circumstances:

a. In connection with a proceeding by or in the right of the cooperative, except for reasonable expenses incurred in connection with the proceeding if it is determined that the director has met the relevant standard of conduct under subsection 1, paragraph *"a"*.

b. In connection with any proceeding with respect to conduct for which the director was adjudged liable on the basis that the director received a financial benefit to which the director was not entitled, whether or not involving action in the director's official capacity.

98 Acts, ch 1152, §21, 69; 2003 Acts, ch 66, §17; 2009 Acts, ch 41, §263
Referred to in §501.414, 501.415, 501.416, 501.419, 501.712

501.413 Mandatory indemnification.

A cooperative shall indemnify a director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the director was a party because the director is or was a director of the cooperative.

98 Acts, ch 1152, §22, 69; 2003 Acts, ch 66, §18
Referred to in §501.414, 501.415, 501.417, 501.712

501.414 Advance for expenses.

1. A cooperative may, before final disposition of a proceeding, advance funds to pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding because the person is a director if the person delivers all of the following to the cooperative:

a. A written affirmation of the director's good faith belief that either the director has met the relevant standard of conduct described in section 501.412 or that the proceeding involves conduct for which liability has been eliminated under a provision of the articles of organization as authorized by section 501.407, subsection 1.

b. The director's written undertaking to repay any funds advanced if the director is not entitled to mandatory indemnification under section 501.413 and it is ultimately determined that the director has not met the relevant standard of conduct described in section 501.412.

2. The undertaking required by subsection 1, paragraph *"b"*, must be an unlimited general obligation of the director but need not be secured and may be accepted without reference to the financial ability of the director to make repayment.

3. Authorizations under this section shall be made according to either of the following:

a. By the board of directors, according to one of the following:

(1) If there are two or more disinterested directors, by a majority vote of all the disinterested directors, a majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a committee of two or more disinterested directors appointed by such a vote.

(2) If there are fewer than two disinterested directors, if a quorum is present when the vote is taken, by the affirmative vote of a majority of the directors present, unless the articles or bylaws require the vote of a greater number of directors, in which authorization directors who do not qualify as disinterested directors may participate.

b. By the members, but voting interests owned by or voted under the control of a director who at the time does not qualify as a disinterested director shall not be voted on the authorization.

98 Acts, ch 1152, §23, 69; 2003 Acts, ch 66, §19
Referred to in §501.411, 501.415, 501.419, 501.712

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501.415 Court-ordered indemnification.

1. A director who is a party to a proceeding because the person is a director may apply to the court conducting the proceeding or to another court of competent jurisdiction for indemnification or an advance for expenses. After receipt of an application, and after giving any notice the court considers necessary, the court shall proceed according to the following:

a. Order indemnification if the court determines that the director is entitled to mandatory indemnification under section 501.413.

b. Order indemnification or advance for expenses if the court determines that the director is entitled to indemnification or advance for expenses pursuant to a provision authorized by section 501.419, subsection 1.

c. Order indemnification or advance for expenses if the court determines, in view of all the relevant circumstances, that it is fair and reasonable to do one of the following:

(1) To indemnify the director.

(2) To advance expenses to the director, even if the director has not met the relevant standard of conduct set forth in section 501.412, subsection 1, failed to comply with section 501.414, or was adjudged liable in a proceeding referred to in section 501.412, subsection 4, paragraph "*a*" or "*b*", but if the director was adjudged so liable the director's indemnification shall be limited to reasonable expenses incurred in connection with the proceeding.

2. If the court determines that the director is entitled to indemnification under subsection 1, paragraph "*a*", or to indemnification or advance for expenses under subsection 1, paragraph "*b*", the court shall also order the cooperative to pay the director's reasonable expenses incurred in connection with obtaining court-ordered indemnification or advance for expenses. If the court determines that the director is entitled to indemnification or advance for expenses under subsection 1, paragraph "*c*", the court may also order the cooperative to pay the director's reasonable expenses to obtain court-ordered indemnification or advance for expenses.

98 Acts, ch 1152, §24, 69; 2003 Acts, ch 66, §20
Referred to in §501.412, 501.417, 501.712

501.416 Determination and authorization of indemnification.

1. A cooperative shall not indemnify a director under section 501.412 unless authorized for a specific proceeding after a determination has been made that indemnification of the director is permissible because the director has met the relevant standard of conduct set forth in section 501.412.

2. The determination shall be made by one of the following:

a. If there are two or more disinterested directors, by the board of directors by a majority vote of all the disinterested directors, a majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a committee of two or more disinterested directors appointed by such a vote.

b. By special legal counsel.

(1) The special legal counsel shall be selected in the manner described in paragraph "*a*".

(2) If there are fewer than two disinterested directors, special legal counsel shall be selected by the board of directors, in which selection directors who do not qualify as disinterested directors may participate.

c. By the members, but voting interests owned by or voted under the control of a director who at the time does not qualify as a disinterested director shall not be voted on the determination.

3. Authorization of indemnification shall be made in the same manner as the determination that indemnification is permissible, except that if there are fewer than two disinterested directors or if the determination is made by special legal counsel, authorization of indemnification shall be made by those entitled under subsection 2, paragraph "*b*", to select special legal counsel.

98 Acts, ch 1152, §25, 69; 2003 Acts, ch 66, §21
Referred to in §501.411, 501.419

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501.417 Indemnification of officers.

1. A cooperative may indemnify and advance expenses under this part to an officer of the cooperative who is a party to the proceeding because the person is an officer, according to both of the following:

a. To the same extent as to a director.

b. If the person is an officer but not a director, to such further extent as may be provided by the articles of association, the bylaws, a resolution of the board of directors, or contract, except for either of the following:

(1) Liability in connection with a proceeding by or in the right of the cooperative other than for reasonable expenses incurred in connection with the proceeding.

(2) Liability arising out of conduct that constitutes any of the following:

(a) Receipt by the officer of a financial benefit to which the officer is not entitled.

(b) An intentional infliction of harm on the cooperative or the interest holders.

(c) An intentional violation of criminal law.

2. The provisions of subsection 1, paragraph *"b"*, shall apply to an officer who is also a director if the basis on which the officer is made a party to a proceeding is an act or omission solely as an officer.

3. An officer of a cooperative who is not a director is entitled to mandatory indemnification under section 501.413, and may apply to a court under section 501.415 for indemnification or an advance for expenses, in each case to the same extent to which a director may be entitled to indemnification or an advance for expenses under those provisions.

98 Acts, ch 1152, §26, 69; 2003 Acts, ch 66, §22

Referred to in §501.411

501.418 Insurance.

A cooperative may purchase and maintain insurance on behalf of an individual who is a director or officer of the cooperative, or who, while a director or officer of the cooperative, serves at the cooperative's request as a director, officer, partner, trustee, employee, or agent of another domestic or foreign cooperative, corporation, partnership, joint venture, trust, employee benefit plan, or other entity, against liability asserted against or incurred by that individual in that capacity or arising from the individual's status as a director or officer, whether or not the cooperative would have power to indemnify or advance expenses to that individual against the same liability under this part.

98 Acts, ch 1152, §27, 69; 2003 Acts, ch 66, §23

501.419 Variation by corporate action — application of this part.

1. A cooperative may, by a provision in its articles of organization or bylaws or in a resolution adopted or a contract approved by its board of directors or members, obligate itself in advance of the act or omission giving rise to a proceeding to provide indemnification in accordance with section 501.412 or advance funds to pay for or reimburse expenses in accordance with section 501.414. Any such obligatory provision shall be deemed to satisfy the requirements for authorization referred to in section 501.414, subsection 3, and in section 501.416, subsection 3. Any such provision that obligates the cooperative to provide indemnification to the fullest extent permitted by law shall be deemed to obligate the cooperative to advance funds to pay for or reimburse expenses in accordance with section 501.414 to the fullest extent permitted by law, unless the provision specifically provides otherwise.

2. Any provision pursuant to subsection 1 shall not obligate the cooperative to indemnify or advance expenses to a director of a predecessor of the cooperative, pertaining to conduct with respect to the predecessor, unless otherwise specifically provided. Any provision for indemnification or advance for expenses in the articles of organization, bylaws, or a resolution of the board of directors or members of a predecessor of the cooperative in a merger or in a contract to which the predecessor is a party, existing at the time the merger takes effect, shall be governed by section 501.618, subsection 3.

3. A cooperative may, by a provision in its articles of organization, limit any of the rights to indemnification or advance for expenses created by or pursuant to this part.

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4. This part does not limit a cooperative's power to pay or reimburse expenses incurred by a director or an officer in connection with the director's or officer's appearance as a witness in a proceeding at a time when the director or officer is not a party.

5. This part does not limit a cooperative's power to indemnify, advance expenses to, or provide or maintain insurance on behalf of an employee or agent.

98 Acts, ch 1152, §28, 69; 2003 Acts, ch 66, §24
Referred to in §501.415

501.420 Exclusivity.

A cooperative may provide indemnification or advance expenses to a director or an officer only as permitted by this chapter.

2003 Acts, ch 66, §25

501.421 through 501.500 Reserved.

SUBCHAPTER V

CAPITAL STRUCTURE

501.501 Issuance and transfer of interests.

1. A cooperative may issue the number of interests of each class authorized by its articles. A cooperative may issue fractional interests. Interests may be represented by certificates or by entry on the cooperative's interest record books.

2. A member shall not sell or otherwise transfer voting interests to any person. A member may be restricted or limited from selling or otherwise transferring any other class of interests of the cooperative as provided by the cooperative's articles of association or bylaws or an agreement executed between the cooperative and the member.

3. A cooperative may acquire its own interests, and interests so acquired constitute authorized but unissued interests.

96 Acts, ch 1010, §30; 97 Acts, ch 16, §1; 98 Acts, ch 1152, §29, 69

501.502 Termination of membership.

1. A membership shall terminate upon the death of the member.

2. The articles or bylaws may authorize the board to terminate a membership for any of the following reasons:

a. The member has attempted to transfer any interest to a person who is not a member and has not been approved for membership.

b. The member has failed to meet the member's commitment to provide products to the cooperative or to buy the cooperative's products.

c. The member is no longer an authorized person.

d. The member is no longer a farming entity.

3. A member's right to vote at member meetings shall cease upon termination of the membership.

4. The cooperative shall redeem, without interest, the voting interest of a terminated member within one year after the termination of the membership for the fair market value of the interest. If the amount originally paid by the member for the voting interest was less than ten percent of the total amount the member paid for all classes of interests, the cooperative may redeem the voting interest for its issue price if the cooperative's articles of association grant the cooperative this authority.

5. The cooperative shall redeem, without interest, all of the terminated member's allocated patronage refunds and preferred interests originally issued as allocated patronage refunds for the issue price as follows:

a. If a terminated member's current equity is less than two percent of the cooperative's total members' equity, the cooperative shall either redeem the terminated member's equity within one year after the termination of the membership or redeem the terminated member's

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equity in annual amounts of not less than twenty percent of the total amount provided that the entire amount must be redeemed within five years after the termination of the membership.

b. If a terminated member's current equity equals or exceeds two percent of the cooperative's total members' equity, the cooperative shall redeem the terminated member's equity in annual amounts of not less than fifteen percent of the total amount provided that the entire amount must be redeemed within seven years after the termination of the membership.

96 Acts, ch 1010, §31; 97 Acts, ch 16, §2; 98 Acts, ch 1152, §30 – 32, 69

501.503 Distribution of net savings.

The board shall annually dispose of the cooperative's earnings in excess of its operating expenses as follows:

1. If the articles authorize the payment of distributions on a class of interests, then the directors may declare a distribution pursuant to the articles. Distributions shall not exceed eight percent of the value of the interest in each fiscal year. The members may control the amount that is allocated under this subsection.

2. To provide a reasonable reserve for depreciation, obsolescence, bad debts, or contingent losses or expenses. The members may control the amount that is allocated under this subsection.

3. To increase the cooperative's retained savings to the extent determined by the board to be necessary based on its evaluation of the future needs and the competitive position of the cooperative.

4. The cooperative shall have an unconditional binding obligation to distribute to the members all remaining net savings as determined under the United States Internal Revenue Code. These net savings shall be allocated to each member in proportion to the business the member did with the cooperative during the preceding fiscal year. The net savings may be separately calculated for two or more categories of business, and allocated to the members on the basis of business done within each of these categories. Net savings shall be distributed in the form of cash or interests, or a combination of cash and interests, as determined by the board.

96 Acts, ch 1010, §32; 98 Acts, ch 1152, §33, 69

501.504 through 501.600 Reserved.

SUBCHAPTER VI

CONVERSION, SALE, MERGER, AND CONSOLIDATION

PART 1

CONVERSION OF EXISTING ASSOCIATIONS AND SALE OF ASSETS

501.601 Existing associations.

1. As used in this section:

a. *"Dissenting member"* means a voting member who votes in opposition to the plan of conversion and who makes a demand for payment as provided in this section not later than the deadline for members to vote to approve the plan of conversion.

b. *"Issue price"* means the amount paid for an interest in the association or the value stated in a notice of allocation of patronage refunds.

2. An association organized under chapter 497, 498, or 499 may adopt this chapter pursuant to the following procedures:

a. The board must adopt a plan of conversion that specifies the changes in the articles to comply with this chapter, the effect of the conversion on the association's outstanding

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members' equity, and the option or options available to the equity holders who do not want to continue their investment in the association.

b. The members must approve the plan of conversion by a vote of two-thirds of the votes cast in which vote a majority of all votes are cast.

3. *a.* The cooperative shall redeem all of the members' equity held by dissenting members at its issue price within one year after the conversion to this chapter is effective.

b. An equity holder who is not a voting member shall have the same rights as a dissenting member if the equity holder makes a demand for payment pursuant to paragraph *"a"* not later than the deadline for members to vote to approve the plan of conversion.

c. The association shall notify all equity holders of their rights pursuant to paragraph *"a"* at the same time the association notifies the members of the member meeting to vote on the plan of conversion.

96 Acts, ch 1010, §33; 2011 Acts, ch 23, §11 – 13; 2012 Acts, ch 1023, §75
Referred to in §501.101

501.602 Repealed by 98 Acts, ch 1152, §68, 69. See §501.611 et seq.

501.603 Sale of assets.

1. A cooperative may, on the terms and conditions and for the consideration determined by the board, mortgage, pledge, or otherwise encumber any or all of its property.

2. A cooperative may sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property, with or without the goodwill, on the terms and conditions and for the consideration determined by the board, which consideration may include the interests of another cooperative, if the board recommends the proposed transaction to the members, and the members approve it by a vote of two-thirds of the votes cast in which vote a majority of all votes are cast. The board may condition its submission of the proposed transaction on any basis.

96 Acts, ch 1010, §35; 98 Acts, ch 1152, §34, 69; 2011 Acts, ch 23, §14; 2012 Acts, ch 1023, §76

501.604 Repealed by 98 Acts, ch 1152, §68, 69. See §501.801 et seq.

501.605 through 501.610 Reserved.

PART 2

MERGER AND CONSOLIDATION

501.611 Definitions.

When used in this part, unless the context otherwise requires:

1. *"Consolidation"* means the uniting of two or more cooperatives organized under this chapter into one cooperative organized under this chapter, in such manner that a new cooperative is formed, and the new cooperative absorbs the others, which cease to exist as separate entities.

2. *"Dissenting member"* means a voting member who votes in opposition to the plan of merger or consolidation and who makes a demand for payment of the fair value under section 501.615.

3. *"Fair value"* means the cash price that would be paid by a willing buyer to a willing seller, neither being under any compulsion to buy or sell.

4. *"Issue price"* means the amount paid for an interest in the old cooperative or the amount stated in a notice of allocation of patronage distributions.

5. *"Merger"* means the uniting of two or more cooperatives organized under this chapter into one cooperative organized under this chapter, in such manner that one of the merging associations continues to exist and absorbs the others, which cease to exist as entities. *"Merger"* does not include the acquisition, by purchase or otherwise, of the assets of one cooperative by another, unless the acquisition only becomes effective by the filing of articles

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of merger by the cooperatives and the issuance of a certificate of merger pursuant to sections 501.617 and 501.618.

6. *"New cooperative"* is the cooperative resulting from the consolidation of two or more cooperatives organized under this chapter.

7. *"Old cooperative"* means the cooperative in which the member owns or owned a membership prior to merger or consolidation.

8. *"Surviving cooperative"* is the cooperative resulting from the merger of two or more cooperatives organized under this chapter.

98 Acts, ch 1152, §35, 69

501.612 Merger.

Any two or more cooperatives may merge into one cooperative in the manner provided in this section. The board of directors of each cooperative shall, by resolution adopted by a majority vote of all members of each board, approve a plan of merger which shall set forth all of the following:

1. The names of the cooperatives proposing to merge and the name of the surviving cooperative.

2. The terms and conditions of the proposed merger.

3. A statement of any changes in the articles of association of the surviving cooperative.

4. Other provisions deemed necessary or desirable.

98 Acts, ch 1152, §36, 69

Merger with other business entities; §501A.1101 – 501A.1103

501.613 Consolidation.

Any two or more cooperatives may be consolidated into a new cooperative as provided in this section. The board of directors of each cooperative shall, by resolution adopted by a majority vote of all members of each board, approve a plan of consolidation setting forth:

1. The names of the cooperatives proposing to consolidate and the name of the new cooperative.

2. The terms and conditions of the proposed consolidation.

3. With respect to the new cooperative, all of the statements required to be set forth in articles of association for cooperatives.

4. Other provisions deemed necessary or desirable.

98 Acts, ch 1152, §37, 69

Consolidation with other business entities; §501A.1101

501.614 Vote of members.

1. The board of directors of a cooperative, upon approving a plan of merger or consolidation, shall, by motion or resolution, direct that the plan be submitted to a vote at a meeting of members, which may be either an annual or special meeting. Written notice shall be given not less than twenty days prior to the meeting, either personally or by mail, to each voting member of record. The notice shall state the time, place, and purpose of the meeting, and a summary of the plan of merger or consolidation shall be included in or enclosed with the notice.

2. At the meeting, a vote of the members who are entitled to vote in the affairs of the association shall be taken on the proposed plan of merger or consolidation. The plan of merger or consolidation shall be approved if two-thirds of the members vote affirmatively and a majority of all voting members participate in the voting.

98 Acts, ch 1152, §38, 69; 2011 Acts, ch 23, §15; 2012 Acts, ch 1023, §77

501.615 Objection of members — purchase of interests upon demand.

1. If a member of a cooperative which is a party to a merger or consolidation files with the cooperative, prior to or at the meeting of members at which the plan is submitted to a vote, a written objection to the plan of merger or consolidation, and votes in opposition to the plan, and the member, within twenty days after the merger or consolidation is approved by the other members, makes written demand on the surviving or new cooperative for payment of the fair value of that member's interest as of the day prior to the date on which the vote

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was taken approving the merger or consolidation, the surviving or new cooperative shall pay to the member, upon surrender of that person's certificate of membership or interests in the cooperative, the fair value of that person's interest as provided in section 501.616. A member who fails to make demand within the twenty-day period is conclusively presumed to have consented to the merger or consolidation and is bound by its terms.

2. In the event that a dissenting member does business with the surviving or new cooperative before payment has been made for that person's membership, the dissenting member is deemed to have consented to the merger or consolidation and to have waived all further rights as a dissenting member.

98 Acts, ch 1152, §39, 69
Referred to in §501.611

501.616 Value determined.

1. Within twenty days after the merger or consolidation is effected, the surviving or new cooperative shall make a written offer to each dissenting member to pay a specified sum deemed by the surviving or new cooperative to be the fair value of that dissenting member's interest in the old cooperative. This offer shall be accompanied by a balance sheet of the old cooperative as of the latest available date, a profit and loss statement of the old cooperative for the twelve-month period ending on the date of the balance sheet, and a list of the dissenting member's interests in the old cooperative. If the dissenting member does not agree that the sum stated in the notice represents the fair value of the member's interest, then the member may file a written objection with the surviving or new cooperative within twenty days after receiving the notice. A dissenting member who fails to file the objection within the twenty-day period is conclusively presumed to have consented to the fair value stated in the notice.

2. If the surviving or new cooperative receives any objections to fair values, then within ninety days after the merger or consolidation is effected, the surviving or new cooperative shall file a petition in district court asking for a finding and determination of the fair value of each type of equity. The action shall be tried as an equitable action.

3. The fair value of a dissenting member's interest in the old cooperative shall be determined as of the day preceding the merger or consolidation by taking the lesser of either the issue price of the dissenting member's membership, deferred patronage, and any other interests in the cooperative, or the amount determined by subtracting the old cooperative's debts from the fair market value of the old cooperative's assets, dividing the remainder by the total issue price of all memberships, deferred patronage, and all other interests, and then multiplying the quotient from this equation by the total issue price of a dissenting member's membership, deferred patronage, and other interests.

4. The surviving or new cooperative shall pay to each dissenting member in cash within sixty days after the merger or consolidation the amount paid in cash by the dissenting member for that member's interest in the old cooperative. The surviving or new cooperative shall pay the remainder of each dissenting member's fair value in ten annual equal payments. The final payment must be made not later than fifteen years after the merger or consolidation. The value of the deferred patronage or interests issued to evidence deferred patronage shall be considered a liability of the surviving or new cooperative as reflected in the accounts of the surviving or new cooperative until the value of the deferred patronage or interests issued to evidence deferred patronage is paid in full to the dissenting member. A dissenting member who is a natural person who dies before receiving the fair value shall have all of the person's fair value paid with the same priority as if the person was a member at the time of death.

98 Acts, ch 1152, §40, 69; 2014 Acts, ch 1092, §108
Referred to in §501.615

501.617 Articles of merger or consolidation.

1. Upon approval, articles of merger or articles of consolidation shall be executed by each cooperative as provided in section 501.105. The articles must include the following:

a. The plan of merger or the plan of consolidation.

b. As to each cooperative, the number of members.

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c. As to each cooperative, the number of members who voted for and against the plan at the meeting called for that purpose.

2. The articles of merger or articles of consolidation shall be delivered to the secretary of state for filing.

3. The secretary of state, upon the filing of articles of merger or articles of consolidation, shall issue a certificate of merger or a certificate of consolidation and send the certificate to the surviving or new cooperative, or to its representative.

98 Acts, ch 1152, §41, 69; 2012 Acts, ch 1023, §157
Referred to in §9.11, 501.611

501.618 Effective date — effect.

A merger or consolidation shall become effective upon the date that the certificate of merger or the certificate of consolidation is issued by the secretary of state, or the effective date specified in the articles of merger or articles of consolidation, whichever is later. When a merger or consolidation has become effective:

1. The several cooperatives which are parties to the plan of merger or consolidation shall be a single cooperative, which, in the case of a merger, shall be that cooperative designated in the plan of merger as the surviving cooperative, and, in the case of consolidation, shall be that cooperative designated in the plan of consolidation as the new cooperative.

2. The separate existence of all cooperatives which are parties to the plan of merger or consolidation, except the surviving or new cooperative, shall cease.

3. The surviving or new cooperative shall have all the rights, privileges, immunities, and powers and shall be subject to all the duties and liabilities of a cooperative organized under this chapter.

4. The surviving or new cooperative shall possess all the rights, privileges, immunities, and franchises, public as well as private, of each of the merging or consolidating cooperatives.

5. All property, real, personal, and mixed, and all debts due on whatever account, including all choses in action, and all and every other interest, of or belonging to or due to each of the cooperatives merged or consolidated, shall be transferred to and vested in the surviving or new cooperative without further act or deed. The title to any real estate, or any interest in real estate vested in any of the cooperatives merged or consolidated, shall not revert or be in any way impaired by reason of the merger or consolidation.

6. A surviving or new cooperative shall be responsible and liable for all obligations and liabilities of each of the cooperatives merged or consolidated.

7. Any claim existing or action or proceeding pending by or against any of the cooperatives merged or consolidated may be prosecuted as if the merger or consolidation had not taken place, or the surviving or new cooperative may be substituted for the merged or consolidated cooperative. Neither the rights of creditors nor any liens upon the property of any cooperative shall be impaired by a merger or consolidation.

8. In the case of a merger, the articles of association of the surviving cooperative shall be deemed to be amended to the extent that changes in its articles of association are stated in the plan of merger. In the case of a consolidation, the statements set forth in the articles of consolidation which are required or permitted to be set forth in the articles of association of a cooperative shall be deemed to be the original articles of association of the new cooperative.

9. The aggregate amount of the net assets of the merging or consolidating cooperative which was available for the payment of distributions immediately prior to the merger or consolidation, to the extent that the amount is not transferred to stated capital by the issuance of interests or otherwise, shall continue to be available for the payment of distributions by the surviving or new cooperative.

98 Acts, ch 1152, §42, 69; 2012 Acts, ch 1023, §98
Referred to in §501.419, 501.611

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501.619 Abandonment before filing.

At any time prior to the filing of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to provisions set forth in the plan of merger or consolidation.

98 Acts, ch 1152, §43, 69

501.620 through 501.700 Reserved.

SUBCHAPTER VII

RECORDS AND REPORTS

PART 1

RECORDS

501.701 Records.

1. A cooperative shall keep as permanent records minutes of all meetings of its members and board of directors, a record of all actions taken by the members or board of directors without a meeting, and a record of all actions taken by a committee of the board of directors in place of the board of directors on behalf of the cooperative.

2. A cooperative shall maintain appropriate accounting records.

3. A cooperative or its agent shall maintain a record of its interest holders in a form that permits preparation of a list of the names and addresses of all interest holders in alphabetical order by class of interests showing the number and class of interests held by each.

4. A cooperative shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

5. A cooperative shall keep a copy of the following records:

a. Its articles or restated articles of association and all amendments to them currently in effect.

b. Its bylaws or restated bylaws and all amendments to them currently in effect.

c. Resolutions adopted by its board of directors creating one or more classes or series of interests, and fixing their relative rights, preferences, and limitations, if the interests issued pursuant to those resolutions are outstanding.

d. The minutes of all members' meetings, and records of all action taken by members without a meeting, for the past three years.

e. All written communications to interest holders generally within the past three years, including the financial statements furnished for the past three years under section 501.711.

f. A list of the names and business addresses of its current directors and officers.

g. Its most recent biennial report delivered to the secretary of state under section 501.713.

98 Acts, ch 1152, §44, 69; 99 Acts, ch 96, §42; 2000 Acts, ch 1022, §13

Referred to in §501.702

501.702 Inspection of records by interest holders.

1. An interest holder of a cooperative is entitled to inspect and copy, during regular business hours at the cooperative's principal office, any of the records of the cooperative described in section 501.701, subsection 5, if the interest holder gives the cooperative written notice of the interest holder's demand at least five business days before the date on which the interest holder wishes to inspect and copy.

2. An interest holder of a cooperative is entitled to inspect and copy, during regular business hours at a reasonable location specified by the cooperative, any of the following records of the cooperative if the interest holder meets the requirements of subsection 3 and gives the cooperative written notice of the interest holder's demand at least five business days before the date on which the interest holder wishes to inspect and copy any of the following:

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a. Excerpts from minutes of any meeting of the board of directors, records of any action of a committee of the board of directors while acting in place of the board of directors on behalf of the cooperative, minutes of any meeting of the members, and records of action taken by the members or board of directors without a meeting, to the extent not subject to inspection under subsection 1 of this section.

b. Accounting records of the cooperative.

c. The record of interest holders.

3. An interest holder may inspect and copy the records described in subsection 2 only if:

a. The interest holder's demand is made in good faith and for a proper purpose.

b. The interest holder describes with reasonable particularity the interest holder's purpose and the records the interest holder desires to inspect.

c. The records are directly connected with the interest holder's purpose.

4. The right of inspection granted by this section shall not be abolished or limited by a cooperative's articles of association or bylaws.

5. This section does not affect either of the following:

a. The right of a member to obtain information under section 501.304 or the right of an interest holder to obtain information, if the interest holder is in litigation with the cooperative, to the same extent as any other litigant.

b. The power of a court, independently of this chapter, to compel the production of cooperative records for examination.

98 Acts, ch 1152, §45, 69; 99 Acts, ch 96, §43
Referred to in §501.703, 501.704

501.703 Scope of inspection right.

1. An interest holder's agent or attorney has the same inspection and copying rights as the interest holder the agent or attorney represents.

2. The right to copy records under section 501.702 includes, if reasonable, the right to receive copies made by photographic, xerographic, or other technological means.

3. The cooperative may impose a reasonable charge, covering the costs of labor and material, for copies of any documents provided to the interest holder. The charge shall not exceed the estimated cost of production or reproduction of the records.

4. The cooperative may comply with an interest holder's demand to inspect the record of interest holders under section 501.702, subsection 2, paragraph "c", by providing the interest holder with a list of its interest holders that was compiled no earlier than the date of the interest holder's demand.

98 Acts, ch 1152, §46, 69

501.704 Court-ordered inspection.

1. If a cooperative does not allow an interest holder who complies with section 501.702, subsection 1, to inspect and copy any records required by that subsection to be available for inspection, the district court of the county where the cooperative's principal office or, if none in this state, its registered office is located may summarily order inspection and copying of the records demanded at the cooperative's expense upon application of the interest holder.

2. If a cooperative does not within a reasonable time allow an interest holder to inspect and copy any other records, the interest holder who complies with section 501.702, subsections 2 and 3, may apply to the district court in the county where the cooperative's principal office or, if not in this state, its registered office is located for an order to permit inspection and copying of the records demanded. The court shall dispose of an application under this subsection on an expedited basis.

3. If the court orders inspection and copying of the records demanded, it shall also order the cooperative to pay the interest holder's costs, including reasonable counsel fees, incurred to obtain the order unless the cooperative proves that it refused inspection in good faith because it had a reasonable basis for doubt about the right of the interest holder to inspect the records demanded.

4. If the court orders inspection and copying of the records demanded, it may impose

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reasonable restrictions on the use or distribution of the records by the demanding interest holder.

98 Acts, ch 1152, §47, 69

501.705 through 501.710 Reserved.

PART 2

REPORTS

501.711 Financial statements for interest holders.

A cooperative shall prepare annual financial statements, which may be consolidated or combined statements of the cooperative and one or more of its subsidiaries, as appropriate, that include a balance sheet as of the end of the fiscal year and an income statement for that year. Upon written request from an interest holder, a cooperative, at its expense, shall furnish to that interest holder the financial statements requested. If the annual financial statements are reported upon by a public accountant, the report must accompany the financial statements.

98 Acts, ch 1152, §48, 69

Referred to in §501.701

501.712 Other reports to interest holders.

1. If a cooperative indemnifies or advances expenses to a director under sections 501.412 through 501.415 in connection with a proceeding by or in the right of the cooperative, the cooperative shall report the indemnification or advance in writing to the members with or before the notice of the next members' meeting.

2. If a cooperative issues or authorizes the issuance of interests for promissory notes or for promises to render services in the future, the cooperative shall report in writing to the members the number of interests authorized or issued, and the consideration received by the cooperative, with or before the notice of the next members' meeting.

98 Acts, ch 1152, §49, 69

501.713 Biennial report for secretary of state.

1. Each cooperative authorized to transact business in this state shall deliver to the secretary of state for filing a biennial report that sets forth all of the following:

a. The name of the cooperative.

b. The address of its registered office and the name of its registered agent at that office in this state, together with the consent of any new registered agent.

c. The address of its principal office.

d. The names and addresses of the president, secretary, treasurer, and one member of the board of directors.

2. Information in the biennial report must be current as of the first day of January of the year in which the report is due. The report shall be executed on behalf of the cooperative and signed as provided in section 501.105 or by any other person authorized by the board of directors of the cooperative.

3. The first biennial report shall be delivered to the secretary of state between January 1 and April 1 of the first even-numbered year following the calendar year in which a cooperative was organized. Subsequent biennial reports must be delivered to the secretary of state between January 1 and April 1 of the following even-numbered calendar years. A filing fee for the biennial report shall be determined by the secretary of state.

4. If a biennial report does not contain the information required by this section, the secretary of state shall promptly notify the reporting cooperative in writing and return the report to the cooperative for correction.

5. The secretary of state may provide for the change of registered office or registered agent on the form prescribed by the secretary of state for the biennial report, provided that the form contains the information required in section 501.106. If the secretary of state determines

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that a biennial report does not contain the information required by this section but otherwise meets the requirements of section 501.106 for the purpose of changing the registered office or registered agent, the secretary of state shall file the statement of change of registered office or registered agent, effective as provided in section 501.105, before returning the biennial report to the cooperative as provided in this section. A statement of change of registered office or agent pursuant to this subsection shall be executed by a person authorized to execute the biennial report.

98 Acts, ch 1152, §50, 69; 99 Acts, ch 96, §44; 2000 Acts, ch 1022, §14, 15
Referred to in §9.11, 501.701, 501.811

501.713A Statement of removal — removal of information not authorized to be provided.

1. *a.* A person whose name, street address, mailing address, or email address has, without that person's authorization, been provided to the secretary of state as that of the registered agent or of the principal office in a cooperative filing may deliver to the secretary of state a notarized, sworn affidavit of unauthorized use that does all of the following:

(1) Identifies the cooperative registration by name and business number.

(2) Indicates the affiant's mailing address.

(3) States that neither the affiant nor any agent of the affiant has authorized the filing identifying the affiant as the registered agent, providing the affiant's street address or mailing address as an address of the registered agent or principal office, or providing the affiant's email address as that of the registered agent.

b. The affiant shall specify in the affidavit of unauthorized use the information that was not authorized to be provided.

c. The secretary of state may reject an affidavit of unauthorized use that is incomplete or that the secretary of state believes was delivered to the secretary of state with the intent to harass or defraud the cooperative or the individual named as affiant.

d. The office of the secretary of state shall adopt an affidavit of unauthorized use form in accordance with this section.

2. The secretary of state shall conduct an administrative review to determine whether the filing was authorized to identify the stated information as applicable.

3. If the secretary of state concludes that the filing was not authorized to provide the information identified in the affidavit, the secretary of state shall promptly file a statement of removal with respect to the identified information, and shall promptly cause the identified information to cease to be listed as identified for the cooperative.

4. The secretary of state shall not charge a fee for the filing of an affidavit of unauthorized use under subsection 1 or a statement of removal under subsection 3. The filing office shall not return any fee paid for filing the cooperative filing identified in the affidavit.

5. Upon filing a statement of removal, the secretary of state shall send to the principal office address or registered agent's mailing address on record for the cooperative, if any, a notice stating that the statement of removal has been filed and is effective immediately. The notice shall also state that the cooperative is without a registered agent or registered agent address, as applicable.

6. The secretary of state shall adopt rules pursuant to chapter 17A necessary or desirable to administer this section.

2026 Acts, ch 1145, §34
Referred to in §501.105, 501.713B
NEW section

501.713B Interrogatories.

1. *a.* The secretary of state may serve one or more written interrogatories regarding any matter that pertains to a cooperative and that is within the purview of the secretary of state if the secretary of state receives credible information that a cooperative is being used to accomplish a fraudulent, criminal, or unlawful purpose.

b. As used in paragraph *"a"*, *"credible information"* means any of the following:

(1) An affidavit of unauthorized use as provided in section 501.713A.

(2) Information provided to the secretary of state by another government agency.

(3) Information collected by the secretary of state from a credible third-party data set.

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2. The secretary of state shall serve such interrogatories on the cooperative that is the subject of the interrogatories by mail at the address of the registered agent that appears on the secretary of state's records at the time the information required by subsection 1 is received, or if the cooperative has no registered agent, at the cooperative's principal office address shown on the cooperative's most recent biennial report filed with the secretary of state.

3. The interrogatories must be answered by a person with the authority to answer on behalf of the cooperative that is the subject of the interrogatories. Each interrogatory must be answered in writing separately and in a manner that is responsive to the interrogatory. The declaration on the completed interrogatories form must be signed by a person with the authority to sign on behalf of the cooperative.

4. To be considered responsive, the completed and signed interrogatories form must be received by the secretary of state by mail or in-person delivery within twenty-one calendar days after the form was mailed.

5. A response to any interrogatory that indicates to the secretary of state that the cooperative violated any provision of this chapter constitutes the cooperative concession to such violation.

6. A failure to respond to any interrogatory within the allotted time constitutes the cooperative's concession that the cooperative violated a provision or provisions of this chapter that are the subjects of the interrogatories.

7. If the secretary of state receives a response to each interrogatory that indicates to the secretary of state that the cooperative has not violated any provision of this chapter, the secretary shall take no action.

8. The secretary of state shall adopt rules pursuant to chapter 17A necessary or desirable to administer this section.

2026 Acts, ch 1145, §35
Referred to in §501.811, 501.812
NEW section

501.714 through 501.800 Reserved.

SUBCHAPTER VIII
DISSOLUTION

PART 1
GENERAL PROVISIONS

501.801 Dissolution by organizers or initial directors.

A majority of the organizers or initial directors of a cooperative that has not issued interests or has not commenced business may dissolve the cooperative by delivering to the secretary of state for filing articles of dissolution that set forth all of the following:

1. The name of the cooperative.
2. The date of its organization.
3. Either of the following:

a. That none of the cooperative's interests have been issued.

b. That the cooperative has not commenced business.

4. That no debt of the cooperative remains unpaid.
5. That the net assets of the cooperative remaining after winding up have been distributed in accordance with this chapter and the articles of association of the cooperative.
6. That a majority of the organizers or initial directors authorized the dissolution.

98 Acts, ch 1152, §51, 69
Referred to in §9.11

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501.802 Dissolution by board of directors and members.

1. A cooperative's board of directors may propose dissolution for submission to the members.

2. For a proposal to dissolve to be adopted both of the following must apply:

a. The board of directors must recommend dissolution to the members unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the members.

b. The members entitled to vote must approve the proposal to dissolve as provided in subsection 5.

3. The board of directors may condition its submission of the proposal for dissolution on any basis.

4. The cooperative shall notify each member of a meeting to consider dissolution in accordance with section 501.302. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider dissolving the cooperative.

5. Unless the articles of association or the board of directors acting pursuant to subsection 3 require a greater vote or a vote by voting groups, the proposal to dissolve must be approved by a majority of all the votes entitled to be cast on that proposal in order to be adopted.

98 Acts, ch 1152, §52, 69

501.803 Articles of dissolution.

1. At any time after dissolution is authorized, the cooperative may dissolve by delivering to the secretary of state for filing articles of dissolution setting forth all of the following:

a. The name of the cooperative.

b. The date dissolution was authorized.

c. If dissolution was approved by the members, both of the following:

(1) The number of votes entitled to be cast on the proposal to dissolve.

(2) Either the total number of votes cast for and against dissolution or the total number of undisputed votes cast for dissolution and a statement that the number cast for dissolution was sufficient for approval.

2. A cooperative is dissolved upon the effective date of its articles of dissolution.

98 Acts, ch 1152, §53, 69

Referred to in §9.11, 501.804

501.804 Revocation of dissolution.

1. A cooperative may revoke its dissolution within one hundred twenty days of the effective date of the dissolution.

2. Revocation of dissolution must be authorized in the same manner as the dissolution was authorized unless that authorization permitted revocation by action of the board of directors alone, in which event the board of directors may revoke the dissolution without member action.

3. After the revocation of dissolution is authorized, the cooperative may revoke the dissolution by delivering to the secretary of state for filing articles of revocation of dissolution, together with a copy of its articles of dissolution, that set forth all of the following:

a. The name of the cooperative.

b. The effective date of the dissolution that was revoked.

c. The date that the revocation of dissolution was authorized.

d. If the cooperative's board of directors or organizers revoked the dissolution, a statement to that effect.

e. If the cooperative's board of directors revoked a dissolution authorized by the members, a statement that revocation was permitted by action by the board of directors alone pursuant to that authorization.

f. If member action was required to revoke the dissolution, the information required by section 501.803, subsection 1, paragraph "*c*".

4. Revocation of dissolution is effective upon the effective date of the articles of revocation of dissolution.

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5. When the revocation of dissolution is effective, it relates back to and takes effect as of the effective date of the dissolution as if the dissolution had never occurred.

98 Acts, ch 1152, §54, 69
Referred to in §9.11

501.805 Effect of dissolution.

1. A dissolved cooperative continues its existence but shall not carry on any business except that appropriate to wind up and liquidate its business and affairs, including any of the following:

a. Collecting its assets.

b. Disposing of its properties that will not be distributed in kind in accordance with this chapter and the cooperative's articles of association.

c. Discharging or making provision for discharging its liabilities.

d. Distributing its remaining property in accordance with this chapter and the cooperative's articles of association.

e. Doing every other act necessary to wind up and liquidate its business and affairs.

2. Dissolution of a cooperative does not do any of the following:

a. Transfer title to the cooperative's property.

b. Prevent transfer of its interests, although the authorization to dissolve may provide for closing the cooperative's interest transfer records.

c. Subject its directors or officers to standards of conduct different from those prescribed in section 501.406.

d. Change quorum or voting requirements for its board of directors or members; change provisions for selection, resignation, or removal of its directors or officers or both; or change provisions for amending its bylaws.

e. Prevent commencement of a proceeding by or against the cooperative in its name.

f. Abate or suspend a proceeding pending by or against the cooperative on the effective date of dissolution.

g. Terminate the authority of the registered agent of the cooperative.

98 Acts, ch 1152, §55, 69
Referred to in §501.812, 501.824

501.806 Distribution of assets.

Upon the cooperative's dissolution, the cooperative's assets shall first be used to pay expenses necessary to carry out the dissolution and liquidation of assets, then be used to pay the cooperative's obligations other than the payment of deferred patronage or interests issued as deferred patronage, and the remainder shall be paid in the manner set forth in the cooperative's articles of association.

98 Acts, ch 1152, §56, 69

501.807 Known claims against dissolved cooperative.

1. A dissolved cooperative may dispose of the known claims against it by following the procedure described in this section.

2. The dissolved cooperative shall notify its known claimants in writing of the dissolution at any time after the effective date of the dissolution. The written notice must do all of the following:

a. Describe information that must be included in a claim.

b. Provide a mailing address where a claim may be sent.

c. State the deadline, which shall not be fewer than one hundred twenty days from the effective date of the written notice, by which the dissolved cooperative must receive the claim.

d. State that the claim will be barred if not received by the deadline.

3. A claim against the dissolved cooperative is barred if either of the following occur:

a. A claimant who was given written notice under subsection 2 does not deliver the claim to the dissolved cooperative by the deadline.

b. A claimant whose claim was rejected by the dissolved cooperative does not commence a proceeding to enforce the claim within ninety days from the effective date of the rejection notice.

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4. For purposes of this section, *"claim"* does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

98 Acts, ch 1152, §57, 69
Referred to in §501.808, 501.812, 501.824

501.808 Unknown claims against dissolved cooperative.

1. A dissolved cooperative may also publish notice of its dissolution and request that persons with claims against the cooperative present them in accordance with the notice.

2. The notice must meet all of the following requirements:

a. Be published one time in a newspaper of general circulation in the county where the dissolved cooperative's principal office or, if not in this state, its registered office is or was last located.

b. Describe the information that must be included in a claim and provide a mailing address where the claim may be sent.

c. State that a claim against the cooperative will be barred unless a proceeding to enforce the claim is commenced within five years after the publication of the notice.

3. If the dissolved cooperative publishes a newspaper notice in accordance with subsection 2, the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved cooperative within five years after the publication date of the newspaper notice:

a. A claimant who did not receive written notice under section 501.807.

b. A claimant whose claim was timely sent to the dissolved cooperative but not acted on.

c. A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

4. A claim may be enforced under this section in either of the following ways:

a. Against the dissolved cooperative, to the extent of its undistributed assets.

b. If the assets have been distributed in liquidation, against an interest holder of the dissolved cooperative to the extent of the interest holder's pro rata share of the claim or the cooperative assets distributed to the interest holder in liquidation, whichever is less, but an interest holder's total liability for all claims under this section shall not exceed the total amount of assets distributed to the interest holder in liquidation.

98 Acts, ch 1152, §58, 69
Referred to in §501.812, 501.824

501.809 and 501.810 Reserved.

PART 2

ADMINISTRATIVE DISSOLUTION

501.811 Grounds for administrative dissolution.

The secretary of state may commence a proceeding under section 501.812 to administratively dissolve a cooperative if any of the following apply:

1. The cooperative has not delivered a biennial report to the secretary of state in a form that meets the requirements of section 501.713, within sixty days after it is due, or has not paid the filing fee as determined by the secretary of state, within sixty days after it is due.

2. The cooperative is without a registered agent or registered office in this state for sixty days or more.

3. The cooperative does not notify the secretary of state within sixty days that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued.

4. The cooperative's period of duration stated in its articles of association expires.

5. The cooperative concedes that the cooperative has violated a provision or provisions of

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this chapter that are the subjects of the interrogatories served on the cooperative pursuant to section 501.713B.

98 Acts, ch 1152, §59, 69; 2000 Acts, ch 1022, §16; 2026 Acts, ch 1145, §36
Referred to in §501.812
NEW subsection 5

501.812 Procedure for and effect of administrative dissolution.

1. If the secretary of state determines that one or more grounds exist under section 501.811, subsections 1 through 4, for dissolving a cooperative, the secretary of state shall serve the cooperative with written notice of the secretary of state's determination under section 501.106.

2. Except as provided in subsection 6, if the cooperative does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty days after service of the notice is perfected under section 501.106, the secretary of state shall administratively dissolve the cooperative by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the cooperative under section 501.106.

3. A cooperative administratively dissolved continues its existence but shall not carry on any business except that necessary to wind up and liquidate its business and affairs under section 501.805 and notify claimants under sections 501.807 and 501.808.

4. The administrative dissolution of a cooperative does not terminate the authority of its registered agent.

5. The secretary of state's administrative dissolution of a cooperative pursuant to this section appoints the secretary of state the cooperative's agent for service of process in any proceeding based on a cause of action which arose during the time the cooperative was authorized to transact business in this state. Service of process on the secretary of state under this subsection is service on the cooperative. Upon receipt of process, the secretary of state shall serve a copy of the process on the cooperative as provided in section 501.106. This subsection does not preclude service on the cooperative's registered agent, if any.

6. If the cooperative concedes that the cooperative has violated a provision or provisions of this chapter that are the subjects of the interrogatories served on the cooperative pursuant to section 501.713B, the secretary of state may immediately administratively dissolve the cooperative by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the cooperative under section 501.106.

98 Acts, ch 1152, §60, 69; 2026 Acts, ch 1145, §37, 38
Referred to in §501.104, 501.811, 501.813
Subsections 1 and 2 amended
NEW subsection 6

501.813 Reinstatement following administrative dissolution.

1. A cooperative administratively dissolved under section 501.812 may apply to the secretary of state for reinstatement at any time after the effective date of dissolution. The application must meet all of the following requirements:

a. Recite the name of the cooperative at its date of dissolution and the effective date of its administrative dissolution.

b. State that the ground or grounds for dissolution have been eliminated.

c. If the application is received more than five years after the effective date of the cooperative's dissolution, state a name that satisfies the requirements of section 501.104.

2. *a.* If the secretary of state determines that the application contains the information required by subsection 1, and that the information is correct, the secretary of state shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites the secretary of state's determination and the effective date of reinstatement, file the document, and deliver a copy to the cooperative under section 501.106.

b. If the name of the cooperative as provided in subsection 1, paragraph "c", is different than the name in subsection 1, paragraph "*a*", the certificate of reinstatement shall constitute

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an amendment to the articles of association insofar as it pertains to the name. A cooperative shall not relinquish the right to retain its name if the reinstatement is effective within five years of the effective date of the cooperative's dissolution.

3. When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution as if the administrative dissolution had never occurred.

98 Acts, ch 1152, §61, 69; 2003 Acts, ch 145, §286; 2006 Acts, ch 1089, §43 – 45; 2010 Acts, ch 1040, §4; 2020 Acts, ch 1118, §26; 2024 Acts, ch 1048, §3

Referred to in §9.11

501.814 Appeal from denial of reinstatement.

1. If the secretary of state denies a cooperative's application for reinstatement following administrative dissolution, the secretary of state shall serve the cooperative under section 501.106 with a written notice that explains the reason or reasons for denial.

2. The cooperative may appeal the denial of reinstatement to the district court within thirty days after service of the notice of denial is perfected. The cooperative appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the secretary of state's certificate of dissolution, the cooperative's application for reinstatement, and the secretary of state's notice of denial.

3. The court may summarily order the secretary of state to reinstate the dissolved cooperative or may take other action the court considers appropriate.

4. The court's final decision may be appealed as in other civil proceedings.

98 Acts, ch 1152, §62, 69

501.815 through 501.820 Reserved.

PART 3

JUDICIAL DISSOLUTION

501.821 Grounds for judicial dissolution.

The district court may dissolve a cooperative in any of the following ways:

1. A proceeding by the attorney general, if it is established that either of the following apply:

a. The cooperative obtained its articles of association through fraud.

b. The cooperative has continued to exceed or abuse the authority conferred upon it by law.

2. A proceeding by a member if it is established that any of the following conditions exist:

a. The directors are deadlocked in the management of the cooperative's affairs, the members are unable to break the deadlock, and either irreparable injury to the cooperative is threatened or being suffered, or the business and affairs of the cooperative can no longer be conducted to the advantage of the interest holders generally, because of the deadlock.

b. The directors or those in control of the cooperative have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent.

c. The members are deadlocked in voting power and have failed, for a period that includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired.

d. The cooperative's assets are being misapplied or wasted.

3. A proceeding by a creditor if it is established that either of the following apply:

a. The creditor's claim has been reduced to judgment, the execution on the judgment returned unsatisfied, and the cooperative is insolvent.

b. The cooperative has admitted in writing that the creditor's claim is due and owing and the cooperative is insolvent.

4. A proceeding by the cooperative to have its voluntary dissolution continued under court supervision.

98 Acts, ch 1152, §63, 69

Referred to in §501.822, 501.824

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501.822 Procedure for judicial dissolution.

1. Venue for a proceeding by the attorney general to dissolve a cooperative lies in Polk county district court. Venue for a proceeding brought by any other party named in section 501.821 lies in the county where a cooperative's principal office or, if not in this state, its registered office is or was last located.

2. It is not necessary to make interest holders parties to a proceeding to dissolve a cooperative unless relief is sought against them individually.

3. A court in a proceeding brought to dissolve a cooperative may issue injunctions, appoint a receiver or custodian pendente lite with all powers and duties the court directs, take other action required to preserve the cooperative's assets wherever located, and carry on the business of the cooperative until a full hearing can be held.

98 Acts, ch 1152, §64, 69

501.823 Receivership or custodianship.

1. A court in a judicial proceeding brought to dissolve a cooperative may appoint one or more receivers to wind up and liquidate, or one or more custodians to manage, the business and affairs of the cooperative. The court shall hold a hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a receiver or custodian. The court appointing a receiver or custodian has exclusive jurisdiction over the cooperative and all its property wherever located.

2. The court may appoint an individual or a domestic or foreign corporation authorized to transact business in this state as a receiver or custodian. The court may require the receiver or custodian to post bond, with or without sureties, in an amount the court directs.

3. The court shall describe the powers and duties of the receiver or custodian in its appointing order, which may be amended from time to time.

a. Among other powers, the receiver may do any of the following:

(1) Dispose of all or any part of the assets of the cooperative wherever located, at a public or private sale, if authorized by the court.

(2) Sue and defend in the receiver's own name as receiver of the cooperative in all courts of this state.

b. The custodian may exercise all of the powers of the cooperative, through or in place of its board of directors or officers, to the extent necessary to manage the affairs of the cooperative in the best interests of its interest holders and creditors.

4. The court during a receivership may redesignate the receiver a custodian, and during a custodianship may redesignate the custodian a receiver, if doing so is in the best interests of the cooperative, its interest holders, and creditors.

5. The court from time to time during the receivership or custodianship may order compensation paid and expense disbursements or reimbursements made to the receiver or custodian and the receiver's or custodian's counsel from the assets of the cooperative or proceeds from the sale of the assets.

98 Acts, ch 1152, §65, 69

501.824 Decree of dissolution.

1. If after a hearing the court determines that one or more grounds for judicial dissolution described in section 501.821 exist, it may enter a decree dissolving the cooperative and specifying the effective date of the dissolution, and the clerk of the district court shall deliver a certified copy of the decree to the secretary of state, who shall file it.

2. After entering the decree of dissolution, the court shall direct the winding up and liquidation of the cooperative's business and affairs in accordance with section 501.805 and the notification of claimants in accordance with sections 501.807 and 501.808.

98 Acts, ch 1152, §66, 69

501.825 through 501.830 Reserved.

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PART 4

DEPOSIT OF ASSETS

501.831 Deposit with state treasurer.

Assets of a dissolved cooperative that should be transferred to a creditor, claimant, or interest holder of the cooperative who cannot be found or who is not competent to receive them shall be reduced to cash and deposited with the treasurer of state or other appropriate state official for safekeeping. When the creditor, claimant, or interest holder furnishes satisfactory proof of entitlement to the amount deposited, the treasurer of state or other appropriate state official shall pay the creditor, claimant, or interest holder or that person's representative the amount.

98 Acts, ch 1152, §67, 69

CHAPTER 501A

COOPERATIVE ASSOCIATIONS ACT

Referred to in §9.11, 10B.1, 10B.4, 10B.7, 15E.202, 203.1, 489.102, 490.1801, 499.4, 501.104, 502.201, 547.1, 556.1, 558.72, 669.14

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SUBCHAPTER I

GENERAL PROVISIONS

501A.101 Short title.

This chapter shall be known and may be cited as the *"Iowa Cooperative Associations Act"*. 2005 Acts, ch 135, §1

501A.102 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Address"* means mailing address, including a zip code. In the case of a registered address, the term means the mailing address and the actual office location, which shall not be a post office box.

2. *"Alternative voting method"* means a method of voting other than a written ballot, including voting by electronic, telephonic, internet, or other means that reasonably allows members the opportunity to vote.

3. *"Articles"* means the articles of organization of a cooperative as originally filed or subsequently amended as provided in this chapter.

4. *"Association"* means a business entity on a cooperative plan and organized under the laws of this state or another state or that is chartered to conduct business under the laws of another state.

5. *"Board"* means the board of directors of a cooperative.

6. *"Business entity"* means a person organized under statute or common law in this state or another jurisdiction for purposes of engaging in a commercial activity on a profit, cooperative, or not-for-profit basis, including but not limited to a corporation or entity taxed as a corporation under the Internal Revenue Code, nonprofit corporation, cooperative or cooperative association, partnership, limited partnership, limited liability company, limited liability partnership, investment company, joint stock company, joint stock association, or trust, including but not limited to a business trust.

7. *"Cooperative"* means a business association organized under this chapter.

8. *"Crop"* means a plant used for food, animal feed, fiber, or oil, if the plant is classified as a forage or cereal plant, including but not limited to alfalfa, barley, buckwheat, corn, flax, forage, millet, oats, popcorn, rye, sorghum, soybeans, sunflowers, wheat, and grasses used for forage or silage.

9. *"Domestic business entity"* means a business entity organized under the laws of this state, including but not limited to a limited liability company as defined in section 489.102; a corporation organized pursuant to chapter 490; a nonprofit corporation organized under chapter 504; a partnership, limited partnership, limited liability partnership, or limited liability limited partnership as provided in chapter 486A or 488; or a cooperative association or other cooperative organized under this chapter or chapter 497, 498, 499, or 501.

10. *"Domestic cooperative"* means a cooperative association or other cooperative organized under this chapter or chapter 497, 498, 499, 499A, or 501.

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11. *"Foreign business entity"* means a business entity that is not a domestic business entity.

12. *"Foreign cooperative"* means a foreign business entity organized to conduct business consistent with this chapter or chapter 497, 498, or 499.

13. *"Livestock"* means the same as defined in section 717.1.

14. *"Member"* means a person or entity reflected on the books of a cooperative as the owner of governance rights of a membership interest of the cooperative and includes patron and nonpatron members.

15. *"Member control agreement"* means an instrument which controls the investment or governance of nonpatron members, which may be executed by the board and one or more nonpatron members and which may provide for their individual or collective rights to elect directors or to participate in the distribution or allocation of profits or losses.

16. *"Membership interest"* means a member's interest in a cooperative consisting of a member's financial rights, a member's right to assign financial rights, a member's governance rights, and a member's right to assign governance rights. *"Membership interest"* includes patron membership interests and nonpatron membership interests.

17. *"Members' meeting"* means a regular or special members' meeting.

18. *"Nonpatron member"* means a member who holds a nonpatron membership interest.

19. *"Nonpatron membership interest"* means a membership interest that does not require the holder to conduct patronage for or with the cooperative to receive financial rights or distributions.

20. *"Patron"* means a person or entity who conducts patronage with the cooperative, regardless of whether the person is a member.

21. *"Patronage"* means business, transactions, or services done for or with the cooperative as defined by the cooperative.

22. *"Patron member"* means a member holding a patron membership interest.

23. *"Patron membership interest"* means the membership interest requiring the holder to conduct patronage for or with the cooperative, as specified by the cooperative to receive financial rights or distributions.

24. *"Secretary"* means the secretary of state.

25. *"Traditional cooperative"* means a cooperative or cooperative association organized under chapter 497, 498, 499, 499A, or 501.

2005 Acts, ch 135, §2, 118, 119; 2008 Acts, ch 1162, §139, 154, 155; 2011 Acts, ch 23, §16; 2022 Acts, ch 1038, §2; 2023 Acts, ch 152, §151, 161

501A.103 Requirements for signatures on documents.

A document is signed when a person has affixed the person's name on a document. A person authorized to do so by this chapter, the articles or bylaws, or by a resolution approved by the directors or the members must sign the document. A signature on a document may be a facsimile affixed, engraved, printed, placed, stamped with indelible ink, transmitted by facsimile or electronically, or in any other manner reproduced on the document.

2005 Acts, ch 135, §3; 2006 Acts, ch 1030, §52

Referred to in §501A.231

SUBCHAPTER II

FILING

Referred to in §501A.503, 501A.504

PART 1

GENERAL REQUIREMENTS

501A.201 General filing requirements.

1. A document must satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to filing.

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2. The document must be one that this chapter requires or permits to be filed with the secretary.

3. The document must contain the information required by this chapter. The document may contain other information as well.

4. The document must be typewritten or printed. The typewritten or printed portion shall be in black ink. Manually signed photocopies, or other reproduced copies, including facsimiles and other electronically or computer-generated copies of typewritten or printed documents may be filed.

5. The document must be in the English language. A cooperative's name need not be in English if written in English letters or Arabic or Roman numerals. The articles, duly authenticated by the official having custody of the applicable records in the state or country under whose law the cooperative is formed, which are required of cooperatives, need not be in English if accompanied by a reasonably authenticated English translation.

6. The document must be executed by one of the following persons:

a. An officer of the cooperative, or if no officer has been selected, by any patron member of the cooperative.

b. If the cooperative has not been organized, by the organizers of the cooperative as provided in subchapter V.

c. If the cooperative is in the hands of a receiver, trustee, or other court-appointed fiduciary, that fiduciary.

7. The person executing the document shall sign the document and state beneath or opposite the person's signature, the person's name, and the capacity in which the person signs.

8. If, pursuant to any provision of this chapter, the secretary has prescribed a mandatory form for the document, the document shall be in or on the prescribed form.

9. The document must be delivered to the secretary for filing and must be accompanied by the correct filing fee as provided in this subchapter.

2005 Acts, ch 135, §4
Referred to in §501A.202, 501A.504

501A.201A Secretary of state — extra services — surcharge.

Upon the request of a filer of a document under this chapter, the secretary of state shall provide an extra filing service and assess a surcharge as provided in chapter 9, subchapter II.

2021 Acts, ch 165, §261
Referred to in §9.11

501A.202 Filing duty of secretary of state.

1. Except as provided in subsection 5, if a document delivered to the secretary of state for filing satisfies the requirements of section 501A.201, the secretary of state shall file it and issue any necessary certificate.

2. The secretary files a document by recording it as filed on the date and at the time of receipt. After filing a document, and except as provided in section 501A.204, the secretary shall deliver the document, and an acknowledgment of the date and time of filing, to the domestic cooperative or foreign cooperative or its representative.

3. If the secretary refuses to file a document, the secretary shall return it to the domestic cooperative or foreign cooperative or its representative within ten days after the document was received by the secretary, together with a brief, written explanation of the reason for the refusal.

4. The secretary's duty to file documents under this section is ministerial. Filing or refusing to file a document does not do any of the following:

a. Affect the validity or invalidity of the document in whole or in part.

b. Relate to the correctness or incorrectness of information contained in the document.

c. Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

5. *a.* The secretary of state may require a document to be delivered by mail or in person if

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the secretary of state receives credible information that the document is being submitted for filing fraudulently or may be used to accomplish a fraudulent, criminal, or unlawful purpose.

b. As used in paragraph *"a"*, *"credible information"* means any of the following:

(1) An affidavit of unauthorized use as provided in section 501A.231A.

(2) Information provided to the secretary of state by another government agency.

(3) Information collected by the secretary of state from a credible third-party data set.

2005 Acts, ch 135, §5; 2026 Acts, ch 1145, §39, 40
Subsection 1 amended
NEW subsection 5

501A.203 Effective time and date of documents.

1. Except as provided in subsection 2 and section 501A.204, subsection 3, a document accepted for filing is effective at the later of the following times:

a. At the time of filing on the date the document is filed, as evidenced by the secretary's date and time endorsement on the original document.

b. At the time specified in the document as its effective time on the date the document is filed.

2. A document may specify a delayed effective time and date, and if the document does so, the document becomes effective at the time and date specified. If a delayed effective date but no time is specified, the document is effective at the close of business on that date. A delayed effective date for a document shall not be later than the ninetieth day after the date the document is filed.

2005 Acts, ch 135, §6
Referred to in §501A.231

501A.204 Correcting filed documents.

1. A domestic cooperative or foreign cooperative may correct a document filed by the secretary if the document satisfies any of the following requirements:

a. Contains an incorrect statement.

b. Was defectively executed, attested, sealed, verified, or acknowledged.

2. A document is corrected by complying with all of the following:

a. By preparing articles of correction that satisfy all of the following requirements:

(1) Describe the document, including its filing date, or attach a copy of the document to the articles.

(2) Specify the incorrect statement and the reason the statement is incorrect or the manner in which the execution was defective.

(3) Correct the incorrect statement or defective execution.

b. By delivering the articles of correction to the secretary for filing.

3. Articles of correction are effective on the effective date of the document the articles correct, except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, articles of correction are effective when filed.

2005 Acts, ch 135, §7
Referred to in §9.14, 501A.202, 501A.203

501A.205 Fees.

1. The secretary shall collect the following fees when documents described in this subsection are delivered to the secretary's office for filing:

a. Articles of organization ..... $ 50

b. Application for use of indistinguishable name ..... $ 10

c. Application for reserved name ..... $ 10

d. Notice of transfer of reserved name ..... $ 10

e. Application for registered name per month or part thereof ..... $ 2

f. Application for renewal of registered name ..... $ 20

g. Statement of change of registered agent

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or registered office or both ..... No fee
h. Agent's statement of change of registered office for each affected cooperative ..... No fee
i. Agent's statement of resignation ..... No fee
j. Amendment of articles of organization..... $ 50
k. Restatement of articles of organization with amendment of articles ..... $ 50
l. Articles of merger ..... $ 50
m. Articles of dissolution ..... $ 5
n. Articles of revocation of dissolution ..... $ 5
o. Certificate of administrative dissolution ..... No fee
p. Application for reinstatement following administrative dissolution ..... $ 5
q. Certificate of reinstatement ..... No fee
r. Certificate of judicial dissolution ..... No fee
s. Application for certificate of authority $100
t. Application for amended certificate of authority $100
u. Application for certificate of cancellation ..... $ 10
v. Certificate of revocation of authority to transact business ..... No fee
w. Articles of correction ..... $ 5
x. Application for certificate of existence or authorization ..... $ 5
y. Any other document required or permitted to be filed by this chapter ..... $ 5

2. The secretary shall collect a fee of five dollars each time process is served on the secretary under this chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

3. The secretary shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic cooperative or foreign cooperative:

a. One dollar a page for copying.

b. Five dollars for the certificate.

2005 Acts, ch 135, §8
Referred to in §9.11, 501A.503

501A.206 Forms.

1. *a.* The secretary may prescribe and furnish on request forms, including but not limited to the following:

(1) An application for a certificate of existence.

(2) A foreign cooperative's application for a certificate of authority to transact business in this state.

(3) A foreign cooperative's application for a certificate of withdrawal.

b. If the secretary so requires, use of these listed forms prescribed by the secretary is mandatory.

2. The secretary may prescribe and furnish on request forms for other documents required or permitted to be filed by this chapter, but their use is not mandatory.

2005 Acts, ch 135, §9; 2012 Acts, ch 1023, §157

501A.207 Appeal from secretary of state's refusal to file document.

1. If the secretary refuses to file a document delivered to the secretary's office for filing, the domestic cooperative or foreign cooperative may appeal the refusal, within thirty days after the return of the document, to the district court for the county in which the cooperative's principal office or, if none in this state, where its registered office is or will be located. The

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appeal is commenced by petitioning the court to compel filing the document and by attaching to the petition the document and the secretary's explanation of the refusal to file.

2. The court may summarily order the secretary to file the document or take other action the court considers appropriate.

3. The court's final decision may be appealed as in other civil proceedings.

2005 Acts, ch 135, §10

501A.208 Evidentiary effect of copy of filed document.

A certificate attached to a copy of a document filed by the secretary, bearing the secretary's signature, which may be in facsimile, and the seal of the secretary, is conclusive evidence that the original document is on file with the secretary.

2005 Acts, ch 135, §11

501A.209 Certificate of existence.

1. Anyone may apply to the secretary to furnish a certificate of existence for a domestic cooperative or a certificate of authorization for a foreign cooperative.

2. A certificate of existence or certificate of authorization must set forth all of the following:

a. The domestic cooperative's name or the foreign cooperative's name used in this state.

b. That one of the following applies:

(1) If it is a domestic cooperative, that it is duly organized under the law of this state, the date of its organization, and the period of its duration.

(2) If it is a foreign cooperative, that it is authorized to transact business in this state.

c. That all fees required by this subchapter have been paid.

d. If it is a domestic cooperative, that articles of dissolution have not been filed.

e. Other facts of record in the office of the secretary that may be requested by the applicant.

3. Subject to any qualification stated in the certificate, a certificate of existence or certificate of authorization issued by the secretary may be relied upon as conclusive evidence that the domestic cooperative or foreign cooperative is in existence or is authorized to transact business in this state.

2005 Acts, ch 135, §12

501A.210 Penalty for signing false document.

1. A person commits an offense if that person signs a document the person knows is false in any material respect with intent that the document be delivered to the secretary for filing.

2. An offense under this section is a serious misdemeanor punishable by a fine of not to exceed one thousand dollars.

2005 Acts, ch 135, §13

501A.211 Secretary of state — powers.

The secretary has the power reasonably necessary to perform the duties required of the secretary by this chapter.

2005 Acts, ch 135, §14

PART 2

FOREIGN COOPERATIVES

501A.221 Certificate of authority.

A foreign cooperative may apply for a certificate of authority to transact business in this state by delivering an application to the secretary for filing. An application for registration as a foreign cooperative shall set forth all of the following:

1. The name of the foreign cooperative and, if different, the name under which the foreign cooperative proposes to register and transact business in this state.

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2. The state or other jurisdiction in which the foreign cooperative was formed and the date of its formation.

3. The street address of the registered office of the foreign cooperative in this state and the name of the registered agent at the office.

4. The address of the principal office, which is the office where the principal executive offices are located.

5. A certificate of existence or a document of similar import duly authenticated by the proper office of the state or other jurisdiction of its formation which is dated no earlier than ninety days prior to the date that the application is filed with the secretary.

2005 Acts, ch 135, §15
Referred to in §501.104

501A.222 Cancellation of certificate of authority.

1. A foreign cooperative may cancel its certificate of authority by delivering to the secretary for filing a certificate of cancellation which shall set forth all of the following:

a. The name of the foreign cooperative and the name of the state or other jurisdiction under whose jurisdiction the foreign cooperative was formed.

b. That the foreign cooperative is not transacting business in this state and that the foreign cooperative surrenders its registration to transact business in this state.

c. That the foreign cooperative revokes the authority of its registered agent to accept service on its behalf and appoints the secretary as its agent for service of process in any proceeding based on a cause of action arising during the time the foreign cooperative was authorized to transact business in this state.

d. A mailing address to which the secretary may mail a copy of any process served on the secretary under paragraph "*c*".

e. A commitment to notify the secretary in the future of any change in the mailing address of the foreign cooperative.

2. The certificate of authority shall be canceled upon the filing of the certificate of cancellation by the secretary.

2005 Acts, ch 135, §16

PART 3

REPORTS

501A.231 Biennial report for secretary of state.

1. A cooperative authorized to transact business in this state shall deliver to the secretary of state for filing a biennial report that sets forth all of the following:

a. The name of the cooperative.

b. The address of its registered office and the name of its registered agent at that office in this state, together with the consent of any new registered agent.

c. The address of its principal office.

d. The names and addresses of the president, secretary, treasurer, and one member of the board of directors.

2. Information in the biennial report must be current as of the first day of January of the year in which the report is due. The report shall be executed on behalf of the cooperative and signed as provided in section 501A.103 or by any other person authorized by the board of directors of the cooperative.

3. The first biennial report shall be delivered to the secretary of state between January 1 and April 1 of the first even-numbered year following the calendar year in which a cooperative is organized. Subsequent biennial reports shall be delivered to the secretary of state between January 1 and April 1 of the following even-numbered calendar years. A filing fee for the biennial report shall be determined by the secretary of state.

4. If a biennial report does not contain the information required by this section, the secretary of state shall promptly notify the reporting cooperative in writing and return the report to the cooperative for correction.

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5. The secretary of state may provide for the change of registered office or registered agent on the form prescribed by the secretary of state for the biennial report, provided that the form contains the information required by section 501A.402. If the secretary of state determines that a biennial report does not contain the information required by this section but otherwise meets the requirements of section 501A.402 for the purpose of changing the registered office or registered agent, the secretary of state shall file the statement of change of registered office or registered agent, effective as provided in section 501A.203, before returning the biennial report to the cooperative as provided in this section. A statement of change of registered office or agent pursuant to this subsection shall be executed by a person authorized to execute the biennial report.

2005 Acts, ch 135, §17; 2005 Acts, ch 179, §133
Referred to in §9.11

501A.231A Statement of removal — removal of information not authorized to be provided.

1. *a.* A person whose name, street address, mailing address, or email address has, without that person's authorization, been provided to the secretary of state as that of the registered agent or of the principal office in a cooperative filing may deliver to the secretary of state a notarized, sworn affidavit of unauthorized use that does all of the following:

(1) Identifies the cooperative registration by name and business number.

(2) Indicates the affiant's mailing address.

(3) States that neither the affiant nor any agent of the affiant has authorized the filing identifying the affiant as the registered agent, providing the affiant's street address or mailing address as an address of the registered agent or principal office, or providing the affiant's email address as that of the registered agent.

b. The affiant shall specify in the affidavit of unauthorized use the information that was not authorized to be provided.

c. The secretary of state may reject an affidavit of unauthorized use that is incomplete or that the secretary of state believes was delivered to the secretary of state with the intent to harass or defraud the cooperative or the individual named as affiant.

d. The office of the secretary of state shall adopt an affidavit of unauthorized use form in accordance with this section.

2. The secretary of state shall conduct an administrative review to determine whether the filing was authorized to identify the stated information as applicable.

3. If the secretary of state concludes that the filing was not authorized to provide the information identified in the affidavit, the secretary of state shall promptly file a statement of removal with respect to the identified information, and shall promptly cause the identified information to cease to be listed as identified for the cooperative.

4. The secretary of state shall not charge a fee for the filing of an affidavit of unauthorized use under subsection 1 or a statement of removal under subsection 3. The filing office shall not return any fee paid for filing the cooperative filing identified in the affidavit.

5. Upon filing a statement of removal, the secretary of state shall send to the principal office address or registered agent's mailing address on record for the cooperative, if any, a notice stating that the statement of removal has been filed and is effective immediately. The notice shall also state that the cooperative is without a registered agent or registered agent address, as applicable.

6. The secretary of state shall adopt rules pursuant to chapter 17A necessary or desirable to administer this section.

2026 Acts, ch 1145, §41
Referred to in §501A.202, 501A.231B
NEW section

501A.231B Interrogatories.

1. *a.* The secretary of state may serve one or more written interrogatories regarding any matter that pertains to a cooperative and that is within the purview of the secretary of state if the secretary of state receives credible information that a cooperative is being used to accomplish a fraudulent, criminal, or unlawful purpose.

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b. As used in paragraph *"a"*, *"credible information"* means any of the following:

(1) An affidavit of unauthorized use as provided in section 501A.231A.

(2) Information provided to the secretary of state by another government agency.

(3) Information collected by the secretary of state from a credible third-party data set.

2. The secretary of state shall serve such interrogatories on the cooperative that is the subject of the interrogatories by mail at the address of the registered agent that appears on the secretary of state's records at the time the information required by subsection 1 is received, or if the cooperative has no registered agent, at the cooperative's principal office address shown on the cooperative's most recent biennial report filed with the secretary of state.

3. The interrogatories must be answered by a person with the authority to answer on behalf of the cooperative that is the subject of the interrogatories. Each interrogatory must be answered in writing separately and in a manner that is responsive to the interrogatory. The declaration on the completed interrogatories form must be signed by a person with the authority to sign on behalf of the cooperative.

4. To be considered responsive, the completed and signed interrogatories form must be received by the secretary of state by mail or in-person delivery within twenty-one calendar days after the form was mailed.

5. A response to any interrogatory that indicates to the secretary of state that the cooperative violated any provision of this chapter constitutes the cooperative concession to such violation.

6. A failure to respond to any interrogatory within the allotted time constitutes the cooperative's concession that the cooperative violated a provision or provisions of this chapter that are the subjects of the interrogatories.

7. If the secretary of state receives a response to each interrogatory that indicates to the secretary of state that the cooperative has not violated any provision of this chapter, the secretary of state shall take no action.

8. The secretary of state shall adopt rules pursuant to chapter 17A necessary or desirable to administer this section.

2026 Acts, ch 1145, §42
NEW section

SUBCHAPTER III

NAMES

501A.301 Name.

1. A cooperative name must contain the word "cooperative", "coop", or the abbreviation "CP".

2. Except as authorized by subsections 3 and 4, a cooperative name must be distinguishable upon the records of the secretary from all of the following:

a. The name of a domestic cooperative, limited liability company, limited partnership, or corporation organized under the laws of this state or registered as a foreign cooperative, foreign limited liability company, foreign limited partnership, or foreign corporation in this state.

b. A name reserved in the manner provided under the laws of this state.

c. The fictitious name adopted by a foreign cooperative, foreign limited liability company, foreign limited partnership, or foreign corporation authorized to transact business in this state because its real name is unavailable.

d. The corporate name of a nonprofit corporation incorporated or authorized to transact business in this state.

3. A cooperative may apply to the secretary for authorization to use a name that is not distinguishable upon the secretary's records from one or more of the names described in subsection 2. The secretary shall authorize use of the name applied for if one of the following conditions applies:

a. The other entity consents to the use in writing and submits an undertaking in a form

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satisfactory to the secretary to change the entity's name to a name that is distinguishable upon the records of the secretary from the name of the applying cooperative.

b. The applicant delivers to the secretary a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

4. A cooperative may use the name, including the fictitious name, of another business entity that is used in this state if the other business entity is formed under the laws of this state or is authorized to transact business in this state and the proposed user cooperative meets one of the following conditions:

a. Has merged with the other business entity.

b. Has been formed by reorganization of the other business entity.

c. Has acquired all or substantially all of the assets, including the name, of the other business entity.

5. This chapter does not control the use of fictitious names; however, if a cooperative uses a fictitious name in this state, the cooperative shall deliver to the secretary for filing a certified copy of the resolution of the cooperative adopting the fictitious name.

2005 Acts, ch 135, §18

501A.302 Reserved name.

1. A person may reserve the exclusive use of a cooperative name, including a fictitious name for a foreign cooperative whose cooperative name is not available, by delivering an application to the secretary for filing. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the secretary finds that the cooperative name applied for is available, the secretary shall reserve the name for the applicant's exclusive use for a nonrenewable one-hundred-twenty-day period.

2. The owner of a reserved cooperative name may transfer the reservation to another person by delivering to the secretary a signed notice of the transfer that states the name and address of the transferee.

2005 Acts, ch 135, §19
Referred to in §9.11

SUBCHAPTER IV

REGISTERED OFFICE AND AGENT

501A.401 Registered office and registered agent.

A cooperative must continuously maintain in this state each of the following:

1. A registered office that may be the same as any of its places of business.

2. A registered agent who may be any of the following:

a. An individual who is a resident of this state and whose business office is identical with the registered office.

b. A cooperative, domestic corporation, domestic limited liability company, or not-for-profit domestic corporation whose business office is identical with the registered office.

c. A foreign cooperative, foreign corporation, foreign limited liability company, or not-for-profit foreign corporation authorized to transact business in this state whose business office is identical with the registered office.

2005 Acts, ch 135, §20
Referred to in §501A.402

501A.402 Change of registered office or registered agent.

1. A cooperative may change its registered office or registered agent by delivering to the secretary for filing a statement of change that sets forth the following:

a. The name of the domestic cooperative or foreign cooperative.

b. If the current registered office is to be changed, the street address of the new registered office.

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c. If the current registered agent is to be changed, the name of the new registered agent and the new agent's written consent, either on the statement or attached to the statement, to the appointment.

d. That after the change or changes are made, the street address of its registered office and the business office of its registered agent will be identical.

2. A statement of change shall forthwith be filed in the office of the secretary by a cooperative whenever its registered agent dies, resigns, or ceases to satisfy the requirements of section 501A.401.

3. If a registered agent changes the registered agent's business address to another place, the registered agent may change the business address and the address of the registered agent by filing a statement as required in subsection 1 for each cooperative, or a single statement for all cooperatives named in the notice, except that the statement need be signed only by the registered agent and need not be responsive to subsection 1, paragraph "*c*", and must recite that a copy of the statement has been mailed to each cooperative named in the notice.

4. The change of address of a registered office or the change of registered agent becomes effective upon the filing of such statement by the secretary.

2005 Acts, ch 135, §21
Referred to in §501A.231

501A.403 Resignation of registered agent — discontinuance of registered office — statement.

1. A registered agent may resign the agent's agency appointment by signing and delivering to the secretary for filing an original statement of resignation. The statement may include a statement that the registered office is also discontinued. The registered agent shall send a copy of the statement of resignation to the registered office, if not discontinued, and to the cooperative at its principal office. The agent shall certify to the secretary that the copy has been sent to the cooperative, including the date the copy was sent.

2. A statement of resignation takes effect on the earlier of the following:

a. 12:01 a.m. on the thirty-first day after the day on which it is filed with the secretary of state.

b. The designation of a new registered agent for the cooperative.

2005 Acts, ch 135, §22; 2020 Acts, ch 1058, §8

501A.404 Service on domestic cooperatives.

1. A domestic cooperative's registered agent is the cooperative's agent for service of process, notice, or demand required or permitted by law to be served on the cooperative.

2. If a cooperative has no registered agent, or the agent cannot with reasonable diligence be served, the cooperative may be served by registered mail or certified mail, return receipt requested, and addressed to the cooperative at its principal office. Service is perfected under this subsection at the earliest of any of the following:

a. The date the cooperative receives the mail.

b. The date shown on the return receipt for the registered mail or certified mail, return receipt requested, if signed on behalf of the cooperative.

c. Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

3. This section does not prescribe the only means, or necessarily the required means, of serving a domestic cooperative or foreign cooperative.

2005 Acts, ch 135, §23

501A.405 Service on foreign cooperative.

1. The registered agent of a foreign cooperative authorized to transact business in this state is the foreign cooperative's agent for service of process, notice, or demand required or permitted by law to be served on the foreign cooperative.

2. A foreign cooperative may be served by certified mail or restricted certified mail addressed to the foreign cooperative at its principal office shown in its application for a certificate of authority if the foreign cooperative meets any of the following conditions:

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a. Has no registered agent or its registered agent cannot with reasonable diligence be served.

b. Has withdrawn from transacting business in this state.

c. Has had its certificate of authority revoked.

3. Service is perfected under subsection 2 at the earliest of any of the following:

a. The date the foreign cooperative receives the mail.

b. The date shown on the return receipt for the restricted certified mail, if signed on behalf of the foreign cooperative.

c. Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

4. A foreign cooperative may also be served in any other manner permitted by law.

2005 Acts, ch 135, §24

SUBCHAPTER V

ORGANIZATION

Referred to in §501A.201

501A.501 Organizational purpose.

A cooperative may be formed and organized for any lawful purpose for the benefit of its members, including but not limited to any of the following purposes:

1. To store or market agricultural commodities, including crops and livestock.

2. To market, process, or otherwise change the form or marketability of agricultural commodities. The cooperative may provide for the manufacturing or processing of those commodities into products.

3. To accomplish other purposes that are necessary or convenient to facilitate the production or marketing of agricultural commodities or agricultural products by patron members, other patrons, and other persons, and for other purposes that are related to the business of the cooperative.

4. To provide products, supplies, and services to its patron members, other patrons, and others.

5. For any other purpose that a cooperative is authorized by law under chapter 499 or 501.

2005 Acts, ch 135, §25

Referred to in §501A.601

501A.502 Organizers.

1. *Qualification.* A cooperative may be organized by one or more organizers who shall be adult natural persons, and who may act for themselves as individuals or as the agents of other entities. The organizers forming the cooperative need not be members of the cooperative.

2. *Role of organizers.* If the first board of directors is not named in the articles of organization, the organizers may elect the first board or may act as directors with all of the powers, rights, duties, and liabilities of directors, until directors are elected or until a contribution is accepted, whichever occurs first.

3. *Meeting or written action.*

a. After the filing of articles of organization, the organizers or the directors named in the articles of organization shall either hold an organizational meeting at the call of a majority of the organizers or of the directors named in the articles, or take written action for the purposes of transacting business and taking actions necessary or appropriate to complete the organization of the cooperative, including but not limited to all of the following:

(1) Amending the articles.

(2) Electing directors.

(3) Adopting bylaws.

(4) Authorizing or ratifying the purchase, lease, or other acquisition of suitable space, furniture, furnishings, supplies, or materials.

(5) Adopting a fiscal year.

(6) Contracting to receive and accept contributions.

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(7) Making appropriate tax elections.

b. If a meeting is held, the person or persons calling the meeting shall give at least three days' notice of the meeting to each organizer or director named, stating the date, time, and place of the meeting. Organizers and directors may waive notice of an organizational meeting in the same manner that a director may waive notice of meetings of the board.

2005 Acts, ch 135, §26; 2012 Acts, ch 1023, §157

501A.503 Articles of organization.

1. *Requirements.*

a. The articles of organization for the cooperative shall include all of the following:

(1) The name of the cooperative.

(2) The purpose of the cooperative.

(3) The name and address of each organizer.

(4) The period of duration for the cooperative, if the duration is not to be perpetual.

(5) The street address of the cooperative's initial registered office and the name of its registered agent at that office.

b. The articles may contain any other lawful provision.

2. *Effect of filing.* When the articles of organization or an application for a certificate of authority has been filed pursuant to subchapter II and the required fee has been paid to the secretary under section 501A.205, all of the following shall be presumed:

a. All conditions precedent that are required to be performed by the organizers have been complied with.

b. The organization of the cooperative has been organized under the laws of this state as a separate legal entity.

c. The secretary will issue an acknowledgment to the cooperative.

2005 Acts, ch 135, §27; 2006 Acts, ch 1030, §53

Referred to in §501A.505

501A.504 Amendment of articles.

1. *Procedure.*

a. The articles of organization of a cooperative shall be amended only as follows:

(1) The board, by majority vote, must pass a resolution stating the text of the proposed amendment. The text of the proposed amendment and an attached ballot, if the board has provided for a mail ballot in the resolution, shall be mailed or otherwise distributed with a regular or special meeting notice to each member. If the board authorizes an alternative voting method, the text of the proposed amendment and explanation of how to cast a vote using the alternative voting method shall be distributed with the regular or special meeting notice to each member. The notice shall designate the time and place of the meeting for the proposed amendment to be considered and voted on.

(2) If a quorum of the members is registered as being present or represented at the meeting, the proposed amendment is adopted if any of the following occurs:

(a) If approved by a majority of the votes cast.

(b) For a cooperative with articles or bylaws requiring more than majority approval or other conditions for approval, the amendment is approved by a proportion of the votes cast or a number of total members as required by the articles or bylaws and the conditions for approval in the articles or bylaws have been satisfied.

b. After an amendment has been adopted by the members, the amendment must be signed by the chairperson, vice chairperson, records officer, or assistant records officer and a copy of the amendment filed in the office of the secretary.

2. *Certified statement.*

a. The board shall prepare a certified statement affirming that all of the following are true:

(1) The vote and meeting of the board adopting a resolution of the proposed amendment.

(2) The notice given to members of the meeting at which the amendment was adopted.

(3) The quorum registered at the meeting.

(4) The vote cast adopting the amendment.

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b. The certified statement shall be signed by the chairperson, vice chairperson, records officer, or financial officer and filed with the records of the cooperative.

3. *Amendment by directors.* A majority of directors may amend the articles if the cooperative does not have any members with voting rights.

4. *Filing.* An amendment of the articles shall be filed with the secretary as required in section 501A.201. The amendment is effective as provided in subchapter II. After an amendment to the articles of organization has been adopted and approved in the manner required by this chapter and by the articles of organization, the cooperative shall deliver to the secretary of state for filing articles of amendment which shall set forth all of the following:

a. The name of the cooperative.

b. The text of each amendment adopted.

c. The date of each amendment's adoption.

d. (1) If the amendment was adopted by the directors, a statement that the amendment was duly adopted in the manner required by this chapter and by the articles of organization and that members' adoption was not required.

(2) If an amendment required adoption by the members, a statement that the amendment was duly adopted by the members in the manner required by this chapter and by the articles of organization.

2005 Acts, ch 135, §28; 2006 Acts, ch 1010, §128; 2011 Acts, ch 23, §17, 18; 2012 Acts, ch 1021, §96

501A.505 Existence.

1. *Commencement.* The existence of a cooperative shall commence on or after the filing of articles of organization as provided in section 501A.503.

2. *Duration.* A cooperative shall have a perpetual duration unless the cooperative provides for a limited period of duration in the articles or the cooperative is dissolved as provided in subchapter XII.

2005 Acts, ch 135, §29

501A.506 Bylaws.

1. *Required.* A cooperative shall have bylaws governing the cooperative's business affairs, structure, the qualifications, classification, rights and obligations of members, and the classifications, allocations, and distributions of membership interests, which are not otherwise provided in the articles or by this chapter.

2. *Contents.*

a. If not stated in the articles, a cooperative's bylaws must state all of the following:

(1) The purpose of the cooperative.

(2) The capital structure of the cooperative to the extent not stated in the articles, including a statement of the classes and relative rights, preferences, and restrictions granted to or imposed upon each class of member interests, the rights to share in profits or distributions of the cooperative, and the authority to issue membership interests, which may be designated to be determined by the board.

(3) A provision designating the voting and governance rights, to the extent not stated in the articles, including which membership interests have voting power and any limitations or restrictions on the voting power, which shall be in accordance with the provisions of this chapter.

(4) A statement that patron membership interests with voting power shall be restricted to one vote for each member regardless of the amount of patron membership interests held in the affairs of the cooperative or a statement describing the allocation of voting power allocated as prescribed in this chapter.

(5) A statement that membership interests held by a member are transferable only with the approval of the board or as provided in the bylaws.

(6) If nonpatron membership interests are authorized, all of the following:

(a) A statement as to how profits and losses will be allocated and cash will be distributed

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between patron membership interests collectively and nonpatron membership interests collectively to the extent not stated in the articles.

(b) A statement that net income allocated to a patron membership interest as determined by the board in excess of dividends and additions to reserves shall be distributed on the basis of patronage.

(c) A statement that the records of the cooperative shall include patron membership interests and, if authorized, nonpatron membership interests, which may be further described in the bylaws of any classes and in the reserves.

b. The bylaws may contain any provision relating to the management or regulation of the affairs of the cooperative that are not inconsistent with law or the articles, and shall include all of the following:

(1) The number of directors and the qualifications, manner of election, powers, duties, and compensation, if any, of directors.

(2) The qualifications of members and any limitations on their number.

(3) The manner of admission, withdrawal, suspension, and expulsion of members.

(4) Generally, the governance rights, financial rights, assignability of governance and financial rights, and other rights, privileges, and obligations of members and their membership interests, which may be further described in member control agreements.

(5) Any provisions required by the articles to be in the bylaws.

3. *Adoption.*

a. Bylaws shall be adopted before any distributions to members, but if the articles or bylaws provide that rights of contributors to a class of membership interest will be determined in the bylaws, the bylaws must be adopted before the acceptance of any contributions to that class.

b. Subject to subsections 4, 5, and 6, the bylaws of a cooperative may be adopted or amended by the directors, or the members may adopt or amend bylaws at a regular or special members' meeting if all of the following apply:

(1) The notice of the regular or special meeting contains a statement that the bylaws or restated bylaws will be voted upon and copies are included with the notice, or copies are available upon request from the cooperative and a summary statement of the proposed bylaws or amendment is included with the notice.

(2) A quorum is registered as being present or represented by mail or alternative voting method if the mail or alternative voting method is authorized by the board.

(3) The bylaws or amendment is approved by a majority vote cast, or for a cooperative with articles or bylaws requiring more than majority approval or other conditions for approval, the bylaws or amendment is approved by a proportion of the vote cast or a number of the total members as required by the articles or bylaws and the conditions for approval in the articles or bylaws have been satisfied.

c. Until the next annual or special members' meeting, the majority of directors may adopt and amend bylaws for the cooperative that are consistent with subsections 4, 5, and 6, which may be further amended or repealed by the members at an annual or special members' meeting.

4. *Amendment of bylaws by board or members.*

a. The board may amend the bylaws at any time to add, change, or delete a provision, unless any of the following applies:

(1) This chapter, the articles, or the bylaws reserve the power exclusively to the members in whole or in part.

(2) A particular bylaw expressly prohibits the board from doing so.

b. Any amendment of the bylaws adopted by the board must be distributed to the members no later than ten days after adoption and the notice of the annual meeting of the members must contain a notice and summary or the actual amendments to the bylaws adopted by the board.

c. The members may amend the bylaws even though the bylaws may also be amended by the board.

5. *Bylaw changing quorum or voting requirement for members.*

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a. (1) The members may amend the bylaws to fix a greater quorum or voting requirement for members, or voting groups of members, than is required under this chapter.

(2) An amendment to the bylaws to add, change, or delete a greater quorum or voting requirement for members shall meet the same quorum requirement and be adopted by the same vote and voting groups required to take action under the quorum and voting requirements then in effect or proposed to be adopted, whichever is greater.

b. A bylaw that fixes a greater quorum or voting requirement for members under paragraph *"a"* shall not be adopted and shall not be amended by the board.

6. *Bylaw changing quorum or voting requirement for directors.*

a. A bylaw that fixes a greater quorum or voting requirement for the board may be amended by any of the following methods:

(1) If adopted by the members, only by the members.

(2) If adopted by the board, either by the members or by the board.

b. A bylaw adopted or amended by the members that fixes a greater quorum or voting requirement for the board may provide that the bylaw may be amended only by a specified vote of either the members or the board, but if the bylaw is to be amended by a specified vote of the members, the bylaw must be adopted by the same specified vote of the members.

c. Action by the board under paragraph *"a"*, subparagraph (2), to adopt or amend a bylaw that changes the quorum or voting requirement for the board shall meet the same quorum requirement and be adopted by the same vote required to take action under the quorum and voting requirement then in effect or proposed to be adopted, whichever is greater.

7. *Emergency bylaws.*

a. Unless otherwise provided in the articles or bylaws, the board may adopt bylaws to be effective only in an emergency as defined in paragraph *"d"*. The emergency bylaws, which are subject to amendment or repeal by the members, may include all provisions necessary for managing the cooperative during the emergency, including any of the following:

(1) Procedures for calling a meeting of the board.

(2) Quorum requirements for the meeting.

(3) Designation of additional or substitute directors.

b. All provisions of the regular bylaws consistent with the emergency bylaws shall remain in effect during the emergency. The emergency bylaws shall not be effective after the emergency ends.

c. All of the following shall apply to action taken in good faith in accordance with the emergency bylaws:

(1) The action binds the cooperative.

(2) The action shall not be the basis for imposition of liability on any director, officer, employee, or agent of the cooperative on the grounds that the action was not authorized cooperative action.

d. An emergency exists for the purposes of this section, if a quorum of the directors cannot readily be obtained because of some catastrophic event.

2005 Acts, ch 135, §30

Emergency powers, see §501A.602

501A.507 Cooperative records.

1. *Permanent records required to be kept.* A cooperative shall keep as permanent records minutes of all meetings of its members and of the board, a record of all actions taken by the members or the board without a meeting by a written unanimous consent in lieu of a meeting, and a record of all waivers of notices of meetings of the members and of the board.

2. *Accounting records.* A cooperative shall maintain appropriate accounting records.

3. *Format.* A cooperative shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

4. *Copies.* A cooperative shall keep a copy of each of the following records at its principal office:

a. Its articles and other governing instruments.

b. Its bylaws or other similar instruments.

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c. A record of the names and addresses of its members, in a form that allows preparation of an alphabetical list of members with each member's address.

d. The minutes of members' meetings, and records of all actions taken by members without a meeting by unanimous written consent in lieu of a meeting, for the past three years.

e. All written communications within the past three years to members as a group or to any class of members as a group.

f. A list of the names and business addresses of its current board members and officers.

g. All financial statements prepared for periods ending during the last fiscal year.

5. *Policy.* Except as otherwise limited by this chapter, the board of a cooperative shall have discretion to determine what records are appropriate for the purposes of the cooperative, the length of time records are to be retained, and policies relating to the confidentiality, disclosure, inspection, and copying of the records of the cooperative.

2005 Acts, ch 135, §31
Referred to in §501A.801

SUBCHAPTER VI

POWERS AND AUTHORITIES

501A.601 Powers.

1. *Generally.*

a. In addition to other powers, a cooperative as an agent or otherwise may do any of the following:

(1) Perform every act necessary or proper to the conduct of the cooperative's business or the accomplishment of the purposes of the cooperative.

(2) Enjoy other rights, powers, or privileges granted by the laws of this state to other cooperatives, except those that are inconsistent with the express provisions of this chapter.

(3) Have the powers provided in section 501A.501 and in this section.

b. This section does not give a cooperative the power or authority to exercise the powers of a credit union under chapter 533 or a bank under chapter 524.

2. *Dealing in products.* A cooperative may buy, sell, or deal in its own commodities or products or those of another person, including but not limited to those of its members, patrons, or nonmembers; or commodities or products of another cooperative organized under this chapter or another cooperative association organized under other law including a traditional cooperative, or members or patrons of such cooperatives or cooperative associations. A cooperative may negotiate the price at which its commodities or products may be sold.

3. *Contracts.* A cooperative may enter into or become a party to a contract or agreement for the cooperative or for the cooperative's members or patrons or between the cooperative and its members or patrons.

4. *Holding and transactions of real and personal property.*

a. A cooperative may purchase and hold, lease, mortgage, encumber, sell, exchange, and convey as a legal entity real, personal, and intellectual property, including real estate, buildings, personal property, patents, and copyrights as the business of the cooperative may require, including but not limited to the sale or other disposition of assets required by the business of the cooperative as determined by the board.

b. A cooperative may take, receive, and hold real or personal property, including the principal and interest of money or other negotiable instruments and rights in a contract, in trust for any purpose not inconsistent with the purposes of the cooperative in its articles or bylaws. The cooperative may exercise fiduciary powers in relation to taking, receiving, and holding the real or personal property. However, a cooperative's fiduciary powers do not include trust powers or trust services exercised for its members as provided in section 633.63 or chapter 524.

5. *Buildings.* A cooperative may erect buildings or other structures or facilities on

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the cooperative's owned or leased property or on a right-of-way legally acquired by the cooperative.

6. *Debt instruments.*

a. A cooperative may issue bonds, debentures, or other evidence of indebtedness, except as provided in subsection 1, paragraph *"b"*. The cooperative shall not issue bonds, debentures, or other evidence of indebtedness to a nonaccredited member, unless prior to issuance the cooperative provides the member with a written disclosure statement which includes a conspicuous notice that moneys are not insured or guaranteed by an agency or instrumentality of the United States government, and that the investment may lose value.

b. A cooperative may borrow money, may secure any of its obligations by mortgage of or creation of a security interest in or other encumbrances or assignment of all or any of its property, franchises, or income, and may issue guarantees for any legal purpose.

c. A cooperative may form special purpose business entities to secure assets of the cooperative.

7. *Advances to patrons.* A cooperative may make advances to its members or patrons on products delivered by the members or patrons to the cooperative.

8. *Deposits.* A cooperative may accept donations or deposits of money or real or personal property from other cooperatives or associations from which the cooperative is constituted.

9. *Borrowing, investment, and payment terms.* A cooperative may borrow money from its members, or cooperatives or associations from which the cooperative is constituted, with security that the cooperative considers sufficient. A cooperative may invest or reinvest its moneys. A cooperative may extend payment terms to its customers not exceeding six months from the date of the sale of the cooperative's goods or services. An extension of payment terms by the cooperative shall not be secured by real property. A cooperative may exercise rights as a lien creditor or judgment creditor to collect any past due or delinquent account which is owed to the cooperative.

10. *Pensions and benefits.* A cooperative may pay pensions, retirement allowances, and compensation for past services to and for the benefit of, and establish, maintain, continue, and carry out, wholly or partially at the expense of the cooperative, employee or incentive benefit plans, trusts, and provisions to or for the benefit of any or all of its and its related organizations' officers, managers, directors, governors, employees, and agents, and in the case of a related organization that is a cooperative, members who provide services to the cooperative, and any of their families, dependents, and beneficiaries. A cooperative may indemnify and purchase and maintain insurance for and on behalf of a fiduciary of any of these employee benefit and incentive plans, trusts, and provisions.

11. *Insurance.*

a. A cooperative may purchase and maintain insurance on behalf of a person who is or was a director, officer, employee, or agent of the cooperative and in which the cooperative has an insurable interest. The cooperative may also purchase and maintain insurance on the life of a member for the purpose of acquiring at the death of the member any or all membership interests in the cooperative owned by the member.

b. A cooperative or a foreign cooperative shall not sell, solicit, or negotiate in this state any line of insurance to members or nonmembers.

12. *Ownership interests in other entities.*

a. A cooperative may purchase, acquire, hold, or dispose of the ownership interests of another business entity or organize business entities whether organized under the laws of this state or another state or the United States and assume all rights, interests, privileges, responsibilities, and obligations arising out of the ownership interests, including a business entity organized as any of the following:

(1) As a federation of associations.

(2) For the purpose of forming a district, state, or national marketing sales or service agency.

(3) For the purpose of acquiring marketing facilities at terminal or other markets in this state or other states.

b. A cooperative may purchase, own, and hold ownership interests, including stock

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and other equity interests, memberships, interests in nonstock capital, and evidences of indebtedness of any domestic business entity or foreign business entity.

13. *Fiduciary powers.* A cooperative may exercise any and all fiduciary powers in relations with members, cooperatives, or business entities from which the cooperative is constituted. However, these fiduciary powers do not include trust powers or trust services for its members as provided in section 633.63 or chapter 524.

2005 Acts, ch 135, §32; 2006 Acts, ch 1010, §129; 2012 Acts, ch 1017, §98

501A.602 Emergency powers.

1. In anticipation of or during an emergency as defined in this section, the board may do any of the following:

a. Modify lines of succession to accommodate the incapacity of any director, officer, employee, or agent.

b. Relocate the principal office, designate alternative principal offices or regional offices, or authorize the officers to do so.

2. During an emergency, unless emergency bylaws provide otherwise, all of the following apply:

a. A notice of a meeting of the board need be given only to those directors to whom it is practicable to reach and may be given in any practicable manner, including by publication or radio.

b. One or more officers of the cooperative present at a meeting of the board may be deemed to be directors for the meeting, in order of rank and within the same rank in order of seniority, as necessary to achieve a quorum.

3. All of the following apply to cooperative action taken in good faith during an emergency under this section to further the ordinary business affairs of the cooperative:

a. The action binds the cooperative.

b. The action shall not be the basis for the imposition of liability on any director, officer, employee, or agent of the cooperative on the grounds that the action was not an authorized cooperative action.

4. An emergency exists for purposes of this section if a quorum of the directors cannot readily be obtained because of a catastrophic event.

2005 Acts, ch 135, §33

Emergency bylaws, see §501A.506

501A.603 Agricultural commodities and products — marketing contracts.

1. *Authority.* A cooperative and its patron member or patron may make and execute a marketing contract, requiring the patron member or patron to sell a specified portion of the patron member's or patron's agricultural commodity or product or specified commodity or product produced from a certain area exclusively to or through the cooperative or facility established by the cooperative.

2. *Title to commodities or products.* If a sale is contracted to the cooperative, the sale shall transfer title to the commodity or product absolutely, except for a recorded lien or security interest against the agricultural commodity or product of the patron member or patron as provided in article 9 of chapter 554, and provisions in Title XIV, subtitle 3, governing agricultural liens, and liens granted against farm products under federal law, to the cooperative on delivery of the commodity or product or at another specified time if expressly provided in the contract. The contract may allow the cooperative to sell or resell the commodity or product of its patron member or patron with or without taking title to the commodity or product, and pay the resale price to the patron member or patron, after deducting all necessary selling, overhead, and other costs and expenses, including other proper reserves and interest.

3. *Term of contract.* A single term of a marketing contract shall not exceed ten years, but a marketing contract may be made self-renewing for periods not exceeding five years each, subject to the right of either party to terminate by giving written notice of the termination during a period of the current term as specified in the contract.

4. *Damages for breach of contract.* The cooperative's bylaws or marketing contract in

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which the cooperative is a party may set a specific sum as liquidated damages to be paid by the patron member or patron to the cooperative for breach of any provision of the marketing contract regarding the sale or delivery or withholding of a commodity or product and may provide that the patron member or patron shall pay the costs, premiums for bonds, expenses, and fees if an action is brought on the contract by the cooperative. The remedies for breach of contract are valid and enforceable in the courts of this state. The provisions shall be enforced as liquidated damages and are not considered a penalty.

5. *Injunction against breach of contract.* If there is a breach or threatened breach of a marketing contract by a patron member or patron, the cooperative is entitled to an injunction to prevent the further breach of the contract and to a decree of specific performance of the contract. Pending the adjudication of the action after filing a complaint showing the breach or threatened breach and filing a sufficient bond, the cooperative is entitled to a temporary restraining order and preliminary injunction against the patron member or patron.

6. *Penalties for contract interference.* A person who knowingly induces or attempts to induce any patron member or patron of a cooperative organized under this chapter to breach a marketing contract with the cooperative is guilty of a simple misdemeanor.

7. *Civil damages for contract interference.* In addition to the penalty provided in subsection 6, the person may be liable to the cooperative for civil damages for any violation of that subsection.

2005 Acts, ch 135, §34; 2006 Acts, ch 1030, §54

SUBCHAPTER VII

DIRECTORS — LIABILITY AND INDEMNIFICATION — OFFICERS

PART 1

DIRECTORS

501A.701 Board governs cooperative.

A cooperative shall be governed by its board of directors, which shall take all action for and on behalf of the cooperative, except those actions reserved or granted to members. Board action shall be by the affirmative vote of a majority of the directors voting at a duly called meeting unless a greater majority is required by the articles or bylaws. A director individually or collectively with other directors does not have authority to act for or on behalf of the cooperative unless authorized by the board. A director may advocate interests of members or member groups to the board, but the fiduciary duty of each director is to represent the best interests of the cooperative and all members collectively.

2005 Acts, ch 135, §35

501A.702 Number of directors.

The board shall not have less than five directors, except that a cooperative with fifty or fewer members may have three or more directors as prescribed in the cooperative's articles or bylaws.

2005 Acts, ch 135, §36

501A.703 Election of directors.

1. *First board.* The organizers shall elect and obtain the acknowledgment of the first board to serve until directors are elected by members. Until election by members, the first board shall appoint directors to fill any vacancies.

2. *Generally.*

a. Directors shall be elected for the term, at the time, and in the manner provided in this section and the bylaws.

b. A majority of the directors shall be members and a majority of the directors shall be

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elected exclusively by the members holding patron membership interests unless otherwise provided in the articles or bylaws.

c. The voting power of the directors may be allocated according to equity classifications or allocation units of the cooperative. If the cooperative authorizes nonpatron membership interests, one of the following must apply:

(1) At least one-half of the voting power on matters of the cooperative that are not specific to equity classifications or allocation units shall be allocated to the directors elected by members holding patron membership interests.

(2) The directors elected by the members holding patron membership interests shall have at least an equal voting power or shall not have a minority voting power on general matters of the cooperative that are not specific to equity classifications or allocation units.

d. A director holds office for the term the director was elected and until a successor is elected and has qualified, or until the earlier death, resignation, removal, or disqualification of the director.

e. The expiration of a director's term with or without election of a qualified successor does not make the prior or subsequent acts of the director or the board void or voidable.

f. Subject to any limitation in the articles or bylaws, the board may set the compensation of directors.

g. Directors may be divided into or designated and elected by class or other distinction as provided in the articles or bylaws.

h. A director may resign by giving written notice to the chairperson of the board or the board. The resignation is effective without acceptance when the notice is given to the chairperson of the board or the board unless a later effective time is specified in the notice.

3. *Election at regular meeting.* Directors shall be elected at the regular members' meeting for the terms of office prescribed in the bylaws. Except for directors elected at district meetings or special meetings to fill a vacancy, all directors shall be elected at the regular members' meeting. There shall be no cumulative voting for directors except as provided in this chapter and the articles or bylaws.

4. *District or local unit election of directors.* For a cooperative with districts or other units, members may elect directors on a district or unit basis if provided in the bylaws. The directors may be nominated or elected at district meetings if provided in the bylaws. Directors who are nominated at district meetings shall be elected at the annual regular members' meeting by vote of the entire membership, unless the bylaws provide that directors who are nominated at district meetings are to be elected by vote of the members of the district, at the district meeting or the annual regular members' meeting.

5. *Vote by ballot or alternative voting method.* The following shall apply to voting by ballot or alternative voting method:

a. A member shall not vote for a director other than by being present at a meeting, by mail ballot, or by alternative voting method, as authorized by the board.

b. The ballot shall be in a form prescribed by the board.

c. The member shall mark the ballot for the candidate chosen and mail the ballot to the cooperative in a sealed plain envelope inside another envelope bearing the member's name, or the member shall vote by designating the candidate chosen by an alternative voting method in the manner prescribed by the board.

d. If the ballot of the member is received by the cooperative on or before the date of the regular members' meeting or as otherwise prescribed for an alternative voting method, the ballot or alternative voting method shall be accepted and counted as the vote of the absent member.

6. *Business entity members may nominate persons for director.* If a member of a cooperative is not a natural person, and the bylaws do not provide otherwise, the member may appoint or elect one or more natural persons to be eligible for election as a director.

7. *Term.* A director holds office for the term the director was elected and until a successor is elected and has qualified, or the earlier death, resignation, removal, or disqualification of the director.

8. *Acts not void or voidable.* The expiration of a director's term with or without the

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election of a qualified successor does not make prior or subsequent acts of the director void or voidable.

9. *Compensation.* Subject to any limitation in the articles or bylaws, the board may fix the compensation of the directors.

10. *Classification.* Directors may be divided into classes as provided in the articles or bylaws.

2005 Acts, ch 135, §37; 2006 Acts, ch 1030, §55; 2011 Acts, ch 23, §19; 2011 Acts, ch 131, §69, 158

501A.704 Filling vacancies.

1. *Patron directors.* If a patron member director's position becomes vacant or a new director position is created for a director that was or is to be elected by patron members, the board, in consultation with the directors elected by patron members, shall appoint a patron member of the cooperative to fill the director's position until the next regular or special members' meeting. If there are no directors elected by patron members on the board at the time of the vacancy, a special patron members' meeting shall be called to fill the patron member director vacancy.

2. *Nonpatron directors.* If the vacating director was not elected by the patron members or a new director position is created, unless otherwise provided in the articles or bylaws, the board shall appoint a director to fill the vacant position by majority vote of the remaining or then serving directors even though less than a quorum. At the next regular or special members' meeting, the members or patron members shall elect a director to fill the unexpired term of the vacant director's position.

2005 Acts, ch 135, §38

501A.705 Removal of directors.

1. *Modification.* The provisions of this section apply unless modified by the articles or the bylaws.

2. *Removal of directors.* A director may be removed at any time, with or without cause, if all of the following apply:

a. The director was named by the board to fill a vacancy.

b. The members have not elected directors in the interval between the time of the appointment to fill a vacancy and the time of the removal.

c. A majority of the remaining directors present affirmatively vote to remove the director.

3. *Removal by members.* Any one or all of the directors may be removed at any time, with or without cause, by the affirmative vote of the holders of a majority of the voting power of membership interests entitled to vote at an election of directors, provided that if a director has been elected solely by the patron members or the holders of a class or series of membership interests as stated in the articles or bylaws, then that director may be removed only by the affirmative vote of the holders of a majority of the voting power of the patron members for a director elected by the patron members or of all membership interests of that class or series entitled to vote at an election of that director.

4. *Election of replacements.* New directors may be elected at a meeting at which directors are removed.

2005 Acts, ch 135, §39

501A.706 Board of directors' meetings.

1. *Time and place.* Meetings of the board may be held from time to time as provided in the articles or bylaws at any place within or without the state that the board may select or by any means described in subsection 2. If the board fails to select a place for a meeting, the meeting must be held at the principal executive office, unless the articles or bylaws provide otherwise.

2. *Electronic communications.*

a. A conference among directors by any means of communication through which the directors may simultaneously hear each other during the conference constitutes a board meeting, if the same notice is given of the conference as would be required by subsection

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3 for a meeting, and if the number of directors participating in the conference would be sufficient to constitute a quorum at a meeting. Participation in a meeting by that means constitutes presence in person at the meeting.

b. A director may participate in a board meeting not described in paragraph *"a"* by any means of communication through which the director, other directors so participating, and all directors physically present at the meeting may simultaneously hear each other during the meeting. Participation in a meeting by that means constitutes presence in person at the meeting.

3. *Calling meetings and notice.* Unless the articles or bylaws provide for a different time period, a director may call a board meeting by giving at least ten days' notice or, in the case of organizational meetings, at least three days' notice to all directors of the date, time, and place of the meeting. The notice need not state the purpose of the meeting unless this chapter, the articles, or the bylaws require it.

4. *Previously scheduled meetings.* If the day or date, time, and place of a board meeting have been provided in the articles or bylaws, or announced at a previous meeting of the board, no notice is required. Notice of an adjourned meeting need not be given other than by announcement at the meeting at which adjournment is taken.

5. *Waiver of notice.* A director may waive notice of a meeting of the board. A waiver of notice by a director entitled to notice is effective whether given before, at, or after the meeting, and whether given in writing, orally, or by attendance. Attendance by a director at a meeting is a waiver of notice of that meeting, except where the director objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened and does not participate in the meeting after the objection.

6. *Absent directors.* If the articles or bylaws so provide, a director may give advance written consent or opposition to a proposal to be acted on at a board meeting. If the director is not present at the meeting, consent or opposition to a proposal does not constitute presence for purposes of determining the existence of a quorum, but consent or opposition must be counted as the vote of a director present at the meeting in favor of or against the proposal and must be entered in the minutes or other record of action at the meeting, if the proposal acted on at the meeting is substantially the same or has substantially the same effect as the proposal to which the director has consented or objected.

2005 Acts, ch 135, §40

501A.707 Quorum.

A majority, or a larger or smaller portion or number provided in the articles or bylaws, of the directors currently holding office is a quorum for the transaction of business. In the absence of a quorum, a majority of the directors present may adjourn a meeting from time to time until a quorum is present. If a quorum is present when a duly called or held meeting is convened, the directors present may continue to transact business until adjournment, even though the withdrawal of a number of directors originally present leaves less than the proportion of number otherwise required for a quorum.

2005 Acts, ch 135, §41

501A.708 Action of board of directors.

1. Except as provided in subsection 2, the board shall only take action at a duly held meeting by the affirmative vote of any of the following:

a. A majority of directors present at the meeting.

b. A majority of the directors' voting power present at the meeting.

2. The articles or bylaws may require the affirmative vote of a larger vote than provided in subsection 1. If the articles or bylaws require a larger vote than is required by this chapter for a particular action, the articles or bylaws control.

2005 Acts, ch 135, §42

501A.709 Action without a meeting.

1. *Method.* An action required or permitted to be taken at a board meeting may be taken by written action signed by all of the directors. If the articles or bylaws so provide, any action,

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other than an action requiring member approval, may be taken by written action signed by the number of directors that would be required to take the same action at a meeting of the board at which all directors were present.

2. *Effective time.* The written action is effective when signed by the required number of directors, unless a different effective time is provided in the written action.

3. *Notice and liability.* When written action is permitted to be taken by less than all directors, all directors must be notified immediately of its text and effective date. Failure to provide the notice does not invalidate the written action. A director who does not sign or consent to the written action has no liability for the action or actions taken by the written action.

2005 Acts, ch 135, §43

501A.710 Audit committee.

The board shall establish an audit committee to review the financial information and accounting report of the cooperative. The cooperative shall have the financial information audited for presentation to the members unless the cooperative's bylaws allow financial statements that are not audited and the financial statements clearly state that they are not audited and the difference between the financial statements and audited financial statements that are prepared according to generally accepted accounting procedures. The directors shall elect members to the audit committee. The audit committee shall ensure an independent review of the cooperative's finances and audit.

2005 Acts, ch 135, §44

501A.711 Committees.

1. *Generally.* A resolution approved by the affirmative vote of a majority of the board may establish committees having the authority of the board in the management of the business of the cooperative only to the extent provided in the resolution. Committees may include a special litigation committee consisting of one or more independent directors or other independent persons to consider legal rights or remedies of the cooperative and whether those rights and remedies should be pursued. Committees other than special litigation committees are subject at all times to the direction and control of the board.

2. *Membership.* Committee members must be natural persons. Unless the articles or bylaws provide for a different membership or manner of appointment, a committee consists of one or more persons, who need not be directors, appointed by affirmative vote of a majority of the directors present.

3. *Procedure.* The procedures for meetings of the board apply to committees and members of committees to the same extent as those sections apply to the board and individual directors.

4. *Minutes.* Minutes, if any, of committee meetings must be made available upon request to members of the committee and to any director.

5. *Standard of conduct.* The establishment of, delegation of authority to, and action by a committee does not alone constitute compliance by a director with the standard of conduct set forth in section 501A.712.

6. *Committee members considered directors.* Committee members are considered to be directors for purposes of sections 501A.712, 501A.713, and 501A.715.

2005 Acts, ch 135, §45

501A.712 Standard of conduct.

1. *Standard and liability.* A director shall discharge the duties of the position of director in good faith, in a manner the director reasonably believes to be in the best interests of the cooperative, and with the care an ordinarily prudent person in a like position would exercise under similar circumstances. A person who so performs those duties is not liable by reason of being or having been a director of the cooperative.

2. *Reliance.*

a. A director is entitled to rely on information, opinions, reports, or statements, including

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financial statements and other financial data, in each case prepared or presented by any of the following:

(1) One or more officers or employees of the cooperative whom the director reasonably believes to be liable and competent in the matters presented.

(2) Counsel, public accountants, or other persons as to matters that the director reasonably believes are within the person's professional or expert competence.

(3) A committee of the board upon which the director does not serve, duly established by the board, as to matters within its designated authority, if the director reasonably believes the committee to merit confidence.

b. Paragraph *"a"* does not apply to a director who has knowledge concerning the matter in question that makes the reliance otherwise permitted by paragraph *"a"* unwarranted.

3. *Presumption of assent and dissent.* A director who is present at a meeting of the board when an action is approved by the affirmative vote of a majority of the directors present is presumed to have assented to the action approved, unless any of the following applies:

a. The director objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened and does not participate in the meeting after the objection, in which case the director is not considered to be present at the meeting for any purpose of this chapter.

b. The director votes against the action at the meeting.

c. The director is prohibited by a conflict of interest from voting on the action.

4. *Considerations.* In discharging the duties of the position of director, a director may, in considering the best interests of the cooperative, consider the interests of the cooperative's employees, customers, suppliers, and creditors, the economy of the state, and long-term as well as short-term interests of the cooperative and its patron members, including the possibility that these interests may be best served by the continued independence of the cooperative.

2005 Acts, ch 135, §46
Referred to in §501A.711

501A.713 Director conflicts of interest.

1. *Conflict and procedure when conflict arises.*

a. A contract or other transaction between a cooperative and one or more of its directors, or between a cooperative and a business entity in or of which one or more of its directors are governors, directors, managers, officers, or legal representatives or have a material financial interest, is not void or voidable because the director or directors or the other business entities are parties or because the director or directors are present at the meeting of the members or the board or a committee at which the contract or transaction is authorized, approved, or ratified, if any of the following applies:

(1) The contract or transaction was, and the person asserting the validity of the contract or transaction sustains the burden of establishing that the contract or transaction was, fair and reasonable as to the cooperative at the time it was authorized, approved, or ratified and all of the following apply:

(a) The material facts as to the contract or transaction and as to the director's or directors' interest are disclosed or known to the members.

(b) The material facts as to the contract or transaction and as to the director's or directors' interest are fully disclosed or known to the board or a committee, and the board or committee authorizes, approves, or ratifies the contract or transaction in good faith by a majority of the board or committee, but the interested director or directors are not counted in determining the presence of a quorum and must not vote.

(2) The contract or transaction is a distribution, contract, or transaction that is made available to all members or patron members as part of the cooperative's business.

b. If a committee is elected or appointed to authorize, ratify, or approve a contract or transaction under this section, the members of the committee must not have a conflict of interest and must be charged with representing the best interests of the cooperative.

2. *Material financial interest.* For purposes of this section, all of the following apply:

a. A resolution fixing the compensation of a director or fixing the compensation of another

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director as a director, officer, employee, or agent of the cooperative is not void or voidable or considered to be a contract or other transaction between a cooperative and one or more of its directors for purposes of this section even though the director receiving the compensation fixed by the resolution is present and voting at the meeting of the board or a committee at which the resolution is authorized, approved, or ratified or even though other directors voting upon the resolution are also receiving compensation from the cooperative.

b. A director has a material financial interest in each organization in which the director or a family member of the director has a material financial interest. A contract or other transaction between a cooperative and a family member of a director is considered to be a transaction between the cooperative and the director. A family member of a director includes the spouse, parents, children and spouses of children, brothers and sisters and spouses of brothers and sisters, and the brothers and sisters of the spouse of the director or any combination of them.

2005 Acts, ch 135, §47
Referred to in §501A.711

PART 2

LIABILITY AND INDEMNIFICATION OF PARTIES

501A.714 Limitation of liability of directors, officers, employees, members, and volunteers.

Except as otherwise provided in this chapter, a director, officer, employee, or member of the cooperative is not liable for the cooperative's debts or obligations, and a director, officer, member, or other volunteer is not personally liable in that capacity for a claim based upon any action taken, or any failure to take action in the discharge of the person's duties, except for the amount of a financial benefit received by the person to which the person is not entitled, an intentional infliction of harm to the cooperative or its members or patrons, or an intentional violation of criminal law.

2005 Acts, ch 135, §48
Referred to in §501A.715

501A.715 Indemnification.

1. *Definitions.* As used in this section, all of the following apply:

a. "Official capacity" means any of the following:

(1) With respect to a director, the position of director in a cooperative.

(2) With respect to a person other than a director, the elective or appointive office or position held by the person, member of a committee of the board, the employment relationship undertaken by an employee of the cooperative, or the scope of the services provided by members of the cooperative who provide services to the cooperative.

(3) With respect to a director, chief executive officer, member, or employee of the cooperative who, while a director, chief executive officer, or member or employee of the cooperative, is or was serving at the request of the cooperative or whose duties in that position involve or involved service as a governor, director, manager, officer, member, partner, trustee, employee, or agent of another organization or employee benefit plan, the position of that person as a governor, director, manager, officer, member, partner, trustee, employee, or agent, as the case may be, of the other organization or employee benefit plan.

b. "Predecessor entity" includes a domestic cooperative or foreign cooperative that was the predecessor of the cooperative referred to in this section in a merger or other transaction in which the predecessor entity's existence ceased upon consummation of the transaction.

c. "Proceeding" means a threatened, pending, or completed civil, criminal, administrative, arbitration, or investigative proceeding, including a proceeding by or in the right of the cooperative.

d. "Special legal counsel" means counsel who has not represented the cooperative or

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a related organization, or a director, manager, member of a committee of the board, or employee whose indemnification is in issue.

2. *Indemnification.*

a. Subject to the provisions of subsection 4, a cooperative shall indemnify a person made or threatened to be made a party to a proceeding by reason of the former or present official capacity of the person against judgments, penalties, and fines, including, without limitation, excise taxes assessed against the person with respect to an employee benefit plan, settlements, and reasonable expenses, including attorney fees and disbursements incurred by the person in connection with the proceeding, if, with respect to the acts or omissions of the person complained of in the proceeding, any of the following applies:

(1) All of the following apply:

(a) The person has not been indemnified by another organization or employee benefit plan for the same judgments, penalties, fines, including, without limitation, excise taxes assessed against the person with respect to an employee benefit plan, settlements, and reasonable expenses, including attorney fees and disbursements incurred by the person in connection with the proceeding with respect to the same acts or omissions.

(b) The person acted in good faith.

(c) The person has not received an improper personal benefit.

(d) The person has not committed an act for which liability can be eliminated or limited under section 501A.714.

(e) In the case of a criminal proceeding, the person had no reasonable cause to believe the conduct was unlawful.

(2) (a) In the case of an act or omission occurring in the official capacity described in subsection 1, paragraph *"a"*, subparagraph (1) or (2), the person reasonably believed that the conduct was in the best interests of the cooperative.

(b) In the case of an act or omission occurring in the official capacity described in subsection 1, paragraph *"a"*, subparagraph (3), the person reasonably believed that the conduct was not opposed to the best interests of the cooperative. If the person's acts or omissions complained of in the proceeding relate to conduct as a director, officer, trustee, employee, or agent of an employee benefit plan, the conduct is not considered to be opposed to the best interests of the cooperative if the person reasonably believed that the conduct was in the best interests of the participants or beneficiaries of the employee benefit plan.

b. The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent does not, of itself, establish that the person did not meet the criteria set forth in this subsection.

3. *Advances.*

a. Subject to the provisions of subsection 4, if a person is made or threatened to be made a party to a proceeding, the person is entitled, upon written request to the cooperative, to payment or reimbursement by the cooperative of reasonable expenses, including attorney fees and disbursements incurred by the person in advance of the final disposition of the proceeding, as follows:

(1) Upon receipt by the cooperative of a written affirmation by the person of a good-faith belief that the criteria for indemnification set forth in subsection 2 have been satisfied, and a written undertaking by the person to repay all amounts paid or reimbursed by the cooperative, if it is ultimately determined that the criteria for indemnification have not been satisfied.

(2) After a determination that the facts then known to those making the determination would not preclude indemnification under this section.

b. The written undertaking required by this subsection is an unlimited general obligation of the person making it, but need not be secured and shall be accepted without reference to financial ability to make the repayment.

4. *Prohibition or limit on indemnification or advances.* The articles or bylaws either may prohibit indemnification or advances of expenses otherwise required by this section or may impose conditions on indemnification or advances of expenses in addition to the conditions contained in subsection 2 or 3, including, without limitation, monetary limits on indemnification or advances of expenses if the conditions apply equally to all persons or to all persons within a given class. A prohibition or limit on indemnification or advances of

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expenses shall not apply to or affect the right of a person to indemnification or advances of expenses with respect to any acts or omissions of the person occurring before the effective date of a provision in the articles or the date of adoption of a provision in the bylaws establishing the prohibition or limit on indemnification or advances of expenses.

5. *Reimbursement to witnesses.* This section does not require, or limit the ability of, a cooperative to reimburse expenses, including attorney fees and disbursements incurred by a person in connection with an appearance as a witness in a proceeding at a time when the person has not been made or threatened to be made a party to a proceeding.

6. *Determination of eligibility.*

a. All determinations whether indemnification of a person is required because the criteria set forth in subsection 2 have been satisfied and whether a person is entitled to payment or reimbursement of expenses in advance of the final disposition of a proceeding as provided in subsection 3 must be made as follows:

(1) By the board by a majority of a quorum, if the directors who are, at the time, parties to the proceeding are not counted for determining either a majority or the presence of a quorum.

(2) If a quorum under subparagraph (1) cannot be obtained, by a majority of a committee of the board consisting solely of two or more directors not at the time parties to the proceeding duly designated to act in the matter by a majority of the full board, including directors who are parties.

(3) If a determination is not made under subparagraph (1) or (2), by special legal counsel selected either by a majority of the board or a committee by vote under subparagraph (1) or (2), or if the requisite quorum of the full board cannot be obtained and the committee cannot be established, by a majority of the full board, including directors who are parties.

(4) If a determination is not made under subparagraphs (1) through (3), by the affirmative vote of the members, but the membership interests held by parties to the proceeding must not be counted in determining the presence of a quorum and are not considered to be present and entitled to vote on the determination.

(5) If an adverse determination is made under subparagraphs (1) through (4) or paragraph *"b"* or if a determination is not made under subparagraphs (1) through (4) or paragraph *"b"* within sixty days either after the later to occur of the termination of a proceeding or a written request for indemnification to the cooperative, or a written request for an advance of expenses, as the case may be, by a court in this state, which may be the same court in which the proceeding involving the person's liability took place upon application of the person and any notice the court requires. The person seeking indemnification or payment or reimbursement of expenses under this subparagraph has the burden of establishing that the person is entitled to indemnification or payment or reimbursement of expenses.

b. With respect to a person who is not, and was not at the time of the act or omission complained of in the proceedings, a director, chief executive officer, or person possessing, directly or indirectly, the power to direct or cause the direction of the management or policies of the cooperative, the determination whether indemnification of this person is required because the criteria set forth in subsection 2 have been satisfied and whether such person is entitled to payment or reimbursement of expenses in advance of the final disposition of a proceeding as provided in subsection 3 may be made by an annually appointed committee of the board, having at least one member who is a director. The committee shall report at least annually to the board concerning its actions.

7. *Insurance.* A cooperative may purchase and maintain insurance on behalf of a person in that person's official capacity against any liability asserted against and incurred by the person in or arising from that capacity, whether or not the cooperative would have been required to indemnify the person against the liability under the provisions of this section.

8. *Disclosure.* A cooperative that indemnifies or advances expenses to a person in accordance with this section in connection with a proceeding by or on behalf of the cooperative shall report to the members in writing the amount of the indemnification or advance and to whom and on whose behalf it was paid not later than the next meeting of members.

9. *Indemnification of other persons.* Nothing in this section must be construed to limit the

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power of the cooperative to indemnify persons other than a director, chief executive officer, member, employee, or member of a committee of the board of the cooperative by contract or otherwise.

2005 Acts, ch 135, §49; 2006 Acts, ch 1010, §130; 2006 Acts, ch 1030, §56, 85, 89; 2012 Acts, ch 1023, §99, 157

Referred to in §501A.711

PART 3

OFFICERS

501A.716 Officers.

1. *Required officers.*

a. The board shall elect all of the following:

(1) A chairperson.

(2) One or more vice chairpersons.

b. The board shall elect or appoint all of the following:

(1) A records officer.

(2) A financial officer.

c. The officers, other than the chief executive officer, shall not have the authority to bind the cooperative except as authorized by the board.

2. *Additional officers.* The board may elect additional officers as the articles or bylaws authorize or require.

3. *Records officer and financial officer may be combined.* The offices of records officer and financial officer may be combined.

4. *Officers that must be members.* The chairperson and first vice chairperson shall be directors and members. The financial officer, records officer, and additional officers need not be directors or members.

5. *Chief executive officer.* The board may employ a chief executive officer to manage the day-to-day affairs and business of the cooperative, and if a chief executive officer is employed, the chief executive officer shall have the authority to implement the functions, duties, and obligations of the cooperative except as restricted by the board. The chief executive officer shall not exercise authority reserved to the board or the members under this chapter, the articles, or the bylaws.

2005 Acts, ch 135, §50

SUBCHAPTER VIII

MEMBERS — PROPERTY — OWNERSHIP INTERESTS

PART 1

MEMBERS

501A.801 Members.

1. *Requirement.* A cooperative shall have one or more patron members.

2. *Grouping of members.*

a. A cooperative may group members and patron members in districts, units, or on another basis if and as authorized in its articles or bylaws. The articles or bylaws may include authorization for the board to determine the groupings.

b. The board may implement the use of districts or units, including setting the time and place and prescribing the rules of conduct for holding meetings by districts or units to elect delegates to members' meetings.

3. *Member violations.*

a. A member who knowingly, intentionally, or repeatedly violates a provision of this

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chapter, the articles or bylaws of the cooperative, or a member control agreement or marketing contract with the cooperative may be required by the board to surrender the member's voting power or the financial rights of membership interest of any class owned by the member, or both.

b. The cooperative shall refund to the member for the surrendered financial rights of membership interest the lesser of the book value or market value of the financial right of the membership interest payable in not more than seven years from the date of surrender or the board may transfer all of any patron member's financial rights to a class of financial rights held by members who are not patron members, or to a certificate of interest, which carries liquidation rights on par with membership interests and is redeemed within seven years after the transfer as provided in the certificate.

c. Membership interests required to be surrendered may be reissued or be retired and canceled by the board.

4. *Inspection of cooperative records by member.*

a. A member is entitled to inspect and copy, at the member's expense, during regular business hours at a reasonable location specified by the cooperative, any of the records described in section 501A.507 if the member meets the requirements of paragraph *"b"* and gives the cooperative written demand at least five business days before the date on which the member wishes to inspect and copy the records. Notwithstanding the provisions of this subsection or any provisions of section 501A.507, a member shall not have the right to inspect or copy any records of the cooperative relating to the amount of equity capital in the cooperative held by any person or any accounts receivable or other amounts due the cooperative from any person, or any personnel records or employment records of any employee.

b. To be entitled to inspect and copy permitted records, the member shall meet all of the following requirements:

(1) The member must have been a member for at least one year immediately preceding the demand to inspect or copy or must be a member holding at least five percent of all of the outstanding equity interests in the cooperative as of the date the demand is made.

(2) The demand is made in good faith and for a proper cooperative business purpose.

(3) The member describes with reasonable particularity the purpose and the records the member desires to inspect.

(4) The records are directly connected with the described purpose.

c. The right of inspection granted by this subsection shall not be abolished or limited by the articles, bylaws, or any actions of the board or the members.

d. This subsection does not affect any of the following:

(1) The right of a member to inspect records to the same extent as any other litigant if the member is in litigation with the cooperative.

(2) The power of a court to compel the production of the cooperative's records for examination.

e. Notwithstanding any other provision in this subsection, if the records to be inspected or copied are in active use or storage and, therefore, not available at the time otherwise provided for inspection or copying, the cooperative shall notify the member and shall set a date and hour within three business days of the date otherwise set in this subsection for the inspection or copying.

f. A member's agent or attorney has the same inspection and copying rights as the member. The right to copy records under this subsection includes, if reasonable, the right to receive copies made by photographic copying, xerographic copying, or other means. The cooperative may impose a reasonable charge, covering the costs of labor and material, for copies of any documents provided to the member. The charge shall not exceed the estimated cost of production and reproduction of the records.

g. If a cooperative refuses to allow a member, or the member's agent or attorney, who complies with this subsection to inspect or copy any records that the member is entitled to inspect or copy within a prescribed time limit or, if none, within a reasonable time, the district court of the county in this state where the cooperative's principal office is located or, if it has no principal office in this state, the district court of the county in which its registered office

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is located may, on application of the member, summarily order the inspection or copying of the records demanded at the cooperative's expense.

h. If a court orders inspection or copying of the records demanded, unless the cooperative proves that it refused inspection or copying in good faith because it had a reasonable basis for doubt about the right of the member or the member's agent or attorney to inspect or copy the records demanded, all of the following shall apply:

(1) The court may order the losing party to pay the prevailing party's reasonable costs, including reasonable attorney fees.

(2) The court may order the losing party to pay the prevailing party for any damages the prevailing party shall have incurred by reason of the subject matter of the litigation.

(3) If inspection or copying is ordered under this paragraph *"h"*, the court may order the cooperative to pay the member's inspection and copying expenses.

(4) The court may grant either party any other remedy provided by law.

(5) The court may impose reasonable restrictions on the use or distribution of the records by the demanding member.

2005 Acts, ch 135, §51

501A.802 Member liability.

A member is not, merely on the account of that status, personally liable for the acts, debts, liabilities, or obligations of a cooperative. A member is liable for any unpaid subscription for the membership interest, unpaid membership fees, or a debt for which the member has separately contracted with the cooperative.

2005 Acts, ch 135, §52

See also §501A.714

501A.803 Regular members' meetings.

1. *Annual meeting.* Regular members' meetings shall be held annually at a time determined by the board, unless otherwise provided for in the bylaws.

2. *Location.* The regular members' meeting shall be held at the principal place of business of the cooperative or at another conveniently located place as determined by the bylaws or the board.

3. *Business and fiscal reports.* The officers shall submit reports to the members at the regular members' meeting covering the business of the cooperative for the previous fiscal year that show the condition of the cooperative at the close of the fiscal year.

4. *Election of directors.* All directors shall be elected at the regular members' meeting for the terms of office prescribed in the bylaws, except for directors elected at district or unit meetings.

5. *Notice.*

a. The cooperative shall give notice of regular members' meetings by mailing the regular members' meeting notice to each member at the members' last known post office address or by other notification approved by the board and agreed to by the members. The regular members' meeting notice shall be published or otherwise given by approved method at least two weeks before the date of the meeting or mailed at least fifteen days before the date of the meeting.

b. The notice shall contain a summary of any bylaw amendments adopted by the board since the last annual meeting.

6. *Waiver and objections.* A member may waive notice of a meeting of members. A waiver of notice by a member entitled to notice is effective whether given before, at, or after the meeting, and whether given in writing, orally, or by attendance. Attendance by a member at a meeting is a waiver of notice of that meeting, except where the member objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened, or objects before a vote on an item of business because the item cannot lawfully be considered at that meeting and does not participate in the consideration of the item at that meeting.

2005 Acts, ch 135, §53

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501A.804 Special members' meetings.

1. *Calling meeting.* Special members' meetings of the members may be called by any of the following:

a. A majority vote of the board.

b. The written petition of at least twenty percent of the patron members and, if authorized by the articles or bylaws, twenty percent of the nonpatron members, twenty percent of all members, or members representing twenty percent of the membership interests collectively submitted to the chairperson.

2. *Notice.* The cooperative shall give notice of a special members' meeting by mailing the special members' meeting notice to each member personally at the person's last known post office address, or by another process determined by the board if the member is to vote by an alternative voting method as approved by the board and agreed to by the member individually or the members generally. For a member that is an entity, the notice mailed, or delivered by another process for vote by an alternative voting method, shall be to an officer of the entity. The special members' meeting notice shall state the time, place, and purpose of the special members' meeting. The special members' meeting notice shall be issued within ten days from and after the date of the presentation of a members' petition, and the special members' meeting shall be held within thirty days after the date of the presentation of the members' petition.

3. *Waiver and objections.* A member may waive notice of a meeting of members. A waiver of notice by a member entitled to notice is effective whether given before, at, or after the meeting, and whether given in writing, orally, or by attendance. Attendance by a member at a meeting is a waiver of notice of that meeting, except where the member objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened, or objects before a vote on an item of business because the item cannot lawfully be considered at that meeting and does not participate in the consideration of the item at that meeting.

2005 Acts, ch 135, §54; 2011 Acts, ch 23, §20

501A.805 Certification of meeting notice.

1. *Certificate of mailing.* After mailing special or regular members' meeting notices or otherwise delivering the notices, the cooperative shall execute a certificate containing the date of mailing or delivery of the notice and a statement that the special or regular members' meeting notices were mailed or delivered as prescribed by law.

2. *Matter of record.* The certificate shall be made a part of the record of the meeting.

3. *Failure to receive meeting notice.* Failure of a member to receive a special or regular members' meeting notice does not invalidate an action taken by the members at a members' meeting.

2005 Acts, ch 135, §55

501A.806 Quorum.

1. *Quorum.* The quorum for a members' meeting to transact business shall be by any of the following:

a. Ten percent of the total number of members of a cooperative with five hundred or fewer members.

b. Fifty members for cooperatives with more than five hundred members.

2. *Quorum for voting by mail.* In determining a quorum at a meeting, on a question submitted to a vote by mail or by an alternative voting method, members present in person or represented by mail vote or the alternative voting method shall be counted. The attendance of a sufficient number of members to constitute a quorum shall be established by a registration of the members of the cooperative present at the meeting. The registration shall be verified by the chairperson or the records officer of the cooperative and shall be reported in the minutes of the meeting.

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3. *Meeting action invalid without quorum.* An action by a cooperative is not valid or legal in the absence of a quorum at the meeting at which the action was taken.

2005 Acts, ch 135, §56; 2011 Acts, ch 23, §21
Referred to in §501A.808

501A.807 Remote communications for members' meetings.

1. *Construction and application.* This section shall be construed and applied to all of the following:

a. To facilitate remote communication consistent with other applicable law.

b. To be consistent with reasonable practices concerning remote communication and with the continued expansion of those practices.

2. *Members' meetings held solely by means of remote communication.* To the extent authorized in the articles, a member control agreement, the bylaws, or a board resolution, and determined by the board, a regular or special meeting of members may be held solely by any combination of means of remote communication through which the members may participate in the meeting, if notice of the meeting is given to every owner of membership interests entitled to vote as would be required by this chapter for a meeting, and if the membership interests held by the members participating in the meeting would be sufficient to constitute a quorum at a meeting. Participation by a member by that means constitutes presence at the meeting in person or by proxy if all the other requirements of this chapter for the meeting are met.

3. *Participation in members' meetings by means of remote communication.* To the extent authorized in the articles, the bylaws, or a board resolution, and determined by the board, a member not physically present in person or by proxy at a regular or special meeting of members may, by means of remote communication, participate in a meeting of members held at a designated place. Participation by a member by that means constitutes presence at the meeting in person or by proxy if all the other requirements of this chapter for the meeting are met.

4. *Requirements for meetings held solely by means of remote communication and for participation by means of remote communication.* In any meeting of members held solely by means of remote communication under subsection 2 or in any meeting of members held at a designated place in which one or more members participate by means of remote communication under subsection 3, all of the following shall apply:

a. The cooperative shall implement reasonable measures to verify that each person deemed present and entitled to vote at the meeting by means of remote communication is a member.

b. The cooperative shall implement reasonable measures to provide each member participating by means of remote communication with a reasonable opportunity to participate in the meeting, including an opportunity to do all of the following:

(1) Read or hear the proceedings of the meeting substantially concurrently with those proceedings.

(2) If allowed by the procedures governing the meeting, have the member's remarks heard or read by other participants in the meeting substantially concurrently with the making of those remarks.

(3) If otherwise entitled, vote on matters submitted to the members.

5. *Notice to members.*

a. Any notice to members given by the cooperative under any provision of this chapter, the articles, or the bylaws by a form of electronic communication consented to by the member to whom the notice is given is effective when given. The notice is deemed given upon any of the following:

(1) If by facsimile communication, when directed to a telephone number at which the member has consented to receive notice.

(2) If by electronic mail, when directed to an electronic mail address at which the member has consented to receive notice.

(3) If by a posting on an electronic network on which the member has consented to receive

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notice, together with separate notice to the member of the specific posting, upon the later of any of the following:

(a) The posting.

(b) The giving of the separate notice.

(4) If by any other form of electronic communication by which the member has consented to receive notice, when directed to the member.

b. An affidavit of the secretary, other authorized officer, or authorized agent of the cooperative that the notice has been given by a form of electronic communication is, in the absence of fraud, prima facie evidence of the facts stated in the affidavit.

c. Consent by a member to notice given by electronic communication may be given in writing or by authenticated electronic communication. The cooperative is entitled to rely on any consent so given until revoked by the member, provided that no revocation affects the validity of any notice given before receipt by the cooperative of revocation of the consent.

6. *Revocation.* Any ballot, vote, authorization, or consent submitted by electronic communication under this chapter may be revoked by the member submitting the ballot, vote, authorization, or consent so long as the revocation is received by a director or the chief executive officer of the cooperative at or before the meeting or before an action without a meeting is effective.

7. *Waiver.* Waiver of notice by a member of a meeting by means of authenticated electronic communication may be given in the manner provided for the regular or special meeting. Participation in a meeting by means of remote communication described in subsections 2 and 3 is a waiver of notice of that meeting, except where the member objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened, or objects before a vote on an item of business because the item cannot lawfully be considered at the meeting and does not participate in the consideration of the item at that meeting.

2005 Acts, ch 135, §57; 2021 Acts, ch 165, §241, 248

Referred to in §501A.814

501A.808 Action of members.

1. *Action by affirmative vote of members.*

a. The members shall take action by the affirmative vote of the members of the greater of any of the following:

(1) A majority of the voting power of the membership interests present and entitled to vote on that item of business.

(2) A majority of the voting power that would constitute a quorum for the transaction of business at the meeting, except where this chapter, the articles or bylaws, or a member control agreement requires a larger proportion.

b. If the articles, bylaws, or a member control agreement require a larger proportion than is required by this chapter for a particular action, the articles, bylaws, or the member control agreement shall have control over the provisions of this chapter.

2. *Class or series of membership interests.* In any case where a class or series of membership interests is entitled by this chapter, the articles, bylaws, a member control agreement, or the terms of the membership interests to vote as a class or series, the matter being voted upon must also receive the affirmative vote of the owners of the same proportion of the membership interests present of that class or series; or of the total outstanding membership interests of that class or series, as the proportion required under subsection 1, unless the articles, bylaws, or the member control agreement requires a larger proportion. Unless otherwise stated in the articles, bylaws, or a member control agreement, in the case of voting as a class or series, the minimum percentage of the total voting power of membership interests of the class or series that must be present is equal to the minimum percentage of all membership interests entitled to vote required to be present under section 501A.806.

3. *Greater quorum or voting requirements.*

a. The articles or bylaws adopted by the members may provide for a greater quorum or voting requirement for members or voting groups than is provided for by this chapter.

b. An amendment to the articles or bylaws that adds, changes, or deletes a greater quorum

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or voting requirement shall meet the same quorum requirement and be adopted by the same vote and voting groups required to take action under the quorum and voting requirements then in effect or proposed to be adopted, whichever is greater.

2005 Acts, ch 135, §58; 2006 Acts, ch 1030, §57

501A.809 Action without a meeting.

1. *Method.* An action required or permitted to be taken at a meeting of the members may be taken by written action signed, or consented to by authenticated electronic communication, by all of the members. If the articles, bylaws, or a member control agreement so provide, any action may be taken by written action signed, or consented to by authenticated electronic communication, by the members who own voting power equal to the voting power that would be required to take the same action at a meeting of the members at which all members were present.

2. *Effective time.* The written action is effective when signed or consented to by authenticated electronic communication by the required members, unless a different effective time is provided in the written action.

3. *Notice and liability.* When written action is permitted to be taken by less than all members, all members must be notified immediately of its text and effective date. Failure to provide the notice does not invalidate the written action. A member who does not sign or consent to the written action has no liability for the action or actions taken by the written action.

2005 Acts, ch 135, §59

501A.810 Member voting rights.

1. *Patron and nonpatron member voting.* A patron member of a cooperative is only entitled to one vote on an issue to be voted upon by members holding patron membership interests. However, if authorized in the cooperative's articles or bylaws, a patron member may be entitled to additional votes based on patronage criteria in section 501A.811. If nonpatron members are authorized by the patron members and granted voting rights on any matter voted on by the members of the cooperative, the entire patron members' voting power shall be voted collectively based upon the vote of the majority of patron members voting on the issue and the collective vote of the patron members shall be a majority of the vote cast unless otherwise provided in the bylaws. The bylaws shall not reduce the collective patron member vote to less than fifteen percent of the total vote on matters of the cooperative. A nonpatron member has the voting rights in accordance to the nonpatron member's nonpatron membership interests as granted in the bylaws, subject to the provisions of this chapter.

2. *Right to vote at meeting.* A member or delegate may exercise voting rights on any matter that is before the members as prescribed in the articles or bylaws at a members' meeting from the time the member or delegate arrives at the members' meeting, unless the articles or bylaws specify an earlier and specific time for closing the right to vote.

3. *Voting method.* A member's vote at a members' meeting shall be cast in person, by mail if a mail ballot is authorized by the board, or by an alternative voting method if that is authorized by the board. A vote shall not be cast by proxy, except as provided in subsection 4. The cooperative shall take reasonable measures to authenticate that a vote is cast by a member eligible to cast that vote.

4. *Members represented by delegates.*

a. The provisions of this subsection apply to members represented by delegates.

b. A cooperative may provide in the articles or bylaws that units or districts of members are entitled to be represented at members' meetings by delegates chosen by the members of the unit or district. The delegates may vote on matters at the members' meeting in the same manner as a member. The delegates may only exercise the voting rights on a basis and with the number of votes as prescribed in the articles or bylaws.

c. If the approval of a certain portion of the members is required for adoption of amendments, a dissolution, a merger, a consolidation, or a sale of assets, the votes of delegates shall be counted as votes by the members represented by the delegate.

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d. Patron members may be represented by the proxy of other patron members.

e. Nonpatron members may be represented by proxy if authorized in the bylaws.

5. *Mail ballots.* The provisions of this subsection apply to mail ballots.

a. A member who is or will be absent from a members' meeting may vote by mail on any motion, resolution, or amendment that the board submits for vote by mail.

b. A ballot shall be in the form prescribed by the board and be accompanied by the text of the proposed motion, resolution, or amendment to be acted upon at the meeting.

c. The member shall express a choice by marking an appropriate choice on the ballot and mail, deliver, or otherwise submit the ballot to the cooperative in a plain, sealed envelope inside another envelope bearing the member's name or by an alternative method approved by the board.

d. A properly executed ballot shall be accepted by the board and counted as the vote of the absent member at the meeting.

6. *Alternative voting method.* The board may also allow the members to vote by alternative voting method, provided the members receive a copy of the proposed motion, resolution, or amendment to be acted upon.

2005 Acts, ch 135, §60; 2011 Acts, ch 23, §22 – 24
Referred to in §501A.813, 501A.903, 501A.1007

501A.811 Patron member voting based on patronage.

1. *Patron members to have an additional vote.* A cooperative may authorize by the articles or the bylaws for patron members to have an additional vote for all of the following:

a. A stipulated amount of business transacted between the patron member and cooperative.

b. A stipulated number of patron members in a member cooperative.

c. A certain stipulated amount of equity allocated to or held by a patron member in the cooperative's central organization.

d. A combination of methods provided in this subsection.

2. *Delegates elected by patrons to have an additional vote.* A cooperative that is organized into units or districts of patron members may, by the articles or the bylaws, authorize the delegates elected by its patron members to have an additional vote for any of the following:

a. A stipulated amount of business transacted between the patron members in the units or districts and the cooperative.

b. A certain stipulated amount of equity allocated to or held by the patron members of the units or districts of the cooperative.

c. A combination of methods in this subsection.

2005 Acts, ch 135, §61
Referred to in §501A.810

501A.812 Voting rights.

1. *Determination.* The board may fix a date not more than sixty days, or a shorter time period provided in the articles or bylaws, before the date of a meeting of members as the date for the determination of the owners of membership interests entitled to notice of and entitled to vote at the meeting. When a date is so fixed, only members on that date are entitled to notice of and permitted to vote at that meeting of members.

2. *Nonmembers.* The articles or bylaws may give or prescribe the manner of giving a creditor, security holder, or other person a right to vote on patron membership interests under this section.

3. *Jointly owned membership interests.* Membership interests owned by two or more members may be voted by any one of them unless the cooperative receives written notice from any one of them denying the authority of that person to vote those membership interests.

4. *Manner of voting and presumption.* Except as provided in subsection 3, an owner of a nonpatron membership interest or a patron membership interest with more than one vote that is entitled to vote may vote any portion of the membership interest in any way the member

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chooses. If a member votes without designating the proportion voted in a particular way, the member is considered to have voted all of the membership interest in that way.

2005 Acts, ch 135, §62

501A.813 Voting by organizations and legal representatives.

1. *Membership interests held by another organization.* Membership interests of a cooperative reflected in the required records as being owned by another domestic business entity or foreign business entity may be voted by the chairperson, chief executive officer, or another legal representative of that organization.

2. *Membership interests held by subsidiary.* Except as provided in subsection 3, membership interests of a cooperative reflected in the required records as being owned by a subsidiary are not entitled to be voted on any matter.

3. *Membership interests controlled in a fiduciary capacity.* Membership interests of a cooperative in the name of, or under the control of, the cooperative or a subsidiary in a fiduciary capacity are not entitled to be voted on any matter, except to the extent that the settler or beneficiary possesses and exercises a right to vote or gives the cooperative or, with respect to membership interests in the name of or under control of a subsidiary, the subsidiary, binding instructions on how to vote the membership interests.

4. *Voting by certain representatives.* Subject to section 501A.810, membership interests under the control of a person in a capacity as a personal representative, an administrator, executor, guardian, conservator, or the like may be voted by the person, either in person or by proxy, without reflecting in the required records those membership interests in the name of the person.

5. *Voting by trustees in bankruptcy or receiver.* Membership interests reflected in the required records in the name of a trustee in bankruptcy or a receiver may be voted by the trustee or receiver either in person or by proxy. Membership interests under the control of a trustee in bankruptcy or a receiver may be voted by the trustee or receiver without reflecting in the required records the name of the trustee or receiver, if authority to do so is contained in an appropriate order of the court by which the trustee or receiver was appointed. The right to vote of trustees in bankruptcy and receivers is subject to section 501A.810.

6. *Membership interests held by other organizations.* Membership interests reflected in the required records in the name of a business entity not described in subsections 1 through 5 may be voted either in person or by proxy by the legal representative of that business entity.

7. *Grant of security interest.* The grant of a security interest in a membership interest does not entitle the holders of the security interest to vote.

2005 Acts, ch 135, §63

501A.814 Proxies.

1. *Authorization.*

a. A patron member may only grant a proxy to vote to another patron member.

b. A member may cast or authorize the casting of a vote by any of the following:

(1) Filing a written appointment of a proxy with the board at or before the meeting at which the appointment is to be effective.

(2) Telephonic transmission or authenticated electronic communication, whether or not accompanied by written instructions of the member, of an appointment of a proxy with the cooperative or the cooperative's duly authorized agent at or before the meeting at which the appointment is to be effective.

c. The telephonic transmission or authenticated electronic communication must set forth or be submitted with information from which it can be determined that the appointment was authorized by the member. If it is reasonably concluded that the telephonic transmission or authenticated electronic communication is valid, the inspectors of election or, if there are not inspectors, the other persons making that determination shall specify the information upon which they relied to make that determination. A proxy so appointed may vote on behalf of the member, or otherwise participate, in a meeting by remote communication under section 501A.807, to the extent the member appointing the proxy would have been entitled to participate by remote communication if the member did not appoint the proxy.

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d. A copy, facsimile, telecommunication, or other reproduction of the original writing or transmission may be substituted or used in lieu of the original writing or transmission for any purpose for which the original transmission could be used, if the copy, facsimile, telecommunication, or other reproduction is a complete and legible reproduction of the entire original writing or transmission.

e. An appointment of a proxy for membership interests owned jointly by two or more members is valid if signed or consented to by authenticated electronic communication, by any one of them, unless the cooperative receives from any one of those members written notice or an authenticated electronic communication either denying the authority of that person to appoint a proxy or appointing a different proxy.

2. *Duration.* The appointment of a proxy is valid for eleven months unless a longer period is expressly provided in the appointment. An appointment is not irrevocable unless the appointment is coupled with an interest in the membership interests or the cooperative.

3. *Termination.* An appointment may be terminated at will unless the appointment is coupled with an interest, in which case the appointment shall not be terminated except in accordance with the terms of an agreement, if any, between the parties to the appointment. Termination may be made by filing written notice of the termination of the appointment with a manager of the cooperative or by filing a new written appointment of a proxy with a manager of the cooperative. Termination in either manner revokes all prior proxy appointments and is effective when filed with a manager of the cooperative.

4. *Revocation by death or incapacity.* The death or incapacity of a person appointing a proxy does not revoke the authority of the proxy, unless written notice of the death or incapacity is received by a manager of the cooperative before the proxy exercises the authority under that appointment.

5. *Multiple proxies.* Unless the appointment specifically provides otherwise, if two or more persons are appointed as proxies for a member, all of the following apply:

a. Any one of them may vote the membership interests on each item of business in accordance with specific instructions contained in the appointment.

b. If no specific instructions are contained in the appointment with respect to voting the membership interests on a particular item of business, the membership interests must be voted as a majority of the proxies determine. If the proxies are equally divided, the membership interests must not be voted.

6. *Vote of proxy accepted and liability.* Unless the appointment of a proxy contains a restriction, limitation, or specific reservation of authority, the cooperative may accept a vote or action taken by a person named in the appointment. The vote of a proxy is final, binding, and not subject to challenge, but the proxy is liable to the member for damages resulting from a failure to exercise the proxy or from an exercise of the proxy in violation of the authority granted in the appointment.

7. *Limited authority.* If a proxy is given authority by a member to vote on less than all items of business considered at a meeting of members, the member is considered to be present and entitled to vote by the proxy only with respect to those items of business for which the proxy has authority to vote. A proxy who is given authority by a member who abstains with respect to an item of business is considered to have authority to vote on the item of business for purposes of this subsection.

2005 Acts, ch 135, §64

PART 2

PROPERTY AND ASSETS

501A.815 Sale of property and assets.

1. *Member approval not required.* A cooperative may, by affirmative vote of a majority of the board present, upon those terms and conditions and for those considerations, which may be money, securities, or other instruments for the payment of money or other property, as the board considers expedient and without member approval, do any of the following:

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a. Sell, lease, transfer, or otherwise dispose of all or substantially all of its property and assets in the usual and regular course of its business.

b. Grant a security interest in all or substantially all of its property and assets whether or not in the usual and regular course of its business.

c. Transfer any or all of its property to a business entity all the ownership interests of which are owned by the cooperative.

d. For purposes of debt financing, transfer any or all of its property to a special purpose entity owned or controlled by the cooperative for an asset securitization.

2. *Member approval required.* Except as provided in subsection 1, a cooperative, by affirmative vote of a majority of the board present, may sell, lease, transfer, or otherwise dispose of all or substantially all of its property and assets, including its goodwill, not in the usual and regular course of its business, upon those terms and conditions and for those considerations, which may be money, securities, or other instruments for the payment of money or other property, as the board considers expedient, when approved at a regular or special meeting of the members by the affirmative vote of two-thirds of the voting power voting at the meeting. Ten days' written notice of the meeting must be given to all members whether or not they are entitled to vote at the meeting. The written notice must state that a purpose of the meeting is to consider the sale, lease, transfer, or other disposition of all or substantially all of the property and assets of the cooperative.

3. *Confirmatory documents.* Confirmatory deeds, assignments, or similar instruments to evidence a sale, lease, transfer, or other disposition may be signed and delivered at any time in the name of the transferor by its current chairperson of the board or authorized agents.

4. *Liability of transferee.* The transferee is liable for the debts, obligations, and liabilities of the transferor only to the extent provided in the contract or agreement between the transferee and the transferor or to the extent provided by law.

2005 Acts, ch 135, §65

PART 3

OWNERSHIP INTERESTS

501A.816 Vote of ownership interests held by cooperative.

A cooperative that holds ownership interests of another business entity may, by direction of the cooperative's board, elect or appoint a person to represent the cooperative at a meeting of the business entity. The representative has authority to represent the cooperative and may cast the cooperative's vote at the business entity's meeting.

2005 Acts, ch 135, §66

SUBCHAPTER IX

MEMBERSHIP INTERESTS

501A.901 Membership interests.

1. *Patron membership interests.* Patron membership interests shall be the only membership interests of a cooperative unless nonpatron memberships are authorized under subsection 2. If nonpatron interests are authorized, the patron membership interests collectively shall have not less than fifty percent of the cooperative's financial rights to profit allocations and distributions. However, the cooperative's articles or bylaws may be amended by the affirmative vote of patron members to allow the cooperative's financial rights to profit allocations and distributions to patron members collectively to be a lesser amount but in no case less than fifteen percent.

2. *Nonpatron membership interests.*

a. In order for a cooperative to have nonpatron membership interests, the patron members must approve articles or bylaw provisions authorizing the terms and conditions of

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the nonpatron membership interests, which may include authorizing the board to determine the terms and conditions of the nonpatron membership interests.

b. If nonpatron membership interests are authorized, the cooperative may solicit and issue nonpatron membership interests on terms and conditions determined by the board and disclosed in the articles, bylaws, or by separate disclosure to the members. Each member acquiring nonpatron membership interests shall sign a member control agreement or otherwise agree to the conditions of the bylaws. The control agreement or the bylaws shall describe the rights and obligations of the member as it relates to the nonpatron membership interests, the financial and governance rights, the transferability of the nonpatron membership interests, the division and allocation of profits and losses among the membership interests and membership classes, and financial rights upon liquidation. If the articles or bylaws do not otherwise provide for the allocation of the profits and losses between patron membership interests and nonpatron membership interests, then the allocation of profits and losses among nonpatron membership interests individually and patron membership interests collectively shall be allocated on the basis of the value of contributions to capital made according to the patron membership interests collectively and the nonpatron membership interests individually to the extent the contributions have been accepted by the cooperative. Distributions of cash or other assets of the cooperative shall be allocated among the membership interests as provided in the articles or bylaws, subject to the provisions of this chapter. If not otherwise provided in the articles or bylaws, distributions shall be made on the basis of value of the capital contributions of the patron membership interests collectively and the nonpatron membership interests to the extent the contributions have been accepted by the cooperative.

3. *Amounts and divisions of membership interests.* The authorized amount and divisions of patron membership interests and, if authorized by the patron members, nonpatron membership interests, may be increased, decreased, established, or altered in accordance with the restrictions in this chapter by amending the articles or bylaws at a regular members' meeting or at a special members' meeting called for the purpose of the amendment.

4. *Issuance of membership interests.* Authorized membership interests may be issued on terms and conditions prescribed in the articles, bylaws, or if authorized in the articles or bylaws as determined by the board. The cooperative shall disclose to any person acquiring membership interests to be issued by the cooperative, the organization, capital structure, and known business prospects and risks of the cooperative, the nature of the governance and financial rights of the membership interest being acquired and of other classes of membership and membership interests. The cooperative shall notify all members of the membership interests being issued by the cooperative. A membership interest shall not be issued until subscription price of the membership interest has been paid for in money or property with the value of the property to be contributed approved by the board.

5. *Transferring or selling membership interests.* After issuance by the cooperative, membership interests in a cooperative may only be sold or transferred with the approval of the board. The board may adopt resolutions prescribing procedures to prospectively approve transfers.

6. *Cooperative first right to purchase membership interests.* The articles or bylaws may provide that the cooperative or the patron members, individually or collectively, have the first privilege of purchasing the membership interests of any class of membership interests offered for sale. The first privilege to purchase membership interests may be satisfied by notice to other members that the membership interests are for sale and a procedure by which members may proceed to attempt to purchase and acquire the membership interests.

7. *Payment for dissenting membership interests.*

a. Subject to the provisions in the articles and bylaws, a member may dissent from and obtain payment for the fair value of the member's membership interests in the cooperative if all of the following apply:

(1) The majority of the cooperative's member voting power is held by different classes of interests.

(2) The articles or bylaws are amended or the cooperative is merged or otherwise

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combined with another entity in a manner that materially and adversely affects the rights and preferences of the membership interests of the dissenting member.

b. The dissenting member shall file a notice of intent to demand fair value of the membership interest with the records officer of the cooperative within thirty days after the amendment of the bylaws and notice of the amendment to members; otherwise, the right of the dissenting member to demand payment of fair value for the membership interest is waived. If a proposed amendment of the articles or bylaws must be approved by the members, a member who is entitled to dissent and who wishes to exercise dissenter's rights shall file a notice to demand fair value of the membership interest with the records officer of the cooperative; otherwise, the right to demand fair value for the membership interest by the dissenting member is waived. After receipt of the dissenting member's demand notice and approval of the amendment, the cooperative has sixty days to rescind the amendment, or otherwise the cooperative shall remit the fair value for the member's interest to the dissenting member by one hundred eighty days after receipt of the notice. Upon receipt of the fair value for the membership interest, the member has no further member rights in the cooperative.

2005 Acts, ch 135, §67
Referred to in §501A.1007

501A.902 Assignment of financial rights.

1. *Assignment of financial rights permitted.* Except as provided in subsection 3, a member's financial rights are transferable in whole or in part.

2. *Effect of assignment of financial rights.* An assignment of a member's financial rights entitles the assignee to receive, to the extent assigned, only the share of profits and losses and the distributions to which the assignor would otherwise be entitled. An assignment of a member's financial rights does not dissolve the cooperative and does not entitle or empower the assignee to become a member, to exercise any governance rights, to receive any notices from the cooperative, or to cause dissolution. The assignment shall not allow the assignee to control the member's exercise of governance or voting rights.

3. *Restrictions of assignment of financial rights.*

a. A restriction on the assignment of financial rights may be imposed in the articles, in the bylaws, in a member control agreement, by a resolution adopted by the members, by an agreement among or other written action by the members, or by an agreement among or other written action by the members and the cooperative. A restriction is not binding with respect to financial rights reflected in the required records before the adoption of the restriction, unless the owners of those financial rights are parties to the agreement or voted in favor of the restriction.

b. Subject to paragraph "*c*", a written restriction on the assignment of financial rights that is not manifestly unreasonable under the circumstances and is noted conspicuously in the required records may be enforced against the owner of the restricted financial rights or a successor or transferee of the owner, including a pledgee or a legal representative. Unless noted conspicuously in the required records, a restriction, even though permitted by this section, is ineffective against a person without knowledge of the restriction.

c. With regard to restrictions on the assignment of financial rights, a would-be assignee of financial rights is entitled to rely on a statement of membership interest issued by the cooperative under section 501A.903. A restriction on the assignment of financial rights, which is otherwise valid and in effect at the time of the issuance of a statement of membership interest but which is not reflected in that statement, is ineffective against an assignee who takes an assignment in reliance on the statement.

d. Notwithstanding any provision of law, articles, bylaws, member control agreement, other agreement, resolution, or action to the contrary, a security interest in a member's financial rights may be foreclosed and otherwise enforced, and a secured party may assign a member's financial rights in accordance with the uniform commercial code, chapter 554,

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without the consent or approval of the member whose financial rights are subject to the security interest.

2005 Acts, ch 135, §68
Referred to in §501A.903

501A.903 Nature of a membership interest and statement of interest owned.

1. *Generally.* A membership interest is personal property. A member has no interest in specific cooperative property. All property of the cooperative is property of the cooperative.

2. *Statement of membership interest.* At the request of any member, the cooperative shall state in writing the particular membership interest owned by that member as of the date the cooperative makes the statement. The statement must describe the member's rights to vote, if any, to share in profits and losses, and to share in distributions, restrictions on assignments of financial rights under section 501A.902, subsection 3, or voting rights under section 501A.810 then in effect, as well as any assignment of the member's rights then in effect other than a security interest.

3. *Terms of membership interests.* All the membership interests of a cooperative are subject to all of the following:

a. Membership interests shall be of one class, without series, unless the articles or bylaws establish or authorize the board to establish more than one class or series within classes.

b. Ordinary patron membership interests and, if authorized, nonpatron membership interests subject to this chapter are entitled to vote as provided in section 501A.810, and have equal rights and preferences in all matters not otherwise provided for by the board and to the extent that the articles or bylaws have fixed the relative rights and preferences of different classes and series.

c. Membership interests share profits and losses and are entitled to distributions as provided in sections 501A.1005 and 501A.1006.

4. *Rights of judgment creditor.* On application to a court of competent jurisdiction by any judgment creditor of a member, the court may charge a member's or an assignee's financial rights with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of a member's financial rights under section 501A.902. This chapter does not deprive any member or assignee of financial rights of the benefit of any exemption laws applicable to the membership interest. This section is the sole and exclusive remedy of a judgment creditor with respect to the judgment debtor's membership interest.

5. *Establishment of class or series.*

a. Subject to any restrictions in the articles or bylaws, the power granted in this subsection may be exercised by a resolution or resolutions establishing a class or series, setting forth the designation of the class or series, and fixing the relative rights and preferences of the class or series. Any of the rights and preferences of a class or series established in the articles, bylaws, or by resolution of the board may do any of the following:

(1) Be made dependent upon facts ascertainable outside the articles or bylaws or outside the resolution or resolutions establishing the class or series, if the manner in which the facts operate upon the rights and preferences of the class or series is clearly and expressly set forth in the articles or bylaws or in the resolution or resolutions establishing the class or series.

(2) Include by reference some or all of the terms of any agreements, contracts, or other arrangements entered into by the cooperative in connection with the establishment of the class or series if the cooperative retains at its principal executive office a copy of the agreements, contracts, or other arrangements or the portions will be included by reference.

b. A statement setting forth the name of the cooperative and the text of the resolution and certifying the adoption of the resolution and the date of adoption must be given to the members before the acceptance of any contributions for which the resolution creates rights or preferences not set forth in the articles or bylaws. Where the members have received notice of the creation of membership interests with rights or preferences not set forth in the articles or bylaws before the acceptance of the contributions with respect to the membership interests, the statement may be filed anytime within one year after the acceptance of the contributions. The resolution is effective three days after delivery to the members is deemed effective by the

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board, or, if the statement is not required to be given to the members before the acceptance of contributions, on the date of its adoption by the directors.

6. *Specific terms.* Without limiting the authority granted in this section, in regulating the membership interests of a class or series, a cooperative may do any of the following:

a. Subject to the right of the cooperative, redeem any of those membership interests at the price fixed for their redemption by the articles or bylaws or by the board.

b. Entitle the members to receive cumulative, partially cumulative, or noncumulative distributions.

c. Provide a preference over any class or series of membership interests for the payment of distributions of any or all kinds.

d. Convert membership interests into any other class or any series of the same or another class.

e. Provide full, partial, or no voting rights, except as provided in section 501A.810.

7. *Grant of a security interest.* For the purpose of any law relating to security interests, membership interests, governance or voting rights, and financial rights are each to be characterized as provided in section 554.8103, subsection 3.

8. *Powers of estate of a deceased or incompetent member.*

a. If a member who is an individual dies or a court of competent jurisdiction adjudges the member to be incompetent to manage the member's person or property, or an order for relief under the bankruptcy code is entered with respect to the member, the member's executor, administrator, guardian, conservator, trustee, or other legal representative may exercise all of the member's rights for the purpose of settling the estate or administering the member's property. If a member is a business entity, trust, or other entity and is dissolved, terminated, or placed by a court in receivership or bankruptcy, the powers of that member may be exercised by its legal representative or successor.

b. If an event referred to in paragraph *"a"* causes the termination of a member's membership interest and the termination does not result in dissolution, then, subject to the articles and bylaws, all of the following apply:

(1) As provided in section 501A.902, the terminated member's interest will be considered to be merely that of an assignee of the financial rights owned before the termination of membership.

(2) The rights to be exercised by the legal representative of the terminated member shall be limited accordingly.

9. *Liability of subscribers and members with respect to membership interests.* A person who subscribes to or owns a membership interest in a cooperative is under no obligation to the cooperative or its creditors with respect to the membership interests subscribed for or owned, except to pay to the cooperative the full consideration for which the membership interests are issued or to be issued.

2005 Acts, ch 135, §69; 2006 Acts, ch 1030, §58
Referred to in §501A.902

501A.904 Certificated and uncertificated membership interests.

1. *Certificated — uncertificated.* The membership interests of a cooperative shall be either certificated or uncertificated. Each holder of certificated membership interests issued is entitled to a certificate of membership interest.

2. *Signature required.* Certificates shall be signed by an agent or officer authorized in the articles or bylaws to sign share certificates or, in the absence of an authorization, by the chairperson or records officer of the cooperative.

3. *Signature valid.* If a person signs or has a facsimile signature placed upon a certificate while the chairperson, an officer, transfer agent, or records officer of a cooperative, the certificate may be issued by the cooperative, even if the person has ceased to have that capacity before the certificate is issued, with the same effect as if the person had that capacity at the date of its issue.

4. *Form of certificate.* A certificate representing membership interests of a cooperative shall contain on its face all of the following:

a. The name of the cooperative.

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b. A statement that the cooperative is organized under the laws of this state and this chapter.

c. The name of the person to whom the certificate is issued.

d. The number and class of membership interests, and the designation of the series, if any, that the certificate represents.

e. A statement that the membership interests in the cooperative are subject to the articles and bylaws of the cooperative.

f. Any restrictions on transfer, including approval of the board, if applicable, first rights of purchase by the cooperative, and other restrictions on transfer, which may be stated by reference to the back of the certificate or to another document.

5. *Limitations set forth.* A certificate representing membership interests issued by a cooperative authorized to issue membership interests of more than one class or series shall set forth upon the face or back of the certificate, or shall state that the cooperative will furnish to any member upon request and without charge, a full statement of the designations, preferences, limitations, and relative rights of the membership interests of each class or series authorized to be issued, so far as they have been determined, and the authority of the board to determine the relative rights and preferences of subsequent classes or series.

6. *Prima facie evidence.* A certificate signed as provided in subsection 2 is prima facie evidence of the ownership of the membership interests referred to in the certificate.

7. *Uncertificated membership interests.*

a. Unless uncertificated membership interests are prohibited by the articles or bylaws, a resolution approved by the affirmative vote of a majority of the directors present may provide that some or all of any or all classes and series of its membership interests will be uncertificated membership interests.

b. The resolution does not apply to membership interests represented by a certificate until the certificate is surrendered to the cooperative. Within a reasonable time after the issuance or transfer of uncertificated membership interests, the cooperative shall send to the new member the information required by this section to be stated on certificates. This information is not required to be sent to the new holder by a publicly held cooperative that has adopted a system of issuance, recordation, and transfer of its membership interests by electronic or other means not involving an issuance of certificates if the system complies with section 17A of the Securities Exchange Act of 1934, 15 U.S.C. §78a et seq. Except as otherwise expressly provided by statute, the rights and obligations of the holders of certificated and uncertificated membership interests of the same class and series are identical.

2005 Acts, ch 135, §70; 2012 Acts, ch 1023, §157

501A.905 Lost certificates — replacement.

1. *Issuance.* A new membership interest certificate may be issued under section 554.8405 in place of one that is alleged to have been lost, stolen, or destroyed.

2. *Not overissue.* The issuance of a new certificate under this section does not constitute an overissue of the membership interests the new certificate represents.

2005 Acts, ch 135, §71

501A.906 Restriction on transfer or registration of membership interests.

1. *How imposed.* A restriction on the transfer or registration of transfer of membership interests of a cooperative may be imposed in the articles, in the bylaws, by a resolution adopted by the members, or by an agreement among or other written action by a number of members or holders of other membership interests or among them and the cooperative. A restriction is not binding with respect to membership interests issued prior to the adoption of the restriction, unless the holders of those membership interests are parties to the agreement or voted in favor of the restriction.

2. *Restrictions permitted.*

a. A written restriction on the transfer or registration of transfer of membership interests of a cooperative that is not manifestly unreasonable under the circumstances may be enforced against the holder of the restricted membership interests or a successor or transferee of the holder, including a pledgee or a legal representative, if the restriction is any of the following:

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(1) Noted conspicuously on the face or back of the certificate.
(2) Included in this chapter or the articles or bylaws.
(3) Included in information sent to the holders of uncertificated membership interests.

b. Unless otherwise restricted by this chapter, the articles, bylaws, noted conspicuously on the face or back of the certificate, or included in information sent to the holders of uncertificated membership interests, a restriction, even though permitted by this section, is ineffective against a person without knowledge of the restriction. A restriction under this section is deemed to be noted conspicuously and is effective if the existence of the restriction is stated on the certificate and reference is made to a separate document creating or describing the restriction.

2005 Acts, ch 135, §72; 2012 Acts, ch 1023, §157

SUBCHAPTER X

CONTRIBUTIONS, ALLOCATIONS, AND DISTRIBUTIONS — MEMBER CONTROL AGREEMENTS

501A.1001 Authorization, form, and acceptance of contributions.

1. *Board to authorize.* Subject to any restrictions in this chapter regarding patron and nonpatron membership interests or in the articles or bylaws, and only when authorized by the board, a cooperative may accept contributions, which may be patron or nonpatron membership contributions as determined by the board under subsections 2 and 3, make contribution agreements under section 501A.1003, and make contribution rights agreements under section 501A.1004.

2. *Permissible forms.* A person may make a contribution to a cooperative by any of the following:

a. Paying money or transferring the ownership of an interest in property to the cooperative or rendering services to or for the benefit of the cooperative.

b. Executing a written obligation signed by the person to pay money or transfer ownership of an interest in property to the cooperative or to perform services to or for the benefit of the cooperative.

3. *Acceptance.* A purported contribution shall not be treated or considered as a contribution, unless all of the following apply:

a. The board accepts the contribution on behalf of the cooperative and in that acceptance describes the contribution, including terms of future performance, if any, and states the value being accorded to the contribution.

b. The fact of contribution and the contribution's accorded value are both reflected in the required records of the cooperative.

4. *Valuation by directors.* The determinations of the board as to the amount or fair value or the fairness to the cooperative of the contribution accepted or to be accepted by the cooperative or the terms of payment or performance, including under a contribution agreement in section 501A.1003, and a contribution rights agreement in section 501A.1004, are presumed to be proper if they are made in good faith and on the basis of accounting methods, or a fair valuation or other method, reasonable in the circumstances. Directors who are present and entitled to vote, and who, intentionally or without reasonable investigation, fail to vote against approving a consideration that is unfair to the cooperative, or overvalue property or services received or to be received by the cooperative as a contribution, are jointly and severally liable to the cooperative for the benefit of the then members who did not consent to and are damaged by the action to the extent of the damages of those members. A director against whom a claim is asserted under this subsection, except in case of knowing participation in a deliberate fraud, is entitled to contribution on an equitable basis from other directors who are liable under this subsection.

2005 Acts, ch 135, §73; 2005 Acts, ch 179, §134
Referred to in §501A.1002

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501A.1002 Restatement of value of previous contributions.

1. *Definition.* As used in this section, an "*old contribution*" is a contribution reflected in the required records of a cooperative before the time the cooperative accepts a new contribution.

2. *Restatement required.* Whenever a cooperative accepts a new contribution, the board shall restate, as required by this section, the value of all old contributions.

3. *Restatement as to particular series or class to which new contribution pertains.*

a. Unless otherwise provided in a cooperative's articles or bylaws, this subsection sets forth the method of restating the value of old contributions that pertain to the same series or class to which the new contribution pertains. In restating the value, the cooperative shall do all of the following:

(1) State the value the cooperative has accorded to the new contribution under section 501A.1001, subsection 3, paragraph "*a*".

(2) Determine what percentage the value stated under subparagraph (1) will constitute, after the restatement required by this subsection, of the total value of all contributions that pertain to the particular series or class to which the new contribution pertains.

(3) Divide the value stated under subparagraph (1) by the percentage determined under subparagraph (2), yielding the total value, after the restatement required by this subsection, of all contributions pertaining to the particular series or class.

(4) Subtract the value stated under subparagraph (1) from the value determined under subparagraph (3), yielding the total value, after the restatement required by this subsection, of all the old contributions pertaining to the particular series or class.

(5) Subtract the value, as reflected in the required records before the restatement required by this subsection, of the old contributions from the value determined under subparagraph (4), yielding the value to be allocated among and added to the old contributions pertaining to the particular series or class.

(6) Allocate the value determined under subparagraph (5) proportionally among the old contributions pertaining to the particular series or class, add the allocated values to those old contributions, and change the required records accordingly.

b. The values determined under paragraph "*a*", subparagraph (5), and allocated and added under paragraph "*a*", subparagraph (6), may be positive, negative, or zero.

4. *Restatement method for other series or class.* Unless otherwise provided in a cooperative's articles or bylaws, this subsection sets forth the method of restating the value of old contributions that do not pertain to the same series or class to which the new contribution pertains. In restating the value, the cooperative shall do all of the following:

a. Determine the percentage by which the restatement under subsection 3 has changed the total contribution value reflected in the required records for the series or class to which the new contribution pertains.

b. As to each old contribution that does not pertain to the same series or class to which the new contribution pertains, change the value reflected in the required records by the percentage determined under paragraph "*a*". The percentage determined under paragraph "*a*" may be positive, negative, or zero.

5. *New contributions may be aggregated.* If a cooperative accepts more than one contribution pertaining to the same series or class at the same time, then for the purpose of the restatement required by this section, the cooperative may consider all the new contributions a single contribution.

2005 Acts, ch 135, §74

501A.1003 Contribution agreements.

1. *Signed writing.* A contribution agreement, whether made before or after the formation of the cooperative, is not enforceable against the would-be contributor unless it is in writing and signed by the would-be contributor.

2. *Irrevocable period.* Unless otherwise provided in the contribution agreement, or unless all of the would-be contributors and, if in existence, the cooperative, consent to a shorter or longer period, a contribution agreement is irrevocable for a period of six months.

3. *Current and deferred payment.* A contribution agreement, whether made before or

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after the formation of a cooperative, must be paid or performed in full at the time or times, or in the installments, if any, specified in the contribution agreement. In the absence of a provision in the contribution agreement specifying the time at which the contribution is to be paid or performed, the contribution must be paid or performed at the time or times determined by the board. However, a call made by the board for payment or performance on contributions must be uniform for all membership interests of the same class or for all membership interests of the same series.

4. *Failure to pay — remedies.*

a. Unless otherwise provided in the contribution agreement, in the event of default in the payment or performance of an installment or call when due, the cooperative may proceed to collect the amount due in the same manner as a debt due the cooperative. If a would-be contributor does not make a required contribution of property or services, the cooperative shall require the would-be contributor to contribute cash equal to that portion of the value, as stated in the cooperative's required records, of the contribution that has not been made.

b. (1) If the amount due under a contribution agreement remains unpaid for a period of twenty days after written notice of demand for payment has been given to the delinquent would-be contributor, the membership interests that were subject to the contribution agreement may be offered for sale by the cooperative for a price in money equaling or exceeding the sum of the full balance owed by the delinquent would-be contributor plus the expenses incidental to the sale.

(2) If the membership interests that were subject to the contribution agreement are sold according to this paragraph *"b"*, the cooperative shall pay to the delinquent would-be contributor or to the delinquent would-be contributor's legal representative the lesser of one of the following:

(a) The excess of net proceeds realized by the cooperative over the sum of the amount owed by the delinquent would-be contributor plus the expenses incidental to the sale, less any penalty stated in the contribution agreement, which may include forfeiture of the partial contribution.

(b) The amount actually paid by the delinquent would-be contributor.

(3) If the membership interests that were subject to the contribution agreement are not sold according to this paragraph *"b"*, the cooperative may collect the amount due in the same manner as a debt due the cooperative or cancel the contribution agreement according to paragraph *"c"*.

c. If the amount due under a contribution agreement remains unpaid for a period of twenty days after written notice of demand for payment has been given to the delinquent would-be contributor and the membership interests that were subject to the defaulted contribution agreement have not been sold according to paragraph *"b"*, the cooperative may cancel the contribution agreement. In addition, the cooperative may retain any portion of the contribution agreement price actually paid as provided in the contribution agreement. The cooperative shall refund to the delinquent would-be contributor or the delinquent would-be contributor's legal representatives any portion of the contribution agreement price as provided in the contribution agreement.

5. *Restrictions on assignment.* Unless otherwise provided in the articles or bylaws, a would-be contributor's rights under a contribution agreement shall not be assigned, in whole or in part, to a person who was not a member at the time of the assignment, unless all the members approve the assignment by unanimous written consent.

2005 Acts, ch 135, §75; 2012 Acts, ch 1023, §157
Referred to in §501A.1001

501A.1004 Contribution rights agreements.

1. *Agreements permitted.* Subject to any restrictions in a cooperative's articles or bylaws, the cooperative may enter into contribution rights agreements under the terms, provisions, and conditions established by board resolution.

2. *Writing required and terms to be stated.* Any contribution rights agreement must be in writing and the writing must state in full, summarize, or include by reference all the agreement's terms, provisions, and conditions of the rights to make contributions.

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3. *Restrictions on assignment.* Unless otherwise provided in a cooperative's articles or bylaws, a would-be contributor's rights under a contribution rights agreement shall not be assigned, in whole or in part, to a person who was not a member at the time of the assignment, unless all the members approve the assignment by unanimous written consent.

2005 Acts, ch 135, §76
Referred to in §501A.1001

501A.1005 Allocations and distributions — profits, losses, cash, or other assets.

1. *Allocation of profits and losses.* If nonpatron membership interests are authorized by the patrons, the bylaws shall prescribe the allocation of profits and losses between patron membership interests collectively and any other membership interests. If the bylaws do not otherwise provide, the profits and losses between patron membership interests collectively and other membership interests shall be allocated on the basis of the value of contributions to capital made by the patron membership interests collectively and other membership interests accepted by the cooperative. The allocation of profits to the patron membership interests collectively shall not be less than fifty percent of the total profits in any fiscal year, except if authorized in the cooperative's articles or bylaws that are adopted by an affirmative vote of the patron members, or in the articles or bylaws as amended by the affirmative vote of the patron members. However, the allocation of profits to the patron membership interests collectively shall not be less than fifteen percent of the total profits in any fiscal year.

2. *Distribution of cash or other assets.* A cooperative's bylaws shall prescribe the distribution of cash or other assets of the cooperative among the membership interests of the cooperative. If nonpatron membership interests are authorized by the patrons and the bylaws do not provide otherwise, distributions shall be made to the patron membership interests collectively and other members on the basis of the value of contributions to capital made and accepted by the cooperative, by the patron membership interests collectively, and other membership interests. The distributions to patron membership interests collectively shall not be less than fifty percent of the total distributions in any fiscal year, except if authorized in the articles or bylaws adopted by the affirmative vote of the patron members, or the articles or bylaws as amended by the affirmative vote of the patron members. However, the distributions to patron membership interests collectively shall not be less than fifteen percent of the total distributions in any fiscal year.

2005 Acts, ch 135, §77; 2006 Acts, ch 1030, §59
Referred to in §501A.903, 501A.1007

501A.1006 Allocations and distributions — net income.

1. *Distribution of net income.* A cooperative may set aside a portion of net income allocated to the patron membership interests as the board determines advisable to create or maintain a capital reserve.

2. *Reserves.* In addition to a capital reserve, the board may, for patron membership interests, do any of the following:

a. Set aside an amount not to exceed five percent of the annual net income of the cooperative for promoting and encouraging cooperative organization.

b. Establish and accumulate reserves for new buildings, machinery and equipment, depreciation, losses, and other proper purposes.

3. *Patronage distributions.* Net income allocated to patron members in excess of dividends on equity and additions to reserves shall be distributed to patron members on the basis of patronage. A cooperative may establish allocation units, whether the units are functional, divisional, departmental, geographic, or otherwise. The cooperative may provide for pooling arrangements. The cooperative may account for and distribute net income to patrons on the basis of allocation units and pooling arrangements. A cooperative may offset the net loss of an allocation unit or pooling arrangement against the net income of other allocation units or pooling arrangements.

4. *Frequency of distribution.* A distribution of net income shall be made at least annually. The board shall present to the members at their annual meeting a report covering the operations of the cooperative during the preceding fiscal year.

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5. *Form of distribution.* A cooperative may distribute net income to patron members in cash, capital credits, allocated patronage equities, revolving fund certificates, or its own or other securities.

6. *Eligible nonmember patrons.* A cooperative may provide in the bylaws that nonmember patrons are allowed to participate in the distribution of net income payable to patron members on equal terms with patron members.

7. *Patronage credits for ineligible members.* If a nonmember patron with patronage credits is not qualified or eligible for membership, a refund due may be credited to the nonmember patron's individual account. The board may issue a certificate of interest to reflect the credited amount. After the nonmember patron is issued a certificate of interest, the nonmember patron may participate in the distribution of net income on the same basis as a patron member.

2005 Acts, ch 135, §78; 2006 Acts, ch 1030, §60
Referred to in §501A.903, 501A.1007

501A.1007 Member control agreements.

1. *Authorization.* A written agreement among persons who are then members, including a sole member, or who have signed subscription or contribution agreements, relating to the control of any phase of the business and affairs of the cooperative, its liquidation, dissolution and termination, or the relations among members or persons who have signed subscription or contribution agreements is valid as provided in subsection 2. Other than the authorization of nonpatron membership interests as provided in section 501A.901 and nonpatron voting rights as provided in section 501A.810, whenever this chapter provides that a particular result may or must be obtained through a provision in a cooperative's articles or bylaws, the same result can be accomplished through a member control agreement valid under this section or through a procedure established by a member control agreement valid under this section. However, the member control agreement must be authorized by the cooperative's articles or bylaws and cannot conflict with the cooperative's articles or bylaws. Any result accomplished through a membership control agreement under this section must be properly disclosed as provided in section 501A.901.

2. *Valid execution.* Other than patron member voting control under section 501A.810 and patron member allocation and distribution provisions under sections 501A.1005 and 501A.1006, a written agreement among persons described in subsection 1 that relates to the control of or the liquidation, dissolution, and termination of the cooperative, the relations among them, or any phase of the business and affairs of the cooperative is valid if it meets the requirements of this subsection. This includes but is not limited to the management of its business, the declaration and payment of distributions, the sharing of profits and losses, the election of directors, the employment of members by the cooperative, or the arbitration of disputes. The written agreement must be signed by all persons who are then the members of the cooperative, whether or not the members all have voting power, and all those who have signed contribution agreements, regardless of whether those signatories will, when members, have voting power.

3. *Other agreements not affected.* This section does not apply to, limit, or restrict agreements otherwise valid, nor is the procedure set forth in this section the exclusive method of agreement among members or between the members and the cooperative with respect to any of the matters described.

2005 Acts, ch 135, §79

501A.1008 Reversion of disbursements.

1. Once a person's membership interest or other member's equity in a cooperative is deemed abandoned under section 556.5, the cooperative may retain any disbursement held by the cooperative for or owing to the person. The cooperative may also deliver the disbursement to the treasurer of state for disposition as abandoned property pursuant to sections 556.5 and 556.11.

2. If the cooperative elects to retain the disbursement under this section, the disbursement shall be deposited into a reversion fund established by the cooperative.

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3. A disbursement having an aggregate value of fifty dollars or more that is retained by the cooperative shall be forfeited to the cooperative only if the cooperative publishes at least one notice of the abandoned property in a publication regularly distributed to its membership or in a newspaper having a general circulation in the county where the cooperative is located. The notice shall include all of the following:

a. The name and address of the cooperative.

b. The name of the person who has an interest in the disbursement according to the records of the cooperative.

c. A brief description of the type of disbursement retained by the cooperative.

d. A statement that the disbursement will be forfeited to the cooperative unless the person files a claim for the disbursement within the period provided for in this section.

4. *a.* Subject to this subsection, a person asserting an interest in the disbursement may file a claim for it with the cooperative in a manner and according to procedures required by the cooperative. If a person is entitled to an abandoned membership interest, or other interest as provided in section 556.20 or 556.21, the cooperative shall also pay the person the disbursement deposited in the reversion fund that is realized or accrued from the membership interest or other interest.

b. If a person has not filed a claim for the disbursement within six months after the first date that the notice of abandoned property is first published as provided in this section, the disbursement shall be forfeited to the cooperative.

5. The disbursements deposited into the reversion fund that are forfeited to the cooperative shall be used as provided in this subsection. The cooperative may authorize the payment of forfeited disbursements to persons claiming interests in forfeited disbursements as provided in the cooperative's articles of organization or bylaws. Otherwise, forfeited disbursements shall be used as the directors deem suitable for any of the following purposes:

a. Teaching and promoting cooperation. The directors may deposit the amounts of disbursements into the education fund as established by the cooperative.

b. Economic development including private or joint public and private investments involving the creation of economic opportunities for the cooperative's members or the retention of existing sources of income that would otherwise be lost.

2005 Acts, ch 135, §80; 2006 Acts, ch 1010, §131
Referred to in §556.5

SUBCHAPTER XI

MERGER AND CONVERSION

501A.1101 Merger and consolidation.

1. *Authorization.* Unless otherwise prohibited, cooperatives organized under the laws of this state, including cooperatives organized under this chapter or traditional cooperatives, may merge or consolidate with each other, or another business entity organized under the laws of another state, by complying with the provisions of this section and the law of the state where the surviving or new business entity will exist. A cooperative shall not merge or consolidate with a business entity organized under the laws of this state, other than a traditional cooperative, unless the law governing the business entity expressly authorizes merger or consolidation with a cooperative. This subsection does not authorize a foreign business entity to do any act not authorized by the law governing the foreign business entity.

2. *Plan.* To initiate a merger or consolidation of a cooperative, a written plan of merger or consolidation shall be prepared by the board or by a committee selected by the board to prepare a plan. The plan shall state all of the following:

a. The names of each constituent domestic cooperative that is a party to the merger and any foreign business entity that is a party to the merger.

b. The name of the surviving or new domestic cooperative or foreign business entity.

c. The manner and basis of converting membership or ownership interests of the

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constituent domestic cooperative or foreign business entity into membership or ownership interests in the surviving or new domestic cooperative or foreign business entity.

d. The terms of the merger or consolidation.

e. The proposed effect of the merger or consolidation on the members and patron members of each constituent domestic cooperative.

f. For a consolidation, the plan shall contain the articles of the entity or organizational documents to be filed with the state in which the entity is organized.

3. *Notice.* The following shall apply to notice:

a. The board shall mail or otherwise transmit or deliver notice of the merger or consolidation to each member. The notice shall contain the full text of the plan, and the time and place of the meeting at which the plan will be considered.

b. A cooperative with more than two hundred members may provide the notice in the same manner as a regular members' meeting notice.

4. *Adoption of plan.*

a. A plan of merger or consolidation shall be adopted by a domestic cooperative as provided in this subsection.

b. The plan of merger or consolidation is adopted if all of the following apply:

(1) A quorum of the members eligible to vote is registered as being present at the meeting or voting by mail ballot or alternative voting method.

(2) The plan is approved by the patron members, or if otherwise provided in the articles or bylaws, is approved by a majority of the votes cast in each class of votes cast. For a domestic cooperative with articles or bylaws requiring more than a majority of the votes cast or other conditions for approval, the plan must be approved by a proportion of the votes cast or a number of total members as required by the articles or bylaws and the conditions for approval in the articles or bylaws have been satisfied.

c. After the plan has been adopted, articles of merger or consolidation stating the plan and that the plan was adopted according to this subsection shall be signed by the chairperson, vice chairperson, or records officer of each cooperative merging or consolidating.

d. The articles of merger or consolidation shall be filed in the office of the secretary.

e. For a merger, the articles of the surviving domestic cooperative subject to this chapter are deemed amended to the extent provided in the articles of merger.

f. Unless a later date is provided in the plan, the merger or consolidation is effective when the articles of merger or consolidation are filed in the office of the secretary or the appropriate office of another jurisdiction.

g. The secretary shall issue a certificate of organization of the merged or consolidated cooperative.

5. *Effect of merger or consolidation.* The effect of a merger or consolidation shall be as follows:

a. After the effective date, each domestic cooperative and any foreign business entity that is a party to the plan become a single entity. For a merger, the surviving business entity is the business entity designated in the plan. For a consolidation, the new domestic cooperative or new foreign business entity is the business entity provided for in the plan. Except for the surviving or new domestic cooperative, or foreign business entity, the separate existence of each merged or consolidated domestic or foreign business entity that is a party to the plan ceases on the effective date of the merger or consolidation.

b. The surviving or new domestic cooperative or foreign business entity possesses all of the rights and property of each of the merged or consolidated business entities and is responsible for all their obligations. The title to property of the merged or consolidated domestic cooperative, or foreign business entity, is vested in the surviving or new domestic cooperative or foreign business entity without reversion or impairment of the title caused by the merger or consolidation.

2005 Acts, ch 135, §81; 2006 Acts, ch 1010, §132; 2007 Acts, ch 126, §86; 2008 Acts, ch 1162, §140 – 142, 154, 155; 2011 Acts, ch 23, §25; 2023 Acts, ch 152, §152, 161

Referred to in §9.11, 501A.1102

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501A.1102 Merger of subsidiary.

1. *Definition.* For purposes of this section, *"subsidiary"* means a domestic cooperative or a foreign cooperative.

2. *When authorized — contents of plan.* A parent domestic cooperative or a subsidiary that is a domestic cooperative may complete the merger of a subsidiary as provided in this section. However, if either the parent cooperative or the subsidiary is a business entity organized under the laws of this state, the merger of the subsidiary is not authorized under this section unless the law governing the business entity expressly authorizes merger with a cooperative.

a. A parent cooperative owning at least ninety percent of the outstanding ownership interests of each class and series of a subsidiary directly, or indirectly through related organizations, other than classes or series that, absent this section, would otherwise not be entitled to vote on the merger, may merge the subsidiary into itself or into any other subsidiary at least ninety percent of the outstanding ownership interests of each class and series of which is owned by the parent cooperative directly, or indirectly through related organizations, other than classes or series that, absent this section, would otherwise not be entitled to vote on the merger, without a vote of the members of itself or any subsidiary or may merge itself, or itself and one or more of the subsidiaries, into one of the subsidiaries under this section. A resolution approved by the affirmative vote of a majority of the directors of the parent cooperative present shall set forth a plan of merger that contains all of the following:

(1) The name of the subsidiary or subsidiaries, the name of the parent cooperative, and the name of the surviving cooperative.

(2) The manner and basis of converting the membership interests of the subsidiary or subsidiaries or parent cooperative into securities of the parent cooperative, subsidiary, or of another cooperative or, in whole or in part, into money or other property.

(3) If the parent cooperative is a constituent cooperative but is not the surviving cooperative in the merger, a provision for the pro rata issuance of membership interests of the surviving cooperative to the holders of membership interests of the parent on surrender of any certificates for shares or membership interests of the parent cooperative.

(4) If the surviving cooperative is a subsidiary, a statement of any amendments to the articles of the surviving cooperative that will be part of the merger.

b. If the parent is a constituent cooperative and the surviving cooperative in the merger, the parent cooperative may change its cooperative name, without a vote of its members, by the inclusion of a provision to that effect in the resolution of merger setting forth the plan of merger that is approved by the affirmative vote of a majority of the directors of the parent cooperative present. Upon the effective date of the merger, the name of the parent cooperative shall be changed.

c. If the parent cooperative is a constituent cooperative but is not the surviving cooperative in the merger, the resolution is not effective unless the resolution is also approved by the affirmative vote of the holders of a majority of the voting power of all membership interests of the parent entitled to vote at a regular or special meeting if the parent is a cooperative, or in accordance with the laws under which the parent is organized if the parent is a foreign business entity or foreign cooperative.

3. *Notice to members of subsidiary.* Notice of the action, including a copy of the plan of merger, shall be delivered to each member, other than the parent cooperative and any subsidiary of each subsidiary that is a constituent cooperative in the merger before, or within ten days after, the effective date of the merger.

4. *Articles of merger — contents of articles.* Articles of merger shall be prepared that contain all of the following:

a. The plan of merger.

b. The number of outstanding membership interests of each series and class of each subsidiary that is a constituent cooperative in the merger, other than the series or classes that, absent this section, would otherwise not be entitled to vote on the merger, and the number of membership interests of each series and class of the subsidiary or subsidiaries,

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other than series or classes that, absent this section, would otherwise not be entitled to vote on the merger, owned by the parent directly, or indirectly through related organizations.

c. A statement that the plan of merger has been approved by the parent under this section.

5. *Articles signed, filed.* The articles of merger shall be signed on behalf of the parent and filed with the secretary.

6. *Certificate.* The secretary shall issue a certificate of merger to the parent or its legal representative or, if the parent is a constituent cooperative but is not the surviving cooperative in the merger, to the surviving cooperative or its legal representative.

7. *Nonexclusivity.* A merger among a parent and one or more subsidiaries or among two or more subsidiaries of a parent may be accomplished under section 501A.1101 instead of this section, in which case this section does not apply.

2005 Acts, ch 135, §82; 2008 Acts, ch 1162, §143, 154, 155; 2023 Acts, ch 152, §153, 154, 161

501A.1103 Abandonment.

1. *Abandonment by members of plan.* After a plan of merger has been approved by the members entitled to vote on the approval of the plan and before the effective date of the plan, the plan may be abandoned by the same vote that approved the plan.

2. *Abandonment of merger.*

a. A merger may be abandoned upon any of the following:

(1) The members of each of the constituent domestic cooperatives entitled to vote on the approval of the plan have approved the abandonment at a meeting by the affirmative vote of the holders of a majority of the voting power of the membership interests entitled to vote.

(2) The abandonment is approved in such manner as may be required by a foreign business entity under the laws of the state under which the foreign business entity is organized.

(3) The members of a constituent domestic cooperative are not entitled to vote on the approval of the plan, and the board of the constituent domestic cooperative has approved the abandonment by the affirmative vote of a majority of the directors present.

(4) The plan provides for abandonment and all conditions for abandonment set forth in the plan are met.

(5) The plan is abandoned before the effective date of the plan by a resolution of the board of any constituent domestic cooperative abandoning the plan of merger approved by the affirmative vote of a majority of the directors present, subject to the contract rights of any other person under the plan. If a plan of merger is with a domestic business entity or foreign business entity, the plan of merger may be abandoned before the effective date of the plan by a resolution of the foreign business entity adopted according to the laws of the state under which the foreign business entity is organized, subject to the contract rights of any other person under the plan.

b. If articles of merger have been filed with the secretary, but have not yet become effective, the constituent organizations, in the case of abandonment under paragraph *"a"*, subparagraphs (1) through (4), the constituent organizations or any one of them, in the case of abandonment under paragraph *"a"*, subparagraph (5), or the abandoning organization in the case of abandonment under paragraph *"a"*, subparagraph (6), shall file with the secretary articles of abandonment that include all of the following:

(1) The names of the constituent organizations.

(2) The provisions of this section under which the plan is abandoned.

(3) If the plan is abandoned under paragraph *"a"*, subparagraph (6), the text of the resolution abandoning the plan.

2005 Acts, ch 135, §83; 2008 Acts, ch 1162, §144, 154, 155; 2023 Acts, ch 152, §155, 161

501A.1104 Conversion — amendment of organizational documents to be governed by this chapter.

1. *Authority.*

a. A traditional cooperative may convert to a cooperative and become subject to this chapter by amending its organizational documents to conform to the requirements of this chapter.

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b. A traditional cooperative becoming a converted cooperative must provide its members with a disclosure statement of the rights and obligations of the members and the capital structure of the cooperative before becoming subject to this chapter. A traditional cooperative, upon distribution of the disclosure required in this subsection and approval of its members as necessary for amending its articles under the respective chapter of its organization, may amend its articles to comply with this chapter.

c. A traditional cooperative becoming a converted cooperative must prepare a certificate stating all of the following:

(1) The date on which the traditional cooperative was first organized.

(2) The name of the traditional cooperative and, if the name is changed, the name of the cooperative becoming converted.

(3) The future effective date and time, which must be a date and time certain, that the traditional cooperative will be governed by this chapter, if the effective date and time is not to be the date and time of filing.

d. Upon filing with the secretary of the articles for compliance with this chapter and the certificate required under paragraph "*c*", a traditional cooperative is converted and governed by this chapter unless a later date and time is specified in the certificate under paragraph "*c*".

e. In connection with a conversion under which a traditional cooperative becomes governed by this chapter, the rights, securities, or interests of the traditional cooperative as provided in chapter 497, 498, 499, or 501 may be exchanged or converted into rights, property, securities, or interests in the converted cooperative.

2. *Effect of being governed by this chapter.* The conversion of a traditional cooperative to a cooperative governed by this chapter does not affect any obligations or liabilities of the cooperative before the conversion or the personal liability of any person incurred before the conversion.

a. When the conversion is effective, the rights, privileges, and powers of the cooperative, real and personal property of the cooperative, debts due to the cooperative, and causes of action belonging to the traditional cooperative remain vested in the converted cooperative and are the property of the converted cooperative and governed by this chapter. Title to real property vested by deed or otherwise in the traditional cooperative does not revert and is not impaired by reason of the cooperative being converted and governed by this chapter.

b. Rights of creditors and liens upon property of the traditional cooperative are preserved unimpaired, and debts, liabilities, and duties of the traditional cooperative remain attached to the converted cooperative and may be enforced against the converted cooperative to the same extent as if the debts, liabilities, and duties had originally been incurred or contracted by the cooperative as organized under this chapter.

c. The rights, privileges, powers, and interests in property of the traditional cooperative as well as the debts, liabilities, and duties of the traditional cooperative are not deemed, as a consequence of the conversion, to have been transferred for any purpose by the laws of this state.

2005 Acts, ch 135, §84; 2006 Acts, ch 1010, §133

Referred to in §9.11

SUBCHAPTER XII

DISSOLUTION

Referred to in §501A.505

501A.1201 Methods of dissolution.

A cooperative may be dissolved by the members or by administrative or court order as provided in this chapter.

2005 Acts, ch 135, §85

501A.1202 Winding up.

1. *Collection and payment of debts.* After the notice of intent to dissolve has been filed

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with the secretary, the board, or the officers acting under the direction of the board, shall proceed as soon as possible to do all of the following:

a. Collect or make provision for the collection of all debts due or owing to the cooperative, including unpaid subscriptions for membership interests.

b. Pay or make provision for the payment of all debts, obligations, and liabilities of the cooperative according to their priorities.

2. *Transfer of assets.* After the notice of intent to dissolve has been filed with the secretary, the board may sell, lease, transfer, or otherwise dispose of all or substantially all of the property and assets of the dissolving cooperative without a vote of the members.

3. *Distribution to members.* Tangible and intangible property, including money, remaining after the discharge of the debts, obligations, and liabilities of the cooperative shall be distributed to the members and former members as provided in the cooperative's articles or bylaws, unless otherwise provided by law. If previously authorized by the members, the tangible and intangible property of the cooperative may be liquidated and disposed of at the discretion of the board.

2005 Acts, ch 135, §86

501A.1203 Revocation of dissolution proceedings.

1. *Authority to revoke.* Dissolution proceedings may be revoked before the articles of dissolution are filed with the secretary.

2. *Revocation by members.* The chairperson may call a members' meeting to consider the advisability of revoking the dissolution proceedings. The question of the proposed revocation shall be submitted to the members at the members' meeting called to consider the revocation. The dissolution proceedings are revoked if the proposed revocation is approved at the members' meeting by a majority of the members of the cooperative or, for a cooperative with articles or bylaws requiring a greater number of members, the number of members required by the articles or bylaws.

3. *Filing with the secretary.* Revocation of dissolution proceedings is effective when a notice of revocation is filed with the secretary. After the notice is filed, the cooperative may resume business.

2005 Acts, ch 135, §87

501A.1204 Statute of limitations.

The claim of a creditor or claimant against a dissolving cooperative is barred if the claim has not been enforced by initiating legal, administrative, or arbitration proceedings concerning the claim by two years after the date the notice of intent to dissolve is filed with the secretary.

2005 Acts, ch 135, §88

Barring of claims, §501A.1215

501A.1205 Articles of dissolution.

1. *Conditions to file.* Articles of dissolution of a cooperative shall be filed with the secretary after payment of the claims of all known creditors and claimants has been made or provided for and the remaining property has been distributed by the board. The articles of dissolution shall state all of the following:

a. The name of the cooperative.

b. All debts, obligations, and liabilities of the cooperative have been paid or discharged or adequate provisions have been made for them or time periods allowing claims have run and other claims are not outstanding.

c. The remaining property, assets, and claims of the cooperative have been distributed among the members or under a liquidation authorized by the members.

d. Legal, administrative, or arbitration proceedings by or against the cooperative are not pending or adequate provision has been made for the satisfaction of a judgment, order, or decree that may be entered against the cooperative in a pending proceeding.

2. *Dissolution effective on filing.* The cooperative is dissolved when the articles of dissolution have been filed with the secretary.

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3. *Certificate.* The secretary shall issue to the dissolved cooperative or its legal representative a certificate of dissolution that contains all of the following:

a. The name of the dissolved cooperative.

b. The date the articles of dissolution were filed with the secretary.

c. A statement that the cooperative is dissolved.

2005 Acts, ch 135, §89

501A.1206 Application for court-supervised voluntary dissolution.

After a notice of intent to dissolve has been filed with the secretary and before a certificate of dissolution has been issued, the cooperative or, for good cause shown, a member or creditor may apply to a court within the county where the registered address is located to have the dissolution conducted or continued under the supervision of the court.

2005 Acts, ch 135, §90

501A.1207 Court-ordered remedies for dissolution.

1. *Conditions for relief.* A court may grant equitable relief that the court deems just and reasonable in the circumstances or may dissolve a cooperative and liquidate its assets and business as follows:

a. In a supervised voluntary dissolution that is applied for by the cooperative.

b. In an action by a member when it is established that any of the following apply:

(1) The directors or the persons having the authority otherwise vested in the board are deadlocked in the management of the cooperative's affairs and the members are unable to break the deadlock.

(2) The directors or those in control of the cooperative have acted fraudulently, illegally, or in a manner unfairly prejudicial toward one or more members in their capacities as members, directors, or officers.

(3) The members of the cooperative are so divided in voting power that, for a period that includes the time when two consecutive regular members' meetings were held, they have failed to elect successors to directors whose terms have expired or would have expired upon the election and qualification of their successors.

(4) The cooperative assets are being misapplied or wasted.

(5) The period of duration as provided in the articles has expired and has not been extended as provided in this chapter.

c. In an action by a creditor when any of the following applies:

(1) The claim of the creditor against the cooperative has been reduced to judgment and an execution on the judgment has been returned unsatisfied.

(2) The cooperative has admitted in writing that the claim of the creditor against the cooperative is due and owing and it is established that the cooperative is unable to pay its debts in the ordinary course of business.

(3) In an action by the attorney general to dissolve the cooperative in accordance with this chapter when it is established that a decree of dissolution is appropriate.

2. *Condition of cooperative or association.* In determining whether to order equitable relief or dissolution, the court shall take into consideration the financial condition of the cooperative, but shall not refuse to order equitable relief or dissolution solely on the grounds that the cooperative has accumulated operating net income or current operating net income.

3. *Dissolution as remedy.* In deciding whether to order dissolution of the cooperative, the court shall consider whether lesser relief suggested by one or more parties, such as a form of equitable relief or a partial liquidation, would be adequate to permanently relieve the circumstances established under subsection 1, paragraph "*b*", subparagraph (1) or (2). Lesser relief may be ordered if it would be appropriate under the facts and circumstances of the case.

4. *Expenses.* If the court finds that a party to a proceeding brought under this section has acted arbitrarily, vexatiously, or otherwise not in good faith, the court may in its discretion award reasonable expenses, including attorney fees and disbursements, to any of the other parties.

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5. *Venue.* Proceedings under this section shall be brought in a court within the county where the registered address of the cooperative is located.

6. *Parties.* It is not necessary to make members parties to the action or proceeding unless relief is sought against them personally.

2005 Acts, ch 135, §91

501A.1208 Procedure in involuntary or court-supervised voluntary dissolution.

1. *Action before hearing.* Before a hearing is completed in dissolution proceedings, a court may do any of the following:

a. Issue injunctions.

b. Appoint receivers with all powers and duties that the court directs.

c. Take actions required to preserve the cooperative's assets, wherever located.

d. Carry on the business of the cooperative.

2. *Action after hearing.* After a hearing is completed, upon notice to parties to the proceedings and to other parties in interest designated by the court, the court may appoint a receiver to collect the cooperative's assets, including amounts owing to the cooperative by subscribers on account of an unpaid portion of the consideration for the issuance of membership interests. A receiver has authority, subject to the order of the court, to continue the business of the cooperative and to sell, lease, transfer, or otherwise dispose of the property and assets of the cooperative, either at public or private sale.

3. *Discharge of obligations.* The assets of the cooperative or the proceeds resulting from a sale, lease, transfer, or other disposition shall be applied in the following order of priority:

a. The costs and expense of the proceedings, including attorney fees and disbursements.

b. Debts, taxes, and assessments due the United States, this state, and other states in that order.

c. Claims duly proved and allowed to employees under the provisions of the workers' compensation law, except that claims under this paragraph shall not be allowed if the cooperative carried workers' compensation insurance, as provided by law, at the time the injury was sustained.

d. Claims, including the value of all compensation paid in a medium other than money, proved and allowed to employees for services performed within three months preceding the appointment of the receiver.

e. Other claims that are proved and allowed by the court.

4. *Remainder to members.* After payment of the expenses of receivership and claims of creditors are proved, the remaining assets, if any, may be distributed to the members or distributed under an approved liquidation plan.

2005 Acts, ch 135, §92

501A.1209 Receiver qualifications and powers.

1. *Qualifications.* A receiver shall be a natural person or a domestic business entity or a foreign business entity authorized to transact business in this state. A receiver shall give a bond as directed by the court with the sureties required by the court.

2. *Powers.* A receiver may sue and defend in all courts as receiver of the cooperative. The court appointing the receiver has exclusive jurisdiction of the cooperative and its property.

2005 Acts, ch 135, §93

501A.1210 Dissolution action by attorney general — administrative dissolution.

1. *Conditions to begin action.* A cooperative may be dissolved involuntarily by a decree of a court in this state in an action filed by the attorney general if it is established that any of the following applies:

a. The articles and certificate of organization were procured through fraud.

b. The cooperative was organized for a purpose not permitted by this chapter or prohibited by state law.

c. The cooperative has flagrantly violated a provision of this chapter, has violated a provision of this chapter more than once, or has violated more than one provision of this chapter.

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d. The cooperative has acted, or failed to act, in a manner that constitutes surrender or abandonment of the cooperative's franchise, privileges, or enterprise.

2. *Notice to cooperative.* An action shall not be commenced under subsection 1 until thirty days after notice to the cooperative by the attorney general of the reason for the filing of the action. If the reason for filing the action is an act that the cooperative has done, or omitted to do, and the act or omission may be corrected by an amendment of the articles or bylaws or by performance of or abstention from the act, the attorney general shall give the cooperative thirty additional days to make the correction before filing the action.

2005 Acts, ch 135, §94

501A.1211 Filing claims in court-supervised dissolution proceedings.

1. *Filing under oath.* In proceedings to dissolve a cooperative, the court may require all creditors and claimants of the cooperative to file their claims under oath with the clerk of court or with the receiver in a form prescribed by the court.

2. *Date to file a claim.* If the court requires the filing of claims, the court shall do all of the following:

a. Set a date, by order, at least one hundred twenty days after the date the order is filed as the last day for the filing of claims.

b. Prescribe the notice of the fixed date that shall be given to creditors and claimants.

3. *Fixed date or extension for filing.* Before the fixed date, the court may extend the time for filing claims. Creditors and claimants failing to file claims on or before the fixed date may be barred, by order of court, from claiming an interest in or receiving payment out of the property or assets of the cooperative.

2005 Acts, ch 135, §95

501A.1212 Discontinuance of court-supervised dissolution proceedings.

The involuntary or supervised voluntary dissolution of a cooperative may be discontinued at any time during the dissolution proceedings if it is established that cause for dissolution does not exist. The court shall dismiss the proceedings and direct the receiver, if any, to redeliver to the cooperative its remaining property and assets.

2005 Acts, ch 135, §96

501A.1213 Court-supervised dissolution order.

1. *Conditions for dissolution order.* In an involuntary or supervised voluntary dissolution the court shall enter an order dissolving the cooperative upon the following conditions:

a. After the costs and expenses of the proceedings and all debts, obligations, and liabilities of the cooperative have been paid or discharged and the remaining property and assets have been distributed to its members.

b. If the property or other assets are not sufficient to satisfy and discharge the costs, expenses, debts, obligations, and liabilities, when all the property and assets have been applied so far as they will go to their payment according to their priorities.

2. *Dissolution effective on filing order.* When the order dissolving the cooperative has been entered, the cooperative is dissolved.

2005 Acts, ch 135, §97

501A.1214 Filing court's dissolution order.

After the court enters an order dissolving a cooperative, the clerk of court shall cause a certified copy of the dissolution order to be filed with the secretary. The secretary shall not charge a fee for filing the dissolution order.

2005 Acts, ch 135, §98

501A.1215 Barring of claims.

1. *Claims barred.* A person who is or becomes a creditor or claimant before, during, or following the conclusion of dissolution proceedings, who does not file a claim or pursue a remedy in a legal, administrative, or arbitration proceeding during the pendency of the dissolution proceeding or has not initiated a legal, administrative, or arbitration proceeding

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before the commencement of the dissolution proceedings and all those claiming through or under the creditor or claimant are forever barred from suing on that claim or otherwise realizing upon or enforcing it, except as provided in this section.

2. *Certain unfiled claims allowed.* Within one year after articles of dissolution have been filed with the secretary under this chapter or a dissolution order has been entered, a creditor or claimant who shows good cause for not having previously filed the claim may apply to a court in this state to allow a claim for any of the following:

a. Against the cooperative to the extent of undistributed assets.

b. If the undistributed assets are not sufficient to satisfy the claim, the claim may be allowed against a member to the extent of the distributions to members in dissolution received by the member.

3. *Omitted claims allowed.* Debts, obligations, and liabilities incurred during dissolution proceedings shall be paid or provided for by the cooperative before the distribution of assets to a member. A person to whom this kind of debt, obligation, or liability is owed but is not paid may pursue any remedy against the offenders, directors, or members of the cooperative before the expiration of the applicable statute of limitations. This subsection does not apply to dissolution under the supervision or order of a court.

2005 Acts, ch 135, §99
Statute of limitations, see §501A.1204

501A.1216 Right to sue or defend after dissolution.

After a cooperative has been dissolved, any of its former officers, directors, or members may assert or defend, in the name of the cooperative, a claim by or against the cooperative.

2005 Acts, ch 135, §100

CHAPTER 501B

REVISED UNIFORM UNINCORPORATED NONPROFIT ASSOCIATION ACT

Referred to in §89A.3, 558.72, 669.14

This chapter takes effect July 1, 2010, and does not affect an action or proceeding commenced or right accrued before that date; 2010 Acts, ch 1112, §33

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501B.1 Short title.

This chapter shall be known and may be cited as the "*Revised Uniform Unincorporated Nonprofit Association Act*".

2010 Acts, ch 1112, §1, 33; 2026 Acts, ch 1040, §101
Section amended

501B.2 Definitions.

As used in this chapter:

1. "*Established practices*" means the practices used by an unincorporated nonprofit association without material change during the most recent five years of its existence, or if it has existed for less than five years, during its entire existence.

2. "*Governing principles*" means the agreements, whether oral, in a record, or implied from its established practices, that govern the purpose or operation of an unincorporated nonprofit association and the rights and obligations of its members and managers. "*Governing principles*" includes any amendment or restatement of the agreements constituting the governing principles.

3. "*Manager*" means a person that is responsible, alone or in concert with others, for the management of an unincorporated nonprofit association and includes but is not limited to persons who may be designated as directors and officers or some other designation indicating that such persons would perform the duties of a manager.

4. "*Member*" means a person that, under the governing principles, may participate in the selection of persons authorized to manage the affairs of the unincorporated nonprofit association or in the development of the policies and activities of the association.

5. "*Person*" means an individual, corporation, business trust, statutory entity trust, estate, trust, partnership, limited liability company, cooperative, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

6. "*Record*" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

7. "*State*" means a state of the United States, the District of Columbia, Puerto Rico, United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

8. "*Unincorporated nonprofit association*" or "*association*" means an unincorporated organization consisting of two or more members joined under an agreement that is oral, in a record, or implied from conduct, for one or more common, nonprofit purposes. "*Unincorporated nonprofit association*" does not include any of the following:

a. A trust.

b. A marriage, domestic partnership, common law domestic relationship, civil union, or other domestic living arrangement.

c. An organization formed under any other statute that governs the organization and operation of unincorporated associations.

d. A joint tenancy or tenancy in common even if the co-owners share use of the property for a nonprofit purpose.

e. A relationship under an agreement in a record that expressly provides that the relationship between the parties does not create an unincorporated nonprofit association.

2010 Acts, ch 1112, §2, 33
Referred to in §9H.1

501B.3 Relation to other law.

1. Principles of law and equity supplement this chapter unless displaced by a particular provision of this chapter.

2. A statute governing a specific type of unincorporated nonprofit association prevails over an inconsistent provision in this chapter, to the extent of the inconsistency.

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3. This chapter supplements the law of this state that applies to nonprofit associations operating in this state. If a conflict exists, that law applies.

2010 Acts, ch 1112, §3, 33

501B.4 Governing law.

1. Except as otherwise provided in subsection 2, this chapter governs the operation in this state of all unincorporated nonprofit associations formed or operating in this state.

2. Unless the governing principles specify a different jurisdiction, the law of the jurisdiction in which an unincorporated nonprofit association has its main place of activities governs the internal affairs of the association.

2010 Acts, ch 1112, §4, 33

501B.5 Legal entity — perpetual existence — powers.

1. An unincorporated nonprofit association is a legal entity distinct from its members and managers.

2. An unincorporated nonprofit association has perpetual duration unless the governing principles specify otherwise.

3. An unincorporated nonprofit association has the same powers as an individual to do all things necessary or convenient to carry on its purposes.

4. An unincorporated nonprofit association may engage in profit-making activities but profits from any activities must be used or set aside for the association's nonprofit purposes.

2010 Acts, ch 1112, §5, 33

501B.6 Ownership and transfer of property.

1. An unincorporated nonprofit association may acquire, hold, encumber, or transfer in its name an interest in real or personal property.

2. An unincorporated nonprofit association may be a beneficiary of a trust or contract, a legatee, or a devisee.

2010 Acts, ch 1112, §6, 33

501B.7 Statement of authority as to real property.

1. For purposes of this section, "*statement of authority*" means a statement authorizing a person to transfer an interest in real property held in the name of an unincorporated nonprofit association.

2. An interest in real property held in the name of an unincorporated nonprofit association may be transferred by a person authorized to do so in a statement of authority filed by the association in the office of the county recorder in which a transfer of the property would be recorded.

3. A statement of authority must set forth all of the following:

a. The name of the unincorporated nonprofit association.

b. The address in this state, including the street address, if any, of the association or, if the association does not have an address in this state, its out-of-state address.

c. That the association is an unincorporated nonprofit association.

d. The name, title, or position of a person authorized to transfer an estate or interest in real property held in the name of the association.

4. A statement of authority must be executed in the same manner as an affidavit by a person other than the person authorized in the statement to transfer the interest.

5. The county recorder may collect a fee as provided in sections 331.604 and 331.605 for filing a statement of authority in the amount authorized for filing a transfer of real property.

6. A document amending, revoking, or canceling a statement of authority or stating that the statement is unauthorized or erroneous must meet the requirements for executing and filing an original statement.

7. A statement of authority filed in the office of the county recorder as provided in subsection 2 is effective until amended or canceled, unless an earlier cancellation date is specified in the statement.

8. If the record title to real property is in the name of an unincorporated nonprofit

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association and the statement of authority is filed in the office of the county recorder in which a transfer of the property would be filed, the authority of the person named in the statement to transfer is conclusive in favor of a person that gives value without notice that the person lacks authority.

2010 Acts, ch 1112, §7, 33; 2013 Acts, ch 108, §3; 2014 Acts, ch 1092, §109

501B.8 Liability.

1. For a debt, obligation, or other liability of an unincorporated nonprofit association, whether arising in contract, tort, or otherwise, all of the following apply:

a. It is solely the debt, obligation, or other liability of the association.

b. It does not become a debt, obligation, or other liability of a member, manager, employee, or volunteer solely because the member acts as a member, the manager acts as a manager, the employee acts as an employee, or a volunteer acts as a volunteer.

2. A person's status as a member, manager, employee, or volunteer does not prevent or restrict law other than this chapter from imposing liability on the person or the association because of the person's conduct.

3. A person who is a manager, member, employee, or volunteer is not personally liable in that capacity to the unincorporated nonprofit association or any of its members for any action taken or failure to take any action in the discharge of the person's duties except liability for any of the following:

a. The amount of any financial benefit to which the person is not entitled.

b. An intentional infliction of harm on the unincorporated nonprofit association or the members.

c. An intentional violation of criminal law.

d. Improper distributions.

2010 Acts, ch 1112, §8, 33

501B.9 Assertion and defense of claims.

1. An unincorporated nonprofit association may sue or be sued in its own name.

2. A member or manager may assert a claim the member or manager has against the unincorporated nonprofit association. An association may assert a claim it has against a member or manager.

2010 Acts, ch 1112, §9, 33

501B.10 Effect of judgment or order.

A judgment or order against an unincorporated nonprofit association is not by itself a judgment or order against a member or manager.

2010 Acts, ch 1112, §10, 33

501B.11 Appointment of agent to receive service of process.

1. An unincorporated nonprofit association may file in the office of the secretary of state a statement appointing an agent authorized to receive service of process.

2. A statement appointing an agent must set forth all of the following:

a. The name of the unincorporated nonprofit association.

b. The name of the person in this state authorized to receive service of process and the person's address, including the street address, in this state.

3. A statement appointing an agent must be signed and acknowledged by a person authorized to manage the affairs of the unincorporated nonprofit association and by the person appointed as the agent. By signing and acknowledging the statement the person becomes the agent.

4. *a.* An amendment to or cancellation of a statement appointing an agent to receive service of process must meet the requirements for executing an original statement. An agent may resign by filing a resignation in the office of the secretary of state and giving notice to the association.

b. A statement of resignation takes effect on the earlier of the following:

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(1) 12:01 a.m. on the thirty-first day after the day on which it is filed with the secretary of state.

(2) The designation of a new registered agent for the association.

5. The secretary of state may collect a fee for filing a statement appointing an agent to receive service of process, an amendment, a cancellation, or a resignation in the amount charged for filing similar documents.

2010 Acts, ch 1112, §11, 33; 2020 Acts, ch 1058, §9
Referred to in §501B.12

501B.12 Service of process.

In an action or proceeding against an unincorporated nonprofit association, process may be served on an agent authorized by appointment to receive service of process pursuant to section 501B.11, on a manager of the association, or in any other manner authorized by the law of this state.

2010 Acts, ch 1112, §12, 33

501B.13 Action or proceeding not abated by change.

An action or proceeding against an unincorporated nonprofit association does not abate merely because of a change in its members or managers.

2010 Acts, ch 1112, §13, 33

501B.14 Venue.

Unless otherwise provided by law other than this chapter, venue of an action against an unincorporated nonprofit association brought in this state is determined under the statutes applicable to an action brought in this state against a corporation under chapter 504.

2010 Acts, ch 1112, §14, 33

501B.15 Member not agent.

A member is not an agent of an unincorporated nonprofit association solely by reason of being a member.

2010 Acts, ch 1112, §15, 33

501B.16 Approval by members.

1. Except as otherwise provided in the governing principles, an unincorporated nonprofit association must have the approval of its members to do any of the following:

a. Admit, suspend, dismiss, or expel a member.

b. Select or dismiss a manager.

c. Adopt, amend, or repeal the governing principles.

d. Sell, lease, exchange, or otherwise dispose of all, or substantially all, of the association's property, with or without the association's goodwill, outside the ordinary course of its activities.

e. Dissolve under section 501B.28 or merge under section 501B.30.

f. Undertake any other act outside the ordinary course of the association's activities.

g. Determine the policy and purposes of the association.

2. An unincorporated nonprofit association must have the approval of the members to do any other act or exercise a right that the governing principles require to be approved by members.

2010 Acts, ch 1112, §16, 33
Referred to in §501B.22

501B.17 Meetings of members — voting, notice, and quorum requirements.

1. Unless the governing principles provide otherwise all of the following apply:

a. Approval of a matter by members requires an affirmative majority of the votes cast at a meeting of members.

b. Each member is entitled to one vote on each matter that is submitted for approval by members.

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2. Notice and quorum requirements for member meetings and the conduct of meetings of members are determined by the governing principles.

2010 Acts, ch 1112, §17, 33

501B.18 Duties of member.

1. A member does not have a fiduciary duty to an unincorporated nonprofit association or to another member solely by being a member.

2. A member shall discharge the duties to the unincorporated nonprofit association and the other members and exercise any rights under this chapter consistent with the governing principles and the obligation of good faith and fair dealing.

2010 Acts, ch 1112, §18, 33

Referred to in §501B.27

501B.19 Admission, suspension, dismissal, or expulsion of members.

1. A person becomes a member and may be suspended, dismissed, or expelled in accordance with the association's governing principles. If there are no applicable governing principles, a person may become a member or be suspended, dismissed, or expelled from an association only by a vote of its members. A person may not be admitted as a member without the person's consent.

2. Unless the governing principles provide otherwise, the suspension, dismissal, or expulsion of a member does not relieve the member from any unpaid capital contribution, dues, assessments, fees, or other obligation incurred or commitment made by the member before the suspension, dismissal, or expulsion.

2010 Acts, ch 1112, §19, 33

501B.20 Member's resignation.

1. A member may resign as a member in accordance with the governing principles. In the absence of applicable governing principles, a member may resign at any time.

2. Unless the governing principles provide otherwise, resignation of a member does not relieve the member from any unpaid capital contribution, dues, assessments, fees, or other obligation incurred or commitment made by the member before resignation.

2010 Acts, ch 1112, §20, 33

501B.21 Membership interest not transferable.

Except as otherwise provided in the governing principles, a member's interest or any right under the governing principles is not transferable.

2010 Acts, ch 1112, §21, 33

501B.22 Selection of managers — management rights of managers.

Except as otherwise provided in this chapter or the governing principles, all of the following apply:

1. Only the members may select a manager or managers.

2. A manager may be a member or a nonmember.

3. If a manager is not selected, all members are managers.

4. Each manager has equal rights in the management and conduct of the association's activities.

5. All matters relating to the association's activities shall be decided by its managers except for matters reserved for approval by members pursuant to section 501B.16.

6. A difference among managers is decided by a majority of the managers.

2010 Acts, ch 1112, §22, 33

501B.23 Duties of managers.

1. A manager owes to the unincorporated nonprofit association and to its members the fiduciary duties of loyalty and care.

2. A manager shall manage the unincorporated nonprofit association in good faith, in a manner the manager reasonably believes to be in the best interests of the association, and

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with such care, including reasonable inquiry, as a prudent person would reasonably exercise in a similar position and under similar circumstances. A manager may rely in good faith upon any opinion, report, statement, or other information provided by another person that the manager reasonably believes is a competent and reliable source for the information.

3. After full disclosure of all material facts, a specific act or transaction that would otherwise violate the duty of loyalty by a manager may be authorized or ratified by a majority of the members that are not interested directly or indirectly in the act or transaction.

4. A manager that makes a business judgment in good faith satisfies the duties specified in subsection 1 if all of the following conditions apply:

a. The manager is not interested, directly or indirectly, in the subject of the business judgment and is otherwise able to exercise independent judgment.

b. The manager is informed with respect to the subject of the business judgment to the extent the manager reasonably believes to be appropriate under the circumstances.

c. The manager believes that the business judgment is in the best interests of the unincorporated nonprofit association and in accordance with its purposes.

2010 Acts, ch 1112, §23, 33
Referred to in §501B.27

501B.24 Notice and quorum requirements for meetings of managers.

Notice and quorum requirements for meetings of managers and the conduct of meetings of managers are determined by the governing principles.

2010 Acts, ch 1112, §24, 33

501B.25 Right of member or manager to information.

1. On reasonable notice, a member or manager of an unincorporated nonprofit association may inspect and copy during the unincorporated nonprofit association's regular operating hours, at a reasonable location specified by the association, any record maintained by the association regarding its activities, financial condition, or other circumstances, to the extent the information is material to the member's or manager's rights or duties under the governing principles.

2. An unincorporated nonprofit association may impose reasonable restrictions on access to and use of information to be furnished under this section, including designating the information confidential and imposing obligations of nondisclosure and safeguarding on the recipient.

3. An unincorporated nonprofit association may charge a person that makes a demand under this section reasonable copying costs, limited to the costs of labor and materials.

4. A former member or manager is entitled to information to which the member or manager was entitled while a member or manager if the information pertains to the period during which the person was a member or manager, the former member or manager seeks the information in good faith, and the former member or manager satisfies subsections 1 through 3.

2010 Acts, ch 1112, §25, 33

501B.26 Distributions prohibited — compensation and other permitted payments.

1. Except as otherwise provided in subsection 2, an unincorporated nonprofit association may not pay dividends or make distributions to a member or manager.

2. An unincorporated nonprofit association may do any of the following:

a. Pay reasonable compensation or reimburse reasonable expenses to a member or manager for services rendered.

b. Confer benefits on a member or manager in conformity with its nonprofit purposes.

c. Repurchase a membership and repay a capital contribution made by a member to the extent authorized by its governing principles.

d. Make distributions of property to members upon winding up and termination to the extent permitted by section 501B.29.

2010 Acts, ch 1112, §26, 33
Referred to in §501B.30

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501B.27 Reimbursement — indemnification — advancement of expenses.

1. Except as otherwise provided in the governing principles, an unincorporated nonprofit association shall reimburse a member, manager, employee, or volunteer for authorized expenses reasonably incurred in the course of the member's, manager's, employee's, or volunteer's activities on behalf of the association.

2. An unincorporated nonprofit association may indemnify a member, manager, employee, or volunteer for any debt, obligation, or other liability incurred in the course of the member's, manager's, employee's, or volunteer's activities on behalf of the association if the person seeking indemnification has complied with section 501B.18 or 501B.23, or other law, as applicable. Governing principles in a record may broaden or limit indemnification.

3. If a person is made or threatened to be made a party in an action based on that person's activities on behalf of an unincorporated nonprofit association and the person makes a request in a record to the association, a majority of the disinterested managers may approve in a record advance payment, or reimbursement, by the association, of all or a part of the reasonable expenses, including attorney fees and costs, incurred by the person before the final disposition of the proceeding. To be entitled to an advance payment or reimbursement, the person must state in a record that the person has a good faith belief that the criteria for indemnification in subsection 2 have been satisfied and that the person will repay the amounts advanced or reimbursed if the criteria for payment have not been satisfied. Governing principles in a record may broaden or limit the advance payments or reimbursements.

4. An unincorporated nonprofit association may purchase insurance on behalf of a member, manager, employee, or volunteer for liability asserted against or incurred by the member, manager, employee, or volunteer in the capacity of a member, manager, employee, or volunteer whether or not the association has authority under this chapter to reimburse, indemnify, or advance expenses to the member, manager, employee, or volunteer against the liability.

5. The rights of reimbursement, indemnification, and advancement of expenses under this section apply to a former member, manager, employee, or volunteer for an activity undertaken on behalf of the unincorporated nonprofit association while a member, manager, employee, or volunteer.

2010 Acts, ch 1112, §27, 33

501B.28 Dissolution.

1. An unincorporated nonprofit association may be dissolved pursuant to any of the following:

a. If the governing principles provide a time or method for dissolution, at that time or by that method.

b. If the governing principles do not provide a time or method for dissolution, upon approval by the members.

c. If no member can be located and the association's operations have been discontinued for at least three years, by the managers or, if the association has no current manager, by its last manager.

d. By court order.

e. Under law other than this chapter.

2. After dissolution, an unincorporated nonprofit association continues in existence until its activities have been wound up and it is terminated pursuant to section 501B.29.

2010 Acts, ch 1112, §28, 33

Referred to in §501B.16

501B.29 Winding up and termination.

Winding up and termination of an unincorporated nonprofit association shall proceed in accordance with all of the following rules:

1. All known debts and liabilities must be paid or adequately provided for.

2. Any property subject to a condition requiring return to the person designated by the donor must be transferred to that person.

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3. Any property subject to a trust must be distributed in accordance with the trust agreement.

4. Any remaining property must be distributed as follows:

a. As required by law other than this chapter that requires assets of an association to be distributed to another person with similar nonprofit purposes.

b. In accordance with the association's governing principles or in the absence of applicable governing principles, to the members of the association per capita or as the members direct.

c. If neither paragraph "*a*" nor "*b*" applies, under chapter 556.

2010 Acts, ch 1112, §29, 33
Referred to in §501B.26, 501B.28, 501B.30

501B.30 Mergers.

1. For purposes of this section all of the following definitions apply:

a. "*Constituent organization*" means an organization that is merged with one or more other organizations including the surviving organization.

b. "*Nonsurviving organization*" means a constituent organization that is not the surviving organization.

c. "*Organization*" means an unincorporated nonprofit association; a general partnership, including a limited liability partnership; limited partnership, including a limited liability limited partnership; limited liability company; business or statutory trust; corporation; or any other legal or commercial entity having a statute governing its formation and operation. "*Organization*" includes a for-profit or nonprofit organization.

d. "*Surviving organization*" means an organization into which one or more other organizations are merged.

2. An unincorporated nonprofit association may merge with any organization that is authorized by law to merge with an unincorporated nonprofit association.

3. A merger involving an unincorporated nonprofit association is subject to the following rules:

a. Each constituent organization shall comply with its governing law.

b. Each party to the merger shall approve a plan of merger. The plan, which must be in a record, must include all of the following provisions:

(1) The name and form of each organization that is a party to the merger.

(2) The name and form of the surviving organization and, if the surviving organization is to be created by the merger, a statement to that effect.

(3) If the surviving organization is to be created by the merger, the surviving organization's organizational documents that are proposed to be in a record.

(4) If the surviving organization is not to be created by the merger, any amendments to be made by the merger to the surviving organization's organizational documents that are, or are proposed to be, in a record.

(5) The terms and conditions of the merger, including the manner and basis for converting the interests in each constituent organization into any combination of money, interests in the surviving organization, and other consideration except that the plan of merger may not permit members of an unincorporated nonprofit association to receive merger consideration if a distribution of such consideration would not be permitted in the absence of a merger under section 501B.26 or 501B.29.

c. The plan of merger must be approved by the members of each unincorporated nonprofit association that is a constituent organization in the merger. If a plan of merger would impose personal liability for an obligation of a constituent or surviving organization on a member of an association that is a party to the merger, the plan may not take effect unless it is approved in a record by the member.

d. Subject to the contractual rights of third parties, after a plan of merger is approved and at any time before the merger is effective, a constituent organization may amend the plan or abandon the merger as provided in the plan, or except as otherwise prohibited in the plan, with the same consent as was required to approve the plan.

e. Following approval of the plan, a merger under this section is effective as follows:

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(1) If a constituent organization is required to give notice to or obtain the approval of a governmental agency or officer in order to be a party to a merger, when the notice has been given and the approval has been obtained.

(2) For the surviving organization the following apply:

(a) If the surviving organization is an unincorporated nonprofit association, as specified in the plan of merger and upon compliance by any constituent organization that is not an association with any requirements, including any required filings in the office of the secretary of state, of the organization's governing statute.

(b) If the surviving organization is not an unincorporated nonprofit association, as provided by the statute governing the surviving organization.

4. When a merger becomes effective all of the following apply:

a. The surviving organization continues or comes into existence.

b. Each constituent organization that merges into the surviving organization ceases to exist as a separate entity.

c. All property owned by each constituent organization that ceases to exist vests in the surviving organization.

d. All debts, obligations, or other liabilities of each nonsurviving organization continue as debts, obligations, or other liabilities of the surviving organization.

e. An action or proceeding pending by or against any nonsurviving organization may be continued as if the merger had not occurred.

f. Except as prohibited by law other than this chapter, all of the rights, privileges, immunities, powers, and purposes of each constituent organization that ceases to exist vest in the surviving organization.

g. Except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger take effect.

h. The merger does not affect the personal liability, if any, of a member or manager of a constituent organization for a debt, obligation, or other liability incurred before the merger is effective.

i. A surviving organization that is not organized in this state is subject to the jurisdiction of the courts of this state to enforce any debt, obligation, or other liability owed by a constituent organization, if before the merger the constituent organization was subject to suit in this state for the debt, obligation, or other liability.

5. Property held for a charitable purpose under the law of this state by a constituent organization immediately before a merger under this section becomes effective may not, as a result of the merger, be diverted from the objects for which it was given, unless, to the extent required by or pursuant to the law of this state concerning cy pres or other law dealing with nondiversion of charitable assets, the organization obtains an appropriate order from the district court specifying the disposition of the property.

6. A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance that is made to a nonsurviving organization and that takes effect or remains payable after the merger inures to the surviving organization. A trust obligation that would govern property if transferred to the nonsurviving organization applies to property that is transferred to the surviving organization under this section.

2010 Acts, ch 1112, §30, 33

Referred to in §501B.16

501B.31 Uniformity of application and construction.

In applying and construing this chapter, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact the revised uniform unincorporated nonprofit association Act as recommended by the national conference of commissioners on uniform state laws.

2010 Acts, ch 1112, §31, 33

501B.32 Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §7001, et seq., but does not modify, limit, or supersede

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section 101(c) of that Act, 15 U.S.C. §7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that Act, 15 U.S.C. §7003(b).

2010 Acts, ch 1112, §32, 33

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SUBTITLE 4

SECURITIES

Referred to in §491.39

CHAPTER 502

UNIFORM SECURITIES ACT (BLUE SKY LAW)

Referred to in §8A.438, 12.28, 15E.66, 15E.204, 331.301, 331.402, 364.4, 384.24A, 476B.9, 476C.6, 489.1108, 491.114, 496C.10, 502A.8, 505.1, 505.28, 505.29, 506.11, 507E.8, 524.825, 535.2, 536A.22, 546.8, 551A.4, 669.14

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502.208 and 502.209 Repealed by 2004 Acts, ch 1161, §63, 68.
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ARTICLE 1
GENERAL PROVISIONS

502.101 Short title.

This chapter may be cited as the *"Iowa Uniform Securities Act"*.

[C31, 35, §8581-c1; C39, §**8581.01;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §502.1; C77, 79, 81, §502.101]

502.102 Definitions.

In this chapter, unless the context otherwise requires:

1. *"Administrator"* means the commissioner of insurance or the deputy appointed pursuant to section 502.601.

2. *"Agent"* means an individual, other than a broker-dealer, who represents a broker-dealer in effecting or attempting to effect purchases or sales of securities or represents an issuer in effecting or attempting to effect purchases or sales of the issuer's securities. But a partner, officer, or director of a broker-dealer or issuer, or an individual having a similar status or performing similar functions, is an agent only if the individual otherwise comes within the term. The term does not include an individual excluded by rule adopted or order issued under this chapter.

2A. *"Agricultural cooperative association"* means an entity which is structured and operated on a cooperative basis pursuant to 26 U.S.C. §1381(a) and which meets the definitional requirement of an association as provided in 12 U.S.C. §1141j(c) or 7 U.S.C. §291, if the association is organized as any one of the following:

a. A farmers cooperative association as defined in section 10.1.

b. An association of persons organized pursuant to chapter 497 for purposes of conducting an agricultural or dairy business on a cooperative plan, as described in section 497.1.

c. A cooperative association organized pursuant to chapter 498 for purposes of conducting an agricultural, livestock, horticultural, or dairy business on a cooperative plan and acting as a cooperative selling agency, as described in section 498.2.

d. An agricultural association as defined in section 499.2 and organized pursuant to chapter 499.

e. A cooperative organized under chapter 501 which may acquire or otherwise obtain or lease agricultural land in this state as provided in section 501.103.

f. Any other entity which is organized on a cooperative basis under the laws of this state for the purpose of engaging in the activities of an agricultural association as defined in section 499.2.

3. *"Bank"* means any of the following:

a. A banking institution organized under the laws of the United States.

b. A member bank of the United States federal reserve system.

c. Any other banking institution, whether incorporated or not, doing business under the laws of a state or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to be exercised by national banks under the authority of the office of the comptroller of the currency of the United States pursuant to Pub. L. No. 87-722, §1, 12 U.S.C. §92a, and which is supervised and examined by a state or federal agency having supervision over banks, and which is not operated for the purpose of evading this chapter.

d. A receiver, conservator, or other liquidating agent of any institution or firm included in paragraph *"a"*, *"b"*, or *"c"*.

4. *"Broker-dealer"* means a person engaged in the business of effecting transactions in securities for the account of others or for the person's own account. The term does not include any of the following:

a. An agent.

b. An issuer.

c. A bank or savings institution if its activities as a broker-dealer are limited to those specified in section 3(a)(4)(B)(i) through (vi), section 3(a)(4)(B)(vii) if the offer and sale of private securities offerings are limited to nonconsumer transactions that are not primarily for personal, family, or household purposes, section 3(a)(4)(B)(viii) through (x), or section 3(a)(4)(B)(xi) if limited to unsolicited transactions all as provided in the Securities Exchange Act of 1934, 15 U.S.C. §78c(a)(4); in section 3(a)(5)(B), and 3(a)(5)(C) of the Securities Exchange Act of 1934, 15 U.S.C. §78c(a)(4) and (5); or a bank that satisfies the conditions described in section 3(a)(4)(E) of the Securities Exchange Act of 1934, 15 U.S.C. §78c(a)(4).

d. An international banking institution.

e. A person excluded by rule adopted or order issued under this chapter.

5. *"Depository institution"* means any of the following:

a. A bank.

b. A savings institution, trust company, credit union, or similar institution that is organized or chartered under the laws of a state or of the United States, authorized to receive deposits, and supervised and examined by an official or agency of a state or the United States if its

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deposits or share accounts are insured to the maximum amount authorized by statute by the federal deposit insurance corporation, the national credit union share insurance fund, or a successor authorized by federal law. The term does not include any of the following:

(1) An insurance company or other organization primarily engaged in the business of insurance.

(2) A Morris plan bank.

(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.

6. *"Federal covered investment adviser"* means a person registered under the Investment Advisers Act of 1940.

7. *"Federal covered security"* means a security that is, or upon completion of a transaction will be, a covered security under section 18(b) of the Securities Act of 1933, 15 U.S.C. §77r(b), or rules or regulations adopted pursuant to that provision.

8. *"Filing"* means the receipt under this chapter of a record by the administrator or a designee of the administrator.

9. *"Fraud"*, *"deceit"*, and *"defraud"* are not limited to common law deceit.

10. *"Guaranteed"* means guaranteed as to payment of all principal and all interest.

11. *"Institutional investor"* means any of the following, whether acting for itself or for others in a fiduciary capacity:

a. A depository institution or international banking institution.

b. An insurance company.

c. A separate account of an insurance company.

d. An investment company as defined in the Investment Company Act of 1940.

e. A broker-dealer registered under the Securities Exchange Act of 1934.

f. An employee pension, profit-sharing, or benefit plan if the plan has total assets in excess of five million dollars or its investment decisions are made by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under this chapter, a depository institution, or an insurance company.

g. A plan established and maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or a political subdivision of a state for the benefit of its employees, if the plan has total assets in excess of five million dollars or its investment decisions are made by a duly designated public official or by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under this chapter, a depository institution, or an insurance company.

h. A trust, if it has total assets in excess of five million dollars, its trustee is a depository institution, and its participants are exclusively plans of the types identified in paragraph *"f"* or *"g"*, regardless of the size of their assets, except a trust that includes as participants self-directed individual retirement accounts or similar self-directed plans.

i. An organization described in section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. §501(c)(3), corporation, Massachusetts trust or similar business trust, limited liability company, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of five million dollars.

j. A small business investment company licensed by the small business administration under section 301(c) of the Small Business Investment Act of 1958, 15 U.S.C. §681(c), with total assets in excess of five million dollars.

k. A private business development company as defined in section 202(a)(22) of the Investment Advisers Act of 1940, 15 U.S.C. §80b-2(a)(22), with total assets in excess of five million dollars.

l. A federal covered investment adviser acting for its own account.

m. A *"qualified institutional buyer"* as defined in Rule 144A(a)(1), other than Rule

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144A(a)(1)(i)(H), adopted by the securities and exchange commission under the Securities Act of 1933, 17 C.F.R. §230.144A.

n. A *"major U. S. institutional investor"* as defined in Rule 15a-6(b)(4)(i) adopted by the securities and exchange commission under the Securities Exchange Act of 1934, 17 C.F.R. §240.15a-6.

o. Any other person, other than an individual, of institutional character with total assets in excess of five million dollars not organized for the specific purpose of evading this chapter.

p. Any other person specified by rule adopted or order issued under this chapter.

12. *"Insurance company"* means a company organized as an insurance company whose primary business is writing insurance or reinsuring risks underwritten by insurance companies and which is subject to supervision by the insurance commissioner or a similar official or agency of a state.

13. *"Insured"* means insured as to payment of all principal and all interest.

13A. *"Interest at the legal rate"* means the interest rate for judgments specified in section 535.3.

14. *"International banking institution"* means an international financial institution of which the United States is a member and whose securities are exempt from registration under the Securities Act of 1933.

15. *"Investment adviser"* means a person that, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or the advisability of investing in, purchasing, or selling securities or that, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. The term includes a financial planner or other person that, as an integral component of other financially related services, provides investment advice to others for compensation as part of a business or that holds itself out as providing investment advice to others for compensation. The term does not include any of the following:

a. An investment adviser representative.

b. A lawyer, accountant, engineer, or teacher whose performance of investment advice is solely incidental to the practice of the person's profession.

c. A broker-dealer or its agents whose performance of investment advice is solely incidental to the conduct of business as a broker-dealer and who does not receive special compensation for the investment advice.

d. A publisher of a bona fide newspaper, news magazine, or business or financial publication of general and regular circulation.

e. A federal covered investment adviser.

f. A bank or savings institution.

g. Any other person that is excluded by the Investment Advisers Act of 1940 from the definition of investment adviser.

h. Any other person excluded by rule adopted or order issued under this chapter.

16. *"Investment adviser representative"* means an individual employed by or associated with an investment adviser or federal covered investment adviser and who makes any recommendations or otherwise gives investment advice regarding securities, manages accounts or portfolios of clients, determines which recommendation or advice regarding securities should be given, provides investment advice or holds oneself out as providing investment advice, receives compensation to solicit, offer, or negotiate for the sale of or for selling investment advice, or supervises employees who perform any of the foregoing. The term does not include an individual who does or is any of the following:

a. Performs only clerical or ministerial acts.

b. Is an agent whose performance of investment advice is solely incidental to the individual acting as an agent and who does not receive special compensation for investment advisory services.

c. Is employed by or associated with a federal covered investment adviser, unless the individual has a "place of business" in this state as that term is defined by rule adopted by the administrator pursuant to chapter 17A and is any of the following:

(1) An "investment adviser representative" as that term is defined by rule adopted under section 203A of the Investment Advisers Act of 1940, 15 U.S.C. §80b-3a.

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(2) Not a "supervised person" as that term is defined by rule adopted by the administrator pursuant to chapter 17A.

d. Is excluded by rule adopted or order issued under this chapter.

17. *"Issuer"* means a person that issues or proposes to issue a security, subject to all of the following:

a. The issuer of a voting trust certificate, collateral trust certificate, certificate of deposit for a security, or share in an investment company without a board of directors or individuals performing similar functions is the person performing the acts and assuming the duties of depositor or manager pursuant to the trust or other agreement or instrument under which the security is issued.

b. The issuer of an equipment trust certificate or similar security serving the same purpose is the person by which the property is or will be used or to which the property or equipment is or will be leased or conditionally sold or that is otherwise contractually responsible for assuring payment of the certificate.

c. The issuer of a fractional undivided interest in an oil, gas, or other mineral lease or in payments out of production under a lease, right, or royalty is the owner of an interest in the lease or in payments out of production under a lease, right, or royalty, whether whole or fractional, that creates fractional interests for the purpose of sale.

d. With respect to a viatical settlement investment contract, *"issuer"* means a person involved in creating, transferring, or selling to an investor any interest in such a contract, including but not limited to fractional or pooled interests, but does not include an agent or a broker-dealer.

18. *"Nonissuer transaction"* or *"nonissuer distribution"* means a transaction or distribution not directly or indirectly for the benefit of the issuer.

19. *"Offer to purchase"* includes an attempt or offer to obtain, or solicitation of an offer to sell, a security or interest in a security for value. The term does not include a tender offer that is subject to section 14(d) of the Securities Exchange Act of 1934, 15 U.S.C. §78n(d).

20. *"Person"* means an individual; corporation; business trust; estate; trust; partnership; limited liability company; association; cooperative; joint venture; government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

21. *"Place of business"* of a broker-dealer, an investment adviser, or a federal covered investment adviser means any of the following:

a. An office at which the broker-dealer, investment adviser, or federal covered investment adviser regularly provides brokerage or investment advice or solicits, meets with, or otherwise communicates with customers or clients.

b. Any other location that is held out to the general public as a location at which the broker-dealer, investment adviser, or federal covered investment adviser provides brokerage or investment advice or solicits, meets with, or otherwise communicates with customers or clients.

22. *"Predecessor chapter"* means this chapter as it existed on December 31, 2004.

23. *"Price amendment"* means the amendment to a registration statement filed under the Securities Act of 1933 or, if an amendment is not filed, the prospectus or prospectus supplement filed under the Securities Act of 1933 that includes a statement of the offering price, underwriting and selling discounts or commissions, amount of proceeds, conversion rates, call prices, and other matters dependent upon the offering price.

24. *"Principal place of business"* of a broker-dealer or an investment adviser means the executive office of the broker-dealer or investment adviser from which the officers, partners, or managers of the broker-dealer or investment adviser direct, control, and coordinate the activities of the broker-dealer or investment adviser.

25. *"Record"*, except in the phrases "of record", "official record", and "public record", means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

26. *"Sale"* includes every contract of sale, contract to sell, or disposition of, a security or interest in a security for value, and *"offer to sell"* includes every attempt or offer to dispose

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of, or solicitation of an offer to purchase, a security or interest in a security for value. Both terms include all of the following:

a. A security given or delivered with, or as a bonus on account of, a purchase of securities or any other thing constituting part of the subject of the purchase and having been offered and sold for value.

b. A gift of assessable stock involving an offer and sale.

c. A sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer and a sale or offer of a security that gives the holder a present or future right or privilege to convert the security into another security of the same or another issuer, including an offer of the other security.

27. *"Securities and exchange commission"* means the United States securities and exchange commission.

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

28. *"Security"* means a note; stock; treasury stock; security future; bond; debenture; evidence of indebtedness; certificate of interest or participation in a profit-sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; fractional undivided interest in oil, gas, or other mineral rights; put, call, straddle, option, or privilege on a security, certificate of deposit, or group or index of securities, including an interest therein or based on the value thereof; put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency; or, in general, an interest or instrument commonly known as a "security"; or a certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. All of the following shall apply to the term:

a. It includes both a certificated and an uncertificated security.

b. It does not include an insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed or variable sum of money either in a lump sum or periodically for life or other specified period.

c. It does not include any of the following:

(1) An interest in a contributory or noncontributory pension or welfare plan subject to the Employee Retirement Income Security Act of 1974.

(2) A certificate or tax credit issued or transferred pursuant to chapter 15E, subchapter VII.

d. It includes an investment in a common enterprise with the expectation of profits to be derived primarily from the efforts of a person other than the investor and a *"common enterprise"* means an enterprise in which the fortunes of the investor are interwoven with those of either the person offering the investment, a third party, or other investors.

e. It includes as a security an interest in a limited liability company or in a limited liability partnership or any class or series of such interest, including any fractional or other interest in such interest, provided *"security"* does not include an interest in a limited liability company or a limited liability partnership if the person claiming that such an interest is not a security proves that all of the members of the limited liability company or limited liability partnership are actively engaged in the management of the limited liability company or limited liability partnership; provided that the evidence that members vote or have the right to vote, or the right to information concerning the business and affairs of the limited liability company or limited liability partnership, or the right to participate in management, shall not establish, without more, that all members are actively engaged in the management of the limited liability company or limited liability partnership.

f. It includes a viatical settlement investment contract.

29. *"Self-regulatory organization"* means a national securities exchange registered under the Securities Exchange Act of 1934, a national securities association of broker-dealers registered under the Securities Exchange Act of 1934, a clearing agency registered under the Securities Exchange Act of 1934, or the municipal securities rulemaking board established under the Securities Exchange Act of 1934.

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30. *"Sign"* means, with present intent to authenticate or adopt a record, to do any of the following:

a. To execute or adopt a tangible symbol.

b. To attach or logically associate with the record an electronic symbol, sound, or process.

31. *"State"* means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

31A. *"Viatical settlement investment contract"* means a contract entered into by a viatical settlement purchaser, to which the viator is not a party, to purchase a life insurance policy or an interest in the death benefits of a life insurance policy, which contract is entered into for the purpose of deriving economic benefit.

[C31, 35, §8581-c3; C39, §**8581.03;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §502.3; C77, 79, 81, §502.102; 81 Acts, ch 163, §1; 82 Acts, ch 1100, §24]

83 Acts, ch 169, §2; 85 Acts, ch 155, §23; 87 Acts, ch 53, §1, 2; 87 Acts, ch 181, §1; 91 Acts, ch 40, §3 – 5; 91 Acts, ch 230, §4, 5; 94 Acts, ch 1031, §6; 96 Acts, ch 1025, §1; 97 Acts, ch 114, §1 – 4; 98 Acts, ch 1106, §1, 2, 24; 99 Acts, ch 134, §1 – 3; 2001 Acts, ch 16, §5, 37; 2001 Acts, ch 55, §31, 38; 2001 Acts, ch 118, §1, 2; 2002 Acts, ch 1111, §2, 3; 2003 Acts, ch 44, §89; 2003 Acts, ch 108, §130; 2004 Acts, ch 1161, §1, 68; 2005 Acts, ch 19, §74; 2005 Acts, ch 135, §115; 2006 Acts, ch 1117, §5, 6; 2013 Acts, ch 124, §3; 2023 Acts, ch 19, §2721

Referred to in §15.522, 235B.3, 235B.6, 252I.1, 421.17A, 508.31A, 508.32, 508.32A, 521A.14, 521J.101, 633D.2

502.103 References to federal statutes.

"Securities Act of 1933", 15 U.S.C. §77a et seq.; *"Securities Exchange Act of 1934"*, 15 U.S.C. §78a et seq.; *"Public Utility Holding Company Act of 1935"*, 15 U.S.C. §79 et seq.; *"Investment Company Act of 1940"*, 15 U.S.C. §80a-1 et seq.; *"Investment Advisers Act of 1940"*, 15 U.S.C. §80b-1 et seq.; *"Employee Retirement Income Security Act of 1974"*, 29 U.S.C. §1001 et seq.; *"National Housing Act"*, 12 U.S.C. §1701; *"Commodity Exchange Act"*, 7 U.S.C. §1 et seq.; *"Internal Revenue Code"*, 26 U.S.C. §1 et seq.; *"Securities Investor Protection Act of 1970"*, 15 U.S.C. §78aaa et seq.; *"Securities Litigation Uniform Standards Act of 1998"*, 112 Stat. 3227; *"Small Business Investment Act of 1958"*, 15 U.S.C. §661 et seq.; *"Electronic Signatures in Global and National Commerce Act"*, 15 U.S.C. §7001 et seq.; and *"Dodd-Frank Wall Street Reform and Consumer Protection Act"*, Pub. L. No. 111-203 mean those federal statutes and the rules and regulations adopted under those federal statutes, as in effect on January 1, 2015.

2004 Acts, ch 1161, §2, 68; 2015 Acts, ch 128, §2, 50, 51

502.104 References to federal agencies.

A reference in this chapter to an agency or department of the United States is also a reference to a successor agency or department.

2004 Acts, ch 1161, §3, 68

502.105 Electronic records and signatures.

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, but does not modify, limit, or supersede §101(c) of that Act, 15 U.S.C. §7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that Act, 15 U.S.C. §7003(b). This chapter authorizes the filing of records and signatures, when specified by provisions of this chapter or by a rule adopted or order issued under this chapter, in a manner consistent with section 104(a) of that Act, 15 U.S.C. §7004(a).

2004 Acts, ch 1161, §4, 68

502.106 through 502.200 Reserved.

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ARTICLE 2

EXEMPTIONS FROM REGISTRATION
OF SECURITIES

502.201 Exempt securities.

All of the following securities are exempt from the requirements of sections 502.301 through 502.306 and 502.504:

1. *United States government and municipal securities.* A security, including a revenue obligation or a separate security as defined in rule 131, 17 C.F.R. §230.131, adopted by the securities and exchange commission under the Securities Act of 1933, issued, insured, or guaranteed by the United States; by a state; by a political subdivision of a state; by a public authority, agency, or instrumentality of one or more states; by a political subdivision of one or more states; or by a person controlled or supervised by and acting as an instrumentality of the United States under authority granted by the Congress; or a certificate of deposit for any of the foregoing.

2. *Foreign government securities.* A security issued, insured, or guaranteed by a foreign government with which the United States maintains diplomatic relations, or any of its political subdivisions, if the security is recognized as a valid obligation by the issuer, insurer, or guarantor.

3. *Depository institution and international banking institution securities.* A security issued by and representing or that will represent an interest in or a direct obligation of, or be guaranteed by any of the following:

a. An international banking institution.

b. A banking institution organized under the laws of the United States; a member bank of the United States federal reserve system; or a depository institution, a substantial portion of the business of which consists or will consist of receiving deposits or share accounts that are insured to the maximum amount authorized by statute by the federal deposit insurance corporation, the national credit union share insurance fund, or a successor authorized by federal law or exercising fiduciary powers that are similar to those permitted for national banks under the authority of the comptroller of the currency pursuant to Pub. L. No. 87-722, §1, 12 U.S.C. §92a.

c. Any other depository institution, unless by rule or order the administrator proceeds under section 502.204.

4. *Insurance company securities.* A security issued by and representing an interest in, or a debt of, or insured or guaranteed by, an insurance company authorized to do business in this state.

5. *Common carrier and public utility securities.* A security issued or guaranteed by a railroad, other common carrier, public utility, or public utility holding company that is any of the following:

a. Regulated in respect to its rates and charges by the United States or a state.

b. Regulated in respect to the issuance or guarantee of the security by the United States, a state, Canada, or a Canadian province or territory.

c. A public utility holding company registered under the Public Utility Holding Company Act of 1935 or a subsidiary of such a registered holding company within the meaning of that Act.

6. *Certain options and rights.* A federal covered security specified in section 18(b)(1) of the Securities Act of 1933, 15 U.S.C. §77r(b)(1), or by rule adopted under that provision or a security listed or approved for listing on another securities market specified by rule under this chapter; a put or a call option contract; a warrant; a subscription right on or with respect to such securities; or an option or similar derivative security on a security or an index of securities or foreign currencies issued by a clearing agency registered under the Securities Exchange Act of 1934 and listed or designated for trading on a national securities exchange, a facility of a national securities exchange, or a facility of a national securities association registered under the Securities Exchange Act of 1934 or an offer or sale, of the underlying security in connection with the offer, sale, or exercise of an option or other security that was

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exempt when the option or other security was written or issued; or an option or a derivative security designated by the securities and exchange commission under section 9(b) of the Securities Exchange Act of 1934, 15 U.S.C. §78i(b).

7. *Nonprofit securities.* A security issued by a person organized and operated exclusively for religious, educational, benevolent, fraternal, charitable, social, athletic, or reformatory purposes, or as a chamber of commerce, and not for pecuniary profit, no part of the net earnings of which inures to the benefit of a private stockholder or other person, or a security of a company that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940, 15 U.S.C. §80a-3(c)(10)(B); except that with respect to the offer or sale of a note, bond, debenture, or other evidence of indebtedness issued by such a person, a rule may be adopted under this chapter limiting the availability of this exemption by classifying securities, persons, and transactions, imposing different requirements for different classes, specifying with respect to paragraph *"b"* the scope of the exemption and the grounds for denial or suspension, and requiring an issuer to do any of the following:

a. File a notice specifying the material terms of the proposed offer or sale and copies of any proposed sales and advertising literature to be used and provide that the exemption becomes effective if the administrator does not disallow the exemption within the period established by the rule.

b. File a request for exemption authorization for which a rule under this chapter may specify the scope of the exemption, the requirement of an offering statement, the filing of sales and advertising literature, the filing of consent to service of process complying with section 502.611, and grounds for denial or suspension of the exemption.

c. Register under section 502.304.

8. Reserved.

8A. *Cooperative associations.* A stock or similar security, including a patronage refund certificate, issued by any of the following:

a. A cooperative housing corporation described in paragraph 1 of subsection *"b"* of section 216 of the Internal Revenue Code, if its activities are limited to the ownership, leasing, management, or construction of residential properties for its members, and activities incidental thereto.

b. 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, 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:

(1) Such stock or similar security is part of a class issuable only to persons who deal in commodities with, or obtain goods or services from, the issuer.

(2) Such stock or similar security is transferable only to the issuer or a successor in interest of the transferor who qualifies for membership in such mutual or cooperative organization.

(3) No dividends other than patronage refunds are payable to holders of such stock or similar security except on a complete or partial liquidation.

8B. *Agricultural cooperative associations.* A security issued by an agricultural cooperative association, provided all of the following conditions are satisfied:

a. A commission or remuneration must not be paid or provided either directly or indirectly for the sale, except as permitted by the administrator by rule or by order issued upon written application showing good cause for allowance of a commission or other remuneration.

b. If the securities to be issued are notes or other evidences of indebtedness and are issued after July 1, 1991, the issuer must file with the administrator a written notice specifying the name of the issuer, the date of the issuer's organization, the name of a contact person, a copy of the issuer's current audited financial statement, the types of security or securities to be offered, and the class of persons to whom the offer will be made in accordance with such rules as prescribed by the administrator.

9. *Equipment trust certificate.* An equipment trust certificate with respect to equipment leased or conditionally sold to a person, if any security issued by the person would be

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exempt under this section or would be a federal covered security under section 18(b)(1) of the Securities Act of 1933, 15 U.S.C. §77r(b)(1).

9A. *Economic development corporations.* Any security issued by a corporation formed under chapter 496B.

9B. *Iowa finance authority.* Any security issued by the Iowa finance authority under chapter 16, subchapter VIII.

9C. *Membership campgrounds.* Any security representing a membership camping contract which is registered pursuant to section 557B.2 or exempt under section 557B.4.

9D. *Time-shares.* Any security representing a time-share interval as defined in section 557A.2.

9E. *Viatical settlement investment contracts.* A viatical settlement investment contract, or fractional or pooled interest in such contract, provided any of the following conditions are satisfied:

a. The assignment, transfer, sale, devise, or bequest of a death benefit of a life insurance policy or contract is made by the viator to an insurance company as provided under Title XIII, subtitle 1.

b. The assignment, transfer, sale, devise, or bequest of a life insurance policy or contract, for any value less than the expected death benefit, is made by the viator to a family member or other person who enters into no more than one such agreement in a calendar year.

c. A life insurance policy or contract is assigned to a bank, savings bank, savings and loan association, credit union, or other licensed lending institution as collateral for a loan.

d. Accelerated benefits are exercised as provided in the life insurance policy or contract and consistent with applicable law.

e. The assignment, transfer, sale, devise, or bequest of the death benefit or ownership of a life insurance policy or contract made by the policyholder or contract owner to a viatical settlement provider, if the viatical settlement transaction complies with chapter 508E, including rules adopted pursuant to that chapter.

[C31, 35, §8581-c6; C39, §**8581.06;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §502.6; C77, 79, 81, §502.201]

97 Acts, ch 114, §5; 2004 Acts, ch 1161, §5, 68; 2006 Acts, ch 1117, §7; 2008 Acts, ch 1123, §1; 2013 Acts, ch 100, §26, 27; 2014 Acts, ch 1080, §93, 98

Referred to in §502.203, 502.204, 502.301, 502.302, 502.504, 557B.14

502.202 Exempt transactions.

The following transactions are exempt from the requirements of sections 502.301 through 502.306 and 502.504:

1. *Isolated nonissuer transactions.* An isolated nonissuer transaction, whether effected by or through a broker-dealer or not.

2. *Nonissuer transactions in specified outstanding securities.* A nonissuer transaction by or through a broker-dealer registered, or exempt from registration, under this chapter, and a resale transaction by a sponsor of a unit investment trust registered under the Investment Company Act of 1940, provided that for either transaction, the security is of a class that has been outstanding in the hands of the public for at least ninety days, if, at the date of the transaction, all of the following apply:

a. The issuer of the security is engaged in business, the issuer is not in the organizational stage or in bankruptcy or receivership, and the issuer is not a blank check, blind pool, or shell company that has no specific business plan or purpose or has indicated that its primary business plan is to engage in a merger or combination of the business with, or an acquisition of, an unidentified person.

b. The security is sold at a price reasonably related to its current market price.

c. The security does not constitute the whole or part of an unsold allotment to, or a subscription or participation by, the broker-dealer as an underwriter of the security, or a redistribution.

d. A nationally recognized securities manual or its electronic equivalent designated by rule adopted or order issued under this chapter or a record filed with the securities and exchange commission that is publicly available contains all of the following:

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(1) A description of the business and operations of the issuer.

(2) The names of the issuer's executive officers and the names of the issuer's directors, if any.

(3) An audited balance sheet of the issuer as of a date within eighteen months before the date of the transaction or, in the case of a reorganization or merger when the parties to the reorganization or merger each had an audited balance sheet, and a pro forma balance sheet for the combined organization.

(4) An audited income statement for each of the issuer's two immediately previous fiscal years or for the period of existence of the issuer, whichever is shorter, or, in the case of a reorganization or merger when each party to the reorganization or merger had audited income statements, and a pro forma income statement.

e. Any one of the following requirements is met:

(1) The issuer of the security has a class of equity securities listed on a national securities exchange registered under section 6 of the Securities Exchange Act of 1934.

(2) The issuer of the security is a unit investment trust registered under the Investment Company Act of 1940.

(3) The issuer of the security, including its predecessors, has been engaged in continuous business for at least three years.

(4) The issuer of the security has total assets of at least two million dollars based on an audited balance sheet as of a date within eighteen months before the date of the transaction or, in the case of a reorganization or merger when the parties to the reorganization or merger each had such an audited balance sheet, and a pro forma balance sheet for the combined organization.

3. *Nonissuer transactions in specified foreign transactions.* A nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter in a security of a foreign issuer that is a margin security defined in regulations or rules adopted by the board of governors of the United States federal reserve system.

4. *Nonissuer transactions in securities subject to securities exchange act reporting.* A nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter in an outstanding security if the guarantor of the security files reports with the securities and exchange commission under the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. §78m or 78o(d).

5. *Nonissuer transactions in specified fixed income securities.* A nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter in a security if any of the following apply:

a. It is rated at the time of the transaction by a nationally recognized statistical rating organization in one of its four highest rating categories.

b. It has a fixed maturity or a fixed interest or dividend, if all of the following apply:

(1) A default has not occurred during the current fiscal year or within the three previous fiscal years or during the existence of the issuer and any predecessor if less than three fiscal years, in the payment of principal, interest, or dividends on the security.

(2) The issuer is engaged in business, is not in the organizational stage or in bankruptcy or receivership, and is not and has not been within the previous twelve months a blank check, blind pool, or shell company that has no specific business plan or purpose or has indicated that its primary business plan is to engage in a merger or combination of the business with, or an acquisition of, an unidentified person.

6. *Unsolicited brokerage transactions.* A nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter effecting an unsolicited order or offer to purchase.

7. *Nonissuer transaction by pledgees.* A nonissuer transaction executed by a bona fide pledgee without the purpose of evading this chapter.

8. *Nonissuer transactions with federal covered investment advisers.* A nonissuer transaction by a federal covered investment adviser with investments under management in excess of one hundred million dollars acting in the exercise of discretionary authority in a signed record for the account of others.

9. *Specified exchange transactions.* A transaction in a security, whether or not the

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security or transaction is otherwise exempt, in exchange for one or more bona fide outstanding securities, claims, or property interests, or partly in such exchange and partly for cash, if the terms and conditions of the issuance and exchange or the delivery and exchange and the fairness of the terms and conditions have been approved after a hearing by a court; by an official or agency of the United States; by a state securities, banking, or insurance agency; or by any other government authority expressly authorized by law to grant such approvals.

10. *Underwriter transactions.* A transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters.

11. *Unit secured transactions.* A transaction in a note, bond, debenture, or other evidence of indebtedness secured by a mortgage or other security agreement if all of the following apply:

a. The note, bond, debenture, or other evidence of indebtedness is offered and sold with the mortgage or other security agreement as a unit.

b. A general solicitation or general advertisement of the transaction is not made.

c. A commission or other remuneration is not paid or given, directly or indirectly, to a person not registered under this chapter as a broker-dealer or as an agent.

12. *Bankruptcy, guardian, or conservator transactions.* A transaction by an executor, administrator of an estate, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator.

13. *Transactions with specified investors.* A sale or offer to sell to any of the following:

a. An institutional investor.

b. A federal covered investment adviser.

c. Any other person exempted by rule adopted or order issued under this chapter.

d. A person or class of persons who are granted this exemption by the administrator. The administrator, by rule or order, may grant this exemption to a person or class of persons based upon the factors of financial sophistication, net worth, and the amount of assets under investment.

14. *Limited offering transactions.* A sale or an offer to sell securities by or on behalf of an issuer, if the transaction is part of a single issue in which all of the following apply:

a. Not more than thirty-five purchasers are present in this state during any twelve consecutive months, other than those designated in subsection 13.

b. A general solicitation or general advertising is not made in connection with the offer to sell or sale of the securities.

c. A commission or other remuneration is not paid or given, directly or indirectly, to a person other than a broker-dealer registered under this chapter or an agent registered under this chapter for soliciting a prospective purchaser in this state.

d. The issuer reasonably believes that all the purchasers in this state, other than those designated in subsection 13, are purchasing for investment.

15. *Transactions with existing security holders.* A transaction under an offer to existing security holders of the issuer, including persons that at the date of the transaction are holders of convertible securities, options, or warrants, if a commission or other remuneration, other than a standby commission, is not paid or given, directly or indirectly, for soliciting a security holder in this state.

16. *Offerings registered under this chapter and the Securities Act of 1933.* An offer to sell, but not a sale, of a security not exempt from registration under the Securities Act of 1933 if all of the following apply:

a. A registration or offering statement or similar record as required under the Securities Act of 1933 has been filed, but is not effective, or the offer is made in compliance with rule 165 adopted under the Securities Act of 1933, 17 C.F.R. §230.165.

b. A stop order of which the offeror is aware has not been issued against the offeror by the administrator or the securities and exchange commission, and an audit, inspection, or proceeding that is public and that may culminate in a stop order is not known by the offeror to be pending.

17. *Offerings when registration has been filed, but is not effective under this chapter and*

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exempt from the Securities Act of 1933. An offer to sell, but not a sale, of a security exempt from registration under the Securities Act of 1933 if all of the following apply:

a. A registration statement has been filed under this chapter, but is not effective.

b. A solicitation of interest is provided in a record to offerees in compliance with a rule adopted by the administrator under this chapter.

c. A stop order of which the offeror is aware has not been issued by the administrator under this chapter and an audit, inspection, or proceeding that may culminate in a stop order is not known by the offeror to be pending.

18. *Control transactions.* A transaction involving the distribution of the securities of an issuer to the security holders of another person in connection with a merger, consolidation, exchange of securities, sale of assets, or other reorganization to which the issuer, or its parent or subsidiary and the other person, or its parent or subsidiary, are parties.

19. *Rescission offers.* A rescission offer, sale, or purchase under section 502.510.

20. *Out-of-state offers or sales.* An offer or sale of a security to a person not a resident of this state and not present in this state if the offer or sale does not constitute a violation of the laws of the state or foreign jurisdiction in which the offeree or purchaser is present and is not part of an unlawful plan or scheme to evade this chapter.

21. *Employee benefit plans.* Employees' stock purchase, savings, option, profit-sharing, pension, or similar employees' benefit plan, including any securities, plan interests, and guarantees issued under a compensatory benefit plan or compensation contract, contained in a record, established by the issuer, its parents, its majority-owned subsidiaries, or the majority-owned subsidiaries of the issuer's parent for the participation of their employees including offers or sales of such securities to any of the following:

a. Directors; general partners; trustees, if the issuer is a business trust; officers; consultants; and advisers.

b. Family members who acquire such securities from those persons through gifts or domestic relations orders.

c. Former employees, directors, general partners, trustees, officers, consultants, and advisers if those individuals were employed by or providing services to the issuer when the securities were offered.

d. Insurance agents who are exclusive insurance agents of the issuer, or the issuer's subsidiaries or parents, or who derive more than fifty percent of their annual income from those organizations.

22. *Specified dividends and tender offers and judicially recognized reorganizations.* A transaction involving any of the following:

a. A stock dividend or equivalent equity distribution, whether the corporation or other business organization distributing the dividend or equivalent equity distribution is the issuer or not, if nothing of value is given by stockholders or other equity holders for the dividend or equivalent equity distribution other than the surrender of a right to a cash or property dividend if each stockholder or other equity holder may elect to take the dividend or equivalent equity distribution in cash, property, or stock.

b. An act incident to a judicially approved reorganization in which a security is issued in exchange for one or more outstanding securities, claims, or property interests, or partly in such exchange and partly for cash.

c. The solicitation of tenders of securities by an offeror in a tender offer in compliance with rule 162 adopted under the Securities Act of 1933, 17 C.F.R. §230.162.

23. *Nonissuer transactions involving specified foreign issuer securities traded on designated security exchanges.* A nonissuer transaction in an outstanding security by or through a broker-dealer registered or exempt from registration under this chapter, if the issuer is a reporting issuer in a foreign jurisdiction designated by this subsection or by rule adopted or order issued under this chapter; has been subject to continuous reporting requirements in the foreign jurisdiction for not less than one hundred eighty days before the transaction; and the security is listed on the foreign jurisdiction's securities exchange that has been designated by this subsection or by rule adopted or order issued under this chapter, or is a security of the same issuer that is of senior or substantially equal rank to the listed security or is a warrant or right to purchase or subscribe to any of the foregoing.

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For purposes of this subsection, Canada, together with its provinces and territories, is a designated foreign jurisdiction and the Toronto stock exchange, inc., is a designated securities exchange. After an administrative hearing in compliance with chapter 17A, the administrator, by rule adopted or order issued under this chapter, may revoke the designation of a securities exchange under this subsection, if the administrator finds that revocation is necessary or appropriate in the public interest and for the protection of investors.

24. *Intrastate crowdfunding.*

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

(1) "*Intermediary*" means any of the following:

(a) A broker-dealer that is subject to the registration requirements of section 502.401 and that facilitates the offer and sale of securities by issuers to investors through an internet-based system that is open to and accessible by the general public.

(b) A business entity that is all of the following:

(i) A funding portal that is registered with the securities and exchange commission pursuant to the Securities Act of 1933, including as provided in 15 U.S.C. §77d-1.

(ii) A member of the financial industry regulatory authority, inc. pursuant to the Securities Exchange Act of 1934, including as provided in 15 U.S.C. §§78c and 78o-3, and 17 C.F.R. §227.400.

(c) A business entity that qualifies as an Iowa crowdfunding portal by meeting all of the following requirements:

(i) Is registered with the administrator as required by the administrator.

(ii) Is engaged in intrastate crowdfunding offers and sales of exempt securities in this state through an internet site.

(iii) Does not operate or facilitate a secondary market in securities.

(2) "*Intrastate crowdfunding*" means the offer or sale of a security by an issuer in a transaction that is available for purchase only by an Iowa resident or a business entity having its principal place of business in this state.

b. Exemption not available. The exemption in this subsection is not available to any of the following:

(1) A foreign issuer.

(2) An investment company, as defined in section 3 of the federal Investment Company Act of 1940.

(3) A development stage company that either has no specific business plan or purpose or has indicated that the company's business plan is to engage in a merger or acquisition with an unidentified company or companies, or other entity or person.

(4) A company with a class of securities registered under the federal Securities Exchange Act of 1934.

(5) Any person who is subject to a disqualifying event as described in the regulations adopted in accordance with section 926 of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, or in rules adopted by the administrator pursuant to chapter 17A.

c. Aggregate sales limit. The aggregate amount of securities sold to all investors by the issuer during the twelve-month period preceding the date of the offer or sale, including any amount sold in reliance upon the exemption in this subsection, shall not exceed five million dollars other than either of the following:

(1) Securities sold to Iowa resident institutional investors.

(2) Securities sold to the Iowa resident issuer's management.

d. Individual sales limit. The aggregate amount of securities sold to an investor by the issuer during the twelve-month period preceding the date of the offer or sale, including any amount sold in reliance upon the exemption in this subsection, shall not exceed five thousand dollars unless the investor is an accredited investor who resides in Iowa. For purposes of this individual sales limit, the following investors shall be treated as one investor:

(1) A relative, spouse, or relative of the spouse of an investor who has the same principal residence as the investor.

(2) A trust or estate in which an investor and any related person collectively have more than fifty percent of the beneficial interest, excluding contingent interests.

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(3) A corporation or other organization of which an investor and any related person collectively are beneficial owners of more than fifty percent of the equity securities, excluding directors' qualifying shares, or equity interests.

e. Use of an intermediary. All offers and sales of securities made in reliance upon the exemption in this subsection shall be made through an intermediary's internet site.

f. Notice to administrator. Prior to the offer of any security in this state made in reliance upon the exemption in this subsection, the issuer shall file a notice with the administrator in a form and format approved by the administrator, and including the filing fee specified by rule, if any.

g. Rulemaking. The administrator shall adopt all rules necessary to implement the exemption in this subsection including but not limited to all of the following:

(1) Mandatory disclosures.
(2) Restrictions on advertising and communications.
(3) Target amount, offering period, and escrow requirements.
(4) Use and compensation of promoters.
(5) Restrictions on the sale of securities purchased under the exemption in this subsection.
(6) Sales reports.
(7) Limitations on the offering price.
(8) Duties of an intermediary which shall include providing the administrator with continuous investor-level access to the intermediary's internet site.
(9) Records maintenance.
(10) Duties and registration requirements for internet site operators.

[SS15, §1920-u1; C24, 27, §8526; C31, 35, §8581-c4; C39, §**8581.04;** C46, 50, 54, 58, 62, §502.4; C66, 71, 73, 75, §496B.18, 502.4; C77, 79, §496B.18, 502.202; C81, §502.202]

83 Acts, ch 95, §1, 2; 83 Acts, ch 169, §3; 87 Acts, ch 181, §2; 88 Acts, ch 1020, §1; 91 Acts, ch 40, §6 – 9; 91 Acts, ch 230, §6, 7; 96 Acts, ch 1025, §2, 3; 97 Acts, ch 114, §6; 98 Acts, ch 1119, §2; 99 Acts, ch 134, §4; 99 Acts, ch 166, §1; 2000 Acts, ch 1147, §34; 2003 Acts, ch 44, §90; 2004 Acts, ch 1161, §6, 68; 2008 Acts, ch 1123, §2; 2015 Acts, ch 128, §3, 49; 2017 Acts, ch 54, §76; 2018 Acts, ch 1074, §1 – 3; 2019 Acts, ch 59, §175

Referred to in §502.203, 502.204, 502.301, 502.302, 502.304, 502.402, 502.504

502.203 Additional exemptions and waivers.

A rule adopted or order issued under this chapter may exempt a security, transaction, or offer; a rule under this chapter may exempt a class of securities, transactions, or offers from any or all of the requirements of sections 502.301 through 502.306 and 502.504; and an order under this chapter may waive, in whole or in part, any or all of the conditions for an exemption or offer under sections 502.201 and 502.202.

[SS15, §1920-u1, -u13; C24, 27, §8526, 8554; C31, 35, §8581-c5; C39, §**8581.05;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §502.5; C77, 79, 81, §502.203]

83 Acts, ch 169, §4 – 7; 91 Acts, ch 40, §10 – 14; 96 Acts, ch 1025, §4, 5; 2001 Acts, ch 118, §3; 2004 Acts, ch 1161, §7, 68

Referred to in §502.204, 502.301, 502.302, 502.504, 502.608

502.204 Denial, suspension, revocation, condition, or limitation of exemptions.

1. *Enforcement-related powers.* Except with respect to a federal covered security or a transaction involving a federal covered security, an order under this chapter may deny, suspend application of, condition, limit, or revoke an exemption created under section 502.201, subsection 3, paragraph "c", or subsection 7, 8A, or 8B, or section 502.202, or an exemption or waiver created under section 502.203 with respect to a specific security, transaction, or offer. An order under this section may be issued only pursuant to the procedures in section 502.306, subsection 4, or section 502.604, and only prospectively.

2. *Knowledge of order required.* A person does not violate section 502.301, 502.303 through 502.306, 502.504, or 502.510 by an offer to sell, offer to purchase, sale, or purchase

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effected after the entry of an order issued under this section if the person did not know, and in the exercise of reasonable care could not have known, of the order.

[C31, 35, §8581-c4; C39, §**8581.04;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §502.4(5); C77, 79, 81, §502.204]

2004 Acts, ch 1161, §8, 68; 2005 Acts, ch 19, §75

Referred to in §502.201, 502.604

502.205 through 502.207A Repealed by 2004 Acts, ch 1161, §63, 68. See §502.302 – 502.304A, 502.503.

502.207B Legislative review and oversight. Repealed by 2001 Acts, ch 118, §58.

502.208 and 502.209 Repealed by 2004 Acts, ch 1161, §63, 68. See §502.305, 502.306.

502.210 Reserved.

502.211 through 502.218 Repealed by 2004 Acts, ch 1161, §63, 68. See §502.321B – 502.321I.

502.219 through 502.300 Reserved.

ARTICLE 3
REGISTRATION OF SECURITIES AND NOTICE FILING OF FEDERAL COVERED SECURITIES

502.301 Securities registration requirement.

It is unlawful for a person to offer or sell a security in this state unless one of the following applies:

1. The security is a federal covered security.
2. The security, transaction, or offer is exempted from registration under sections 502.201 through 502.203.
3. The security is registered under this chapter.

[SS15, §1920-u15; C24, 27, §8561, 8563; C31, 35, §8581-c11; C39, §**8581.11;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §502.11; C77, 79, 81, §502.301]

83 Acts, ch 169, §9; 91 Acts, ch 40, §19; 96 Acts, ch 1025, §7; 98 Acts, ch 1106, §3, 4, 24; 2004 Acts, ch 1161, §9, 68

Referred to in §502.201, 502.202, 502.203, 502.204, 502.509, 502.607, 502.608, 502.610, 502.701, 536A.22

502.302 Notice filing.

1. *Required filing of records.* With respect to a federal covered security, as defined in section 18(b)(2) of the Securities Act of 1933, 15 U.S.C. §77r(b)(2), that is not otherwise exempt under sections 502.201 through 502.203, a rule adopted or order issued under this chapter may require the filing of any or all of the following records:

a. Before the initial offer of a federal covered security in this state, all records that are part of a federal registration statement filed with the securities and exchange commission under the Securities Act of 1933 and a consent to service of process complying with section 502.611 signed by the issuer.

(1) A person who is the issuer of a federal covered security under section 18(b)(2) of the Securities Act of 1933 shall initially make a notice filing and annually renew a notice filing in this state.

(2) A notice filer shall pay a filing fee in the amount of four hundred dollars when the notice is filed.

b. After the initial offer of the federal covered security in this state, all records that are part

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of an amendment to a federal registration statement filed with the securities and exchange commission under the Securities Act of 1933.

2. *Notice filing effectiveness and renewal.* A notice filing under subsection 1 is effective for one year commencing on the later of the notice filing or the effectiveness of the offering filed with the securities and exchange commission. On or before expiration, the issuer may renew a notice filing by filing a copy of those records filed by the issuer with the securities and exchange commission that are required by rule or order under this chapter to be filed and by paying a renewal fee of four hundred dollars. A previously filed consent to service of process complying with section 502.611 may be incorporated by reference in a renewal. A renewed notice filing becomes effective upon the expiration of the filing being renewed.

3. *Notice filings for federal covered securities under section 18(b)(4)(F).* With respect to a security that is a federal covered security under section 18(b)(4)(F) of the Securities Act of 1933, 15 U.S.C. §77r(b)(4)(F), a rule under this chapter may require a notice filing by or on behalf of an issuer to include a copy of form D, including the appendix, as promulgated by the securities and exchange commission, and a consent to service of process complying with section 502.611 signed by the issuer not later than fifteen days after the first sale of the federal covered security in this state and the payment of a fee of one hundred dollars; and the payment of a fee of two hundred fifty dollars for any late filing.

4. *Stop orders.* Except with respect to a federal security under section 18(b)(1) of the Securities Act of 1933, 15 U.S.C. §77r(b)(1), if the administrator finds that there is a failure to comply with a notice or fee requirement of this section, the administrator may issue a stop order suspending the offer and sale of a federal covered security in this state. If the deficiency is corrected, the stop order is void as of the time of its issuance and no penalty may be imposed by the administrator.

5. *Deposit of fees.* Fees collected under this section shall be deposited as provided in section 505.7.

[SS15, §1920-u15, -u16; C24, 27, §8561, 8563, 8571; C31, 35, §8581-c11, -c14; C39, §**8581.11, 8581.18;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §502.11, 502.18; C77, 79, 81, §502.302; 82 Acts, ch 1003, §2]

83 Acts, ch 169, §10, 18; 91 Acts, ch 40, §20 – 22; 94 Acts, ch 1031, §14; 96 Acts, ch 1025, §8; 97 Acts, ch 114, §10; 98 Acts, ch 1106, §5, 24; 99 Acts, ch 166, §2; 2001 Acts, ch 118, §5; 2004 Acts, ch 1161, §10, 68; 2009 Acts, ch 181, §57; 2015 Acts, ch 128, §4 – 7, 50, 51; 2018 Acts, ch 1074, §4

Referred to in §502.201, 502.202, 502.203, 502.305, 502.307, 502.610

502.303 Securities registration by coordination.

1. *Registration permitted.*

a. A security for which a registration statement has been filed under the Securities Act of 1933 in connection with the same offering may be registered by coordination under this section.

b. A proposed sale pursuant to the exemption contained in "Regulation A" as adopted under section 3(b) of the Securities Act of 1933 where such registration statement has not become effective or notification of proposed sale has not been qualified may be registered by coordination under this section.

2. *Required records.* A registration statement and accompanying records under this section must contain or be accompanied by all of the following records in addition to the information specified in section 502.305 and a consent to service of process complying with section 502.611:

a. A copy of the latest form of prospectus filed under the Securities Act of 1933.

b. A copy of the articles of incorporation and bylaws or their substantial equivalents currently in effect; a copy of any agreement with or among underwriters; a copy of any indenture or other instrument governing the issuance of the security to be registered; and a specimen, copy, or description of the security that is required by rule adopted or order issued under this chapter.

c. Copies of any other information or any other records filed by the issuer under the Securities Act of 1933 requested by the administrator.

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d. An undertaking to forward each amendment to the federal prospectus, other than an amendment that delays the effective date of the registration statement, promptly after it is filed with the securities and exchange commission.

3. *Conditions for effectiveness of registration statement.* A registration statement under this section becomes effective simultaneously with or subsequent to the federal registration statement when all the following conditions are satisfied:

a. A stop order under subsection 4 or section 502.306 or issued by the securities and exchange commission is not in effect and a proceeding is not pending against the issuer under section 502.306.

b. The registration statement has been on file for at least twenty days or a shorter period provided by rule adopted or order issued under this chapter.

4. *Notice of federal registration statement effectiveness.* The registrant shall promptly notify the administrator in a record of the date when the federal registration statement becomes effective and the content of any price amendment and shall promptly file a record containing the price amendment. If the notice is not timely received, the administrator may issue a stop order, without prior notice or hearing, retroactively denying effectiveness to the registration statement or suspending its effectiveness until in compliance with this section. The administrator shall promptly notify the registrant of an order by telegram, telephone, or electronic means and promptly confirm this notice by a record. If the registrant subsequently complies with the notice requirements of this section, the stop order is void as of the date of its issuance.

5. *Effectiveness of registration statement.* If the federal registration statement becomes effective before each of the conditions in this section is satisfied or is waived by the administrator, the registration statement is automatically effective under this chapter when all the conditions are satisfied or waived. If the registrant notifies the administrator of the date when the federal registration statement is expected to become effective, the administrator shall promptly notify the registrant by telegram, telephone, or electronic means and promptly confirm this notice by a record, indicating whether all the conditions are satisfied or waived and whether the administrator intends the institution of a proceeding under section 502.306. The notice by the administrator does not preclude the institution of such a proceeding.

[C31, §8581-c11, -c12; C35, §8581-c11, -c12, -f3; C39, §**8581.11, 8581.12, 8581.15;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §502.11, 502.12, 502.15; C77, 79, 81, §502.303]

83 Acts, ch 169, §11; 91 Acts, ch 40, §23; 97 Acts, ch 114, §11; 98 Acts, ch 1106, §6, 24; 2004 Acts, ch 1161, §11, 68

Referred to in §502.201, 502.202, 502.203, 502.204, 502.305, 502.306, 502.307, 502.607

502.304 Securities registration by qualification.

1. *Registration permitted.* A security may be registered by qualification under this section.

2. *Required records.* A registration statement under this section must contain the information or records specified in section 502.305, a consent to service of process complying with section 502.611, and, if required by rule adopted under this chapter, all of the following information or records:

a. With respect to the issuer and any significant subsidiary, its name, address, and form of organization; the state or foreign jurisdiction and date of its organization; the general character and location of its business; a description of its physical properties and equipment; and a statement of the general competitive conditions in the industry or business in which it is or will be engaged.

b. With respect to each director and officer of the issuer, and other person having a similar status or performing similar functions, the person's name, address, and principal occupation for the previous five years; the amount of securities of the issuer held by the person as of the thirtieth day before the filing of the registration statement; the amount of the securities covered by the registration statement to which the person has indicated an intention to subscribe; and a description of any material interest of the person in any

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material transaction with the issuer or a significant subsidiary effected within the previous three years or proposed to be effected.

c. With respect to persons covered by paragraph *"b"*, the aggregate sum of the remuneration paid to those persons during the previous twelve months and estimated to be paid during the next twelve months, directly or indirectly, by the issuer, and all predecessors, parents, subsidiaries, and affiliates of the issuer.

d. With respect to a person owning of record or owning beneficially, if known, ten percent or more of the outstanding shares of any class of equity security of the issuer, the information specified in paragraph *"b"* other than the person's occupation.

e. With respect to a promoter, if the issuer was organized within the previous three years, the information or records specified in paragraph *"b"*, any amount paid to the promoter within that period or intended to be paid to the promoter, and the consideration for the payment.

f. With respect to a person on whose behalf any part of the offering is to be made in a nonissuer distribution, the person's name and address; the amount of securities of the issuer held by the person as of the date of the filing of the registration statement; a description of any material interest of the person in any material transaction with the issuer or any significant subsidiary effected within the previous three years or proposed to be effected; and a statement of the reasons for making the offering.

g. The capitalization and long-term debt, on both a current and pro forma basis, of the issuer and any significant subsidiary, including a description of each security outstanding or being registered or otherwise offered, and a statement of the amount and kind of consideration, whether in the form of cash, physical assets, services, patents, goodwill, or anything else of value, for which the issuer or any subsidiary has issued its securities within the previous two years or is obligated to issue its securities.

h. The kind and amount of securities to be offered; the proposed offering price or the method by which it is to be computed; any variation at which a proportion of the offering is to be made to a person or class of persons other than the underwriters, with a specification of the person or class; the basis on which the offering is to be made if otherwise than for cash; the estimated aggregate underwriting and selling discounts or commissions and finders' fees, including separately cash, securities, contracts, or anything else of value to accrue to the underwriters or finders in connection with the offering or, if the selling discounts or commissions are variable, the basis of determining them and their maximum and minimum amounts; the estimated amounts of other selling expenses, including legal, engineering, and accounting charges; the name and address of each underwriter and each recipient of a finder's fee; a copy of any underwriting or selling group agreement under which the distribution is to be made or the proposed form of any such agreement whose terms have not yet been determined; and a description of the plan of distribution of any securities that are to be offered otherwise than through an underwriter.

i. The estimated monetary proceeds to be received by the issuer from the offering; the purposes for which the proceeds are to be used by the issuer; the estimated amount to be used for each purpose; the order or priority in which the proceeds will be used for the purposes stated; the amounts of any funds to be raised from other sources to achieve the purposes stated; the sources of the funds; and, if a part of the proceeds is to be used to acquire property, including goodwill, otherwise than in the ordinary course of business, the names and addresses of the vendors, the purchase price, the names of any persons that have received commissions in connection with the acquisition, and the amounts of the commissions and other expenses in connection with the acquisition, including the cost of borrowing money to finance the acquisition.

j. A description of any stock options or other security options outstanding, or to be created in connection with the offering, and the amount of those options held or to be held by each person required to be named in paragraph *"b"*, *"d"*, *"e"*, *"f"*, or *"h"* and by any person that holds or will hold ten percent or more in the aggregate of those options.

k. The dates of, parties to, and general effect concisely stated of each managerial or other material contract made or to be made otherwise than in the ordinary course of business to be performed in whole or in part at or after the filing of the registration statement or that was made within the previous two years, and a copy of the contract.

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l. A description of any pending litigation, action, or proceeding to which the issuer is a party and that materially affects its business or assets, and any litigation, action, or proceeding known to be contemplated by governmental authorities.

m. A copy of any prospectus, pamphlet, circular, form letter, advertisement, or other sales literature intended as of the effective date to be used in connection with the offering and any solicitation of interest used in compliance with section 502.202, subsection 17, paragraph "*b*".

n. A specimen or copy of the security being registered, unless the security is uncertificated; a copy of the issuer's articles of incorporation and bylaws or their substantial equivalents, in effect; and a copy of any indenture or other instrument covering the security to be registered.

o. A signed or conformed copy of an opinion of counsel concerning the legality of the security being registered, with an English translation if it is in a language other than English, which states whether the security when sold will be validly issued, fully paid, and nonassessable and, if a debt security, a binding obligation of the issuer.

p. A signed or conformed copy of a consent of any accountant, engineer, appraiser, or other person whose profession gives authority for a statement made by the person, if the person is named as having prepared or certified a report or valuation, other than an official record, that is public, which is used in connection with the registration statement.

q. A balance sheet of the issuer as of a date within four months before the filing of the registration statement; a statement of income and a statement of cash flows for each of the three fiscal years preceding the date of the balance sheet and for any period between the close of the immediately previous fiscal year and the date of the balance sheet, or for the period of the issuer's and any predecessor's existence if less than three years; and, if any part of the proceeds of the offering is to be applied to the purchase of a business, the financial statements that would be required if that business were the registrant.

r. Any additional information or records required by rule adopted or order issued under this chapter.

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.

3. *Conditions for effectiveness of registration statement.* A registration statement under this section becomes effective thirty days, or any shorter period provided by rule adopted or order issued under this chapter, after the date the registration statement or the last amendment other than a price amendment is filed, if any of the following applies:

a. A stop order is not in effect and a proceeding is not pending under section 502.306.

b. The administrator has not issued an order under section 502.306 delaying effectiveness.

c. The applicant or registrant has not requested that effectiveness be delayed.

4. *Delay of effectiveness of registration statement.* The administrator may delay effectiveness once for not more than ninety days if the administrator determines the registration statement is not complete in all material respects and promptly notifies the applicant or registrant of that determination. The administrator may also delay effectiveness for a further period of not more than thirty days if the administrator determines that the delay is necessary or appropriate.

5. *Prospectus distribution may be required.* A rule adopted or order issued under this chapter may require as a condition of registration under this section that a prospectus containing a specified part of the information or record specified in subsection 2 be sent or given to each person to whom an offer is made, before or concurrently, with the earliest of any of the following:

a. The first offer made in a record to the person otherwise than by means of a public advertisement, by or for the account of the issuer or another person on whose behalf the offering is being made or by an underwriter or broker-dealer that is offering part of an unsold allotment or subscription taken by the person as a participant in the distribution.

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b. The confirmation of a sale made by or for the account of the person.

c. Payment pursuant to such a sale.

d. Delivery of the security pursuant to such a sale.

[SS15, §1920-u15; C24, 27, §8562; C31, 35, §8581-c13; C39, §**8581.14;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §502.14; C77, 79, 81, §502.304]

83 Acts, ch 169, §12, 13; 91 Acts, ch 40, §24 – 30; 94 Acts, ch 1031, §15; 96 Acts, ch 1025, §9 – 12; 97 Acts, ch 114, §12; 98 Acts, ch 1106, §7 – 12, 24; 99 Acts, ch 166, §3, 4; 2000 Acts, ch 1147, §16; 2001 Acts, ch 16, §6, 37; 2001 Acts, ch 118, §6 – 8; 2002 Acts, ch 1111, §4; 2004 Acts, ch 1161, §12, 68; 2006 Acts, ch 1117, §8

Referred to in §502.201, 502.202, 502.203, 502.204, 502.305, 502.307, 502.607

502.304A Expedited registration by filing for small issuers.

1. *Registration permitted.* A security meeting the conditions set forth in this section may be registered by filing as provided in this section.

2. *Conditions of the issuer.* In order to register under this section, the issuer must meet all of the following conditions:

a. The issuer must be a corporation, limited liability company, or partnership organized under the laws of one of the states or possessions of the United States which engages in or proposes to engage in a business other than petroleum exploration or production mining or other extractive industries.

b. The securities must be offered and sold only on behalf of the issuer, and must not be used by any selling security holder to register securities for resale.

3. *Conditions for effectiveness of registration — required records and fee.* In order to register under this section, all of the following conditions must be satisfied:

a. The offering price for common stock, the exercise price if the securities are options, warrants, or rights for common stock, or the conversion price if the securities are convertible into common stock must be equal to or greater than one dollar per share. The issuer must not split its common stock, or declare a stock dividend, for two years after effectiveness of the registration, except that in connection with a subsequent registered public offering, the issuer may upon application and consent of the administrator take such action.

b. A commission, fee, or other remuneration shall not be paid or given, directly or indirectly, for the sale of the securities, except for a payment to a broker-dealer or agent registered under this chapter, or except for a payment as permitted by the administrator by rule or by order issued upon written application showing good cause for allowance of a commission, fee, or other remuneration.

c. The issuer or a broker-dealer offering or selling the securities is not or would not be disqualified under rule 505, 17 C.F.R. §230.505(b)(2)(iii), adopted under the federal Securities Act of 1933.

d. The aggregate offering price of the offering of securities by the issuer within or outside this state must not exceed one million dollars, less the aggregate offering price for all securities sold within twelve months before the start of, and during the offering of, the securities under rule 504, 17 C.F.R. §230.504, in reliance on any exemption under section 3(b) of the Securities Act of 1933 or in violation of section 5(a) of that Act; provided, that if rule 504, 17 C.F.R. §230.504, adopted under the Securities Act of 1933, is amended, the administrator may by rule increase the limit under this paragraph to conform to amendments to federal law, including but not limited to modification in the amount of the aggregate offering price.

e. An offering document meeting the disclosure requirements of rule 502(b)(2), 17 C.F.R. §230.502(b)(2), adopted under the Securities Act of 1933, must be delivered to each purchaser in the state prior to the sale of the securities, unless the administrator by rule or order provides for disclosure different from that rule.

f. The issuer must file with the administrator an application for registration and the offering document to be used in connection with the offer and sale of securities.

g. The issuer must pay to the administrator a fee of one hundred dollars and is not required to pay the filing fee set forth in section 502.305, subsection 2.

h. The fees collected under this subsection shall be deposited as provided in section 505.7.

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4. *Effectiveness of registration.* Unless the administrator issues a stop order denying the effectiveness of the registration, as provided in section 502.306, the registration becomes effective on the fifth business day after the registration has been filed with the administrator, or earlier if the administrator permits a shorter time period between registration and effectiveness.

5. *Agent registration.* In connection with an offering registered under this section, a person may be registered as an agent of the issuer under section 502.402 by the filing of an application by the issuer with the administrator for the registration of the person as an agent of the issuer and the paying of a fee of ten dollars. Notwithstanding any other provision of this chapter, the registration of the agent shall be effective until withdrawn by the issuer or until the securities registered pursuant to the registration statement have all been sold, whichever occurs first. The registration of an agent shall become effective when ordered by the administrator or on the fifth business day after the agent's application has been filed with the administrator, whichever occurs first, and the administrator shall not impose further conditions upon the registration of the agent. However, the administrator may deny, revoke, suspend, or withdraw the registration of the agent at any time as provided in section 502.412. An agent registered solely pursuant to this section is entitled to sell only securities registered under this section.

6. *Inapplicable issuers.* This section is not applicable to any of the following issuers:

a. An investment company, including a mutual fund.

b. An issuer subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934.

c. A direct participation program, unless otherwise permitted by the administrator by rule or order for good cause.

d. A blind pool or other offering for which the specific business or properties cannot now be described, unless the administrator determines that the blind pool is a community development, seed, or venture capital fund for which the administrator permits a waiver.

7. *Limits on stop orders.* Notwithstanding any other provision of this chapter, the administrator shall not deny effectiveness to or suspend or revoke the effectiveness of a registration under this section on the basis of section 502.306, subsection 1, paragraph *"h"*.

2004 Acts, ch 1161, §13, 68; 2005 Acts, ch 3, §76; 2009 Acts, ch 181, §58; 2014 Acts, ch 1092, §181

Referred to in §502.201, 502.202, 502.203, 502.204, 502.305, 502.607

502.305 Securities registration filings.

1. *Who may file.* A registration statement may be filed by the issuer, a person on whose behalf the offering is to be made, or a broker-dealer registered under this chapter.

2. *Filing.* Except as provided in section 502.302, subsection 3, and section 502.304A, subsection 3, paragraph *"g"*, a person who files a registration statement or a notice filing shall pay a filing fee as prescribed by rules adopted pursuant to chapter 17A. The administrator shall retain the filing fee even if the notice filing is withdrawn or the registration is withdrawn, denied, suspended, revoked, or abandoned. The fees collected under this subsection shall be deposited as provided in section 505.7. The administrator may adopt rules requiring a filing to be made electronically. The rules may provide for such electronic filing either directly with the administrator or with a designee of the administrator. The rules may require that the filer pay any reasonable costs charged by the designee of the administrator for processing the filings and that the filer submit any fees paid through the designee.

3. *Status of offering.* A registration statement filed under section 502.303 or 502.304 must specify all of the following:

a. The amount of securities to be offered in this state.

b. The states in which a registration statement or similar record in connection with the offering has been or is to be filed.

c. Any adverse order, judgment, or decree issued in connection with the offering by a state securities regulator, the securities and exchange commission, or a court.

4. *Incorporation by reference.* A record filed under this chapter or its predecessor

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chapter within five years preceding the filing of a registration statement may be incorporated by reference in the registration statement to the extent that the record is currently accurate.

5. *Nonissuer distribution.* In the case of a nonissuer distribution, information or a record shall not be required under subsection 9 or section 502.304, unless it is known to the person filing the registration statement or to the person on whose behalf the distribution is to be made or unless it can be furnished by those persons without unreasonable effort or expense.

6. *Escrow and impoundment.* A rule adopted or order issued under this chapter may require as a condition of registration that a security issued within the previous five years or to be issued to a promoter for a consideration substantially less than the public offering price or to a person for a consideration other than cash be deposited in escrow; and that the proceeds from the sale of the registered security in this state be impounded until the issuer receives a specified amount from the sale of the security either in this state or elsewhere. The conditions of any escrow or impoundment required under this subsection may be established by rule adopted or order issued under this chapter, but the administrator shall not reject a depository institution solely because of its location in another state.

7. *Form of subscription.* A rule adopted or order issued under this chapter may require as a condition of registration that a security registered under this chapter be sold only on a specified form of subscription or sale contract and that a signed or conformed copy of each contract be filed under this chapter or preserved for a period specified by the rule or order, which shall not be longer than five years.

8. *Effective period.* Except while a stop order is in effect under section 502.306, a registration statement is effective for one year after its effective date, or for any longer period designated in an order issued under this chapter during which the security is being offered or distributed in a nonexempted transaction by or for the account of the issuer or other person on whose behalf the offering is being made or by an underwriter or broker-dealer that is still offering part of an unsold allotment or subscription taken as a participant in the distribution. For the purposes of a nonissuer transaction, all outstanding securities of the same class identified in the registration statement as a security registered under this chapter are considered to be registered while the registration statement is effective. If any securities of the same class are outstanding, a registration statement shall not be withdrawn until one year after its effective date. A registration statement may be withdrawn only with the approval of the administrator.

9. *Periodic reports.* While a registration statement is effective, a rule adopted or order issued under this chapter may require the person that filed the registration statement to file reports, not more often than quarterly, to keep the information or other record in the registration statement reasonably current and to disclose the progress of the offering.

98 Acts, ch 1106, §13, 24; 99 Acts, ch 166, §5; 2004 Acts, ch 1161, §14, 68; 2009 Acts, ch 181, §59; 2010 Acts, ch 1121, §3; 2016 Acts, ch 1122, §2, 3

Referred to in §502.201, 502.202, 502.203, 502.204, 502.303, 502.304, 502.304A, 502.306, 502.307, 502.607

502.306 Denial, suspension, and revocation of securities registration.

1. *Stop orders.* The administrator may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of, a registration statement if the administrator finds that the order is in the public interest and that any of the following apply:

a. The registration statement as of its effective date or before the effective date in the case of an order denying effectiveness, or a report under section 502.305, subsection 9, is incomplete in a material respect or contains a statement that, in the light of the circumstances under which it was made, was false or misleading with respect to a material fact.

b. This chapter or a rule adopted or order issued under this chapter or a condition imposed under this chapter has been willfully violated, in connection with the offering, by the person filing the registration statement; by the issuer, a partner, officer, or director of the issuer or a person having a similar status or performing a similar function; a promoter of the issuer; or a person directly or indirectly controlling or controlled by the issuer; but only if the person filing the registration statement is directly or indirectly controlled by or acting for the issuer; or by an underwriter.

c. The security registered or sought to be registered is the subject of a permanent or

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temporary injunction of a court of competent jurisdiction or an administrative stop order or similar order issued under any federal, foreign, or state law other than this chapter applicable to the offering, but the administrator shall not institute a proceeding against an effective registration statement under this paragraph more than one year after the date of the order or injunction on which it is based, and the administrator shall not issue an order under this paragraph on the basis of an order or injunction issued under the securities act of another state unless the order or injunction was based on conduct that would constitute, as of the date of the order, a ground for a stop order under this section.

d. The issuer's enterprise or method of business includes or would include activities that are unlawful where performed.

e. With respect to a security sought to be registered under section 502.303, there has been a failure to comply with the undertaking required by section 502.303, subsection 2, paragraph "*d*".

f. The applicant or registrant has not paid the filing fee, but the administrator shall void the order if the deficiency is corrected.

g. The offering is subject to any of the following:

(1) Will work or tend to work a fraud upon purchasers or would so operate.

(2) Has been or would be made with unreasonable amounts of underwriters' and sellers' discounts, commissions, or other compensation, or promoters' profits or participations, or unreasonable amounts or kinds of options.

h. The financial condition of the issuer affects or would affect the soundness of the securities, except that applications for registration of securities by companies which are in the development stage shall not be denied based solely upon the financial condition of the company. For purposes of this paragraph, a "*development stage company*" is defined as a company which has been in existence for five years or less.

i. A person who is an issuer, correspondent, or applicant, as listed on the uniform application to register securities form known as "Form U-1", has abandoned the registration statement. The administrator may enter an order pursuant to this paragraph if a notice of abandonment is sent to the last known address of each person, and the person fails to take corrective action within the time specified by the administrator. The notice of abandonment shall state the reasons for the administrator's action, specify the corrective action required, and specify the time period for submitting a response. However, the time specified shall not be less than fifteen days.

2. *Enforcement of subsection 1, paragraph "g".* To the extent practicable, the administrator by rule adopted or order issued under this chapter shall publish standards that provide notice of conduct that violates subsection 1, paragraph "*g*".

3. *Institution of stop order.* The administrator shall not institute a stop order proceeding against an effective registration statement on the basis of conduct or a transaction known to the administrator when the registration statement became effective unless the proceeding is instituted within thirty days after the registration statement became effective.

4. *Summary process.* The administrator may summarily revoke, deny, postpone, or suspend the effectiveness of a registration statement pending final determination of an administrative proceeding. Upon the issuance of the order, the administrator shall promptly notify each person specified in subsection 5 that the order has been issued, the reasons for the revocation, denial, postponement, or suspension, and that within fifteen days after the receipt of a request in a record from the person the matter will be scheduled for a hearing. If a hearing is not requested and none is ordered by the administrator, within thirty days after the date of service of the order, the order becomes final. If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing for each person subject to the order, may modify or vacate the order or extend the order until final determination.

5. *Procedural requirements for stop order.* A stop order shall not be issued under this section without all of the following:

a. An appropriate notice to the applicant or registrant, the issuer, and the person on whose behalf the securities are to be or have been offered.

b. An opportunity for hearing.

c. Findings of fact and conclusions of law in a record in accordance with chapter 17A.

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6. *Modification or vacation of stop order.* The administrator may modify or vacate a stop order issued under this section if the administrator finds that the conditions that caused its issuance have changed or that it is necessary or appropriate in the public interest or for the protection of investors.

2004 Acts, ch 1161, §15, 68; 2013 Acts, ch 90, §148; 2016 Acts, ch 1122, §4
Referred to in §502.201, 502.202, 502.203, 502.204, 502.303, 502.304, 502.304A, 502.305

502.307 Waiver and modification.

The administrator may waive or modify, in whole or in part, any or all of the requirements of sections 502.302, 502.303, and 502.304, subsection 2, or the requirement of any information or record in a registration statement or in a periodic report filed pursuant to section 502.305, subsection 9.

2004 Acts, ch 1161, §16, 68

502.308 through 502.321 Reserved.

ARTICLE 3A

TAKEOVER PROVISIONS

Referred to in §502.509

502.321A Special definitions.

For the purposes of this article, unless the context otherwise requires:

1. *"Associate"* means a person acting jointly or in concert with another for the purpose of acquiring, holding or disposing of, or exercising any voting rights attached to the equity securities of a target company.

2. *"Beneficial owner"* includes, but is not limited to, any person who directly or indirectly, through any contract, arrangement, understanding, or relationship, has or shares the power to vote or direct the voting of a security or has or shares the power to dispose of or otherwise direct the disposition of the security. A person is the beneficial owner of securities beneficially owned by any relative or spouse or relative of the spouse residing in the home of the person, any trust or estate in which the person owns ten percent or more of the total beneficial interest or serves as trustee or executor, any corporation or entity in which the person owns ten percent or more of the equity, and any affiliate or associate of the person.

3. *"Beneficial ownership"* includes, but is not limited to, the right, exercisable within sixty days, to acquire securities through the exercise of options, warrants, or rights or the conversion of convertible securities. The securities subject to these options, warrants, rights, or conversion privileges held by a person are outstanding for the purpose of computing the percentage of outstanding securities of the class owned by the person, but are not outstanding for the purpose of computing the percentage of the class owned by any other person.

4. *"Equity security"* means any stock or similar security and includes any of the following:

a. Any security convertible, with or without consideration, into a stock or similar security.

b. Any warrant or right to subscribe to or purchase a stock or similar security.

c. Any security carrying a warrant or right to subscribe to or purchase a stock or similar security.

d. Any other security which the administrator deems to be of a similar nature and considers necessary or appropriate, according to rules prescribed by the administrator for the public interest and protection of investors, to be treated as an equity security.

5. *"Offeree"* means the beneficial owner, who is a resident of this state, of equity securities which an offeror offers to acquire in connection with a takeover offer.

6. *"Offeror"* means a person who makes or in any manner participates in making a takeover offer. It does not include a supervised financial institution or broker-dealer loaning funds to an offeror in the ordinary course of its business, or any supervised financial institution, broker-dealer, attorney, accountant, consultant, employee, or other person

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furnishing information or advice to or performing ministerial duties for an offeror, and who does not otherwise participate in the takeover offer.

7. *"Principal place of business"* means the executive office of a target company from which the officers, partners, or managers of the target company direct, control, and coordinate the activities of the target company.

8. *a. "Takeover offer"* means the offer to acquire any equity securities of a target company from a resident of this state pursuant to a tender offer or request or invitation for tenders, if after the acquisition of all securities acquired pursuant to the offer any of the following are true:

(1) The offeror would be directly or indirectly a beneficial owner of more than ten percent of any class of the outstanding equity securities of the target company.

(2) The beneficial ownership by the offeror of any class of the outstanding equity securities of the target company would be increased by more than five percent. However, this subparagraph does not apply if after the acquisition of all securities acquired pursuant to the offer, the offeror would not be directly or indirectly a beneficial owner of more than ten percent of any class of the outstanding equity securities of the target company.

b. "Takeover offer" does not include any of the following:

(1) An offer in connection with the acquisition of a security which, together with all other acquisitions by the offeror of securities of the same class of equity securities of the target company, would not result in the offeror having acquired more than two percent of this class of securities during the preceding twelve-month period.

(2) An offer by the target company to acquire its own equity securities if such offer is subject to section 13(e) of the Securities Exchange Act of 1934.

(3) An offer in which the target company is an insurance company or insurance holding company subject to regulation by the commissioner of insurance, a financial institution subject to regulation by the superintendent of banking, or a public utility subject to regulation by the utilities commission.

9. *"Target company"* means an issuer of publicly traded equity securities that has at least twenty percent of its equity securities beneficially held by residents of this state and has substantial assets in this state. For the purposes of this chapter, an equity security is publicly traded if a trading market exists for the security. A trading market exists if the security is traded on a national securities exchange, whether or not registered pursuant to the Securities Exchange Act of 1934, or on the over-the-counter market.

2004 Acts, ch 1161, §17, 68; 2023 Acts, ch 19, §2722; 2024 Acts, ch 1170, §369

502.321B Registration requirements — hearing.

1. *Takeover filing required.* It is unlawful for a person to make a takeover offer or to acquire any equity securities pursuant to the offer unless the offer is valid under this article. A takeover offer is effective when the offeror files with the administrator a registration statement containing the information prescribed in subsection 6. Not later than the date of filing of the registration statement, the offeror shall deliver a copy of the registration statement by certified mail to the target company at its principal place of business and publicly disclose the material terms of the proposed offer. Public disclosure shall require, at a minimum, that a copy of the registration statement be supplied to all broker-dealers maintaining an office in this state currently quoting the security.

2. *Registration statement filing.* The registration statement shall be filed on forms prescribed by the administrator, and shall be accompanied by a consent by the offeror to service of process and filing fee specified in section 502.321G, and contain all of the following information:

a. All information specified in subsection 6.

b. Two copies of all solicitation materials intended to be used in the takeover offer, and in the form proposed to be published, sent, or delivered to offerees.

c. Additional information as prescribed by the administrator by rule, pursuant to chapter 17A, prior to the making of the offer.

3. *Registration not approval.* Registration shall not be considered approval by the administrator, and any representation to the contrary is unlawful.

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4. *Suspension authorized.* Within three calendar days of the date of filing of the registration statement, the administrator may, by order, summarily suspend the effectiveness of the takeover offer if the administrator determines that the registration does not contain all of the information specified in subsection 6 or that the takeover offer materials provided to offerees do not provide full disclosure to offerees of all material information concerning the takeover offer. The suspension shall remain in effect only until the determination following a hearing held pursuant to subsection 5.

5. *Hearing procedures.*

a. A hearing shall be scheduled by the administrator for each suspension provided under this section. The hearing shall be held within ten calendar days of the date of the suspension. The administrator's determination following the hearing shall be made within three calendar days after the hearing has been completed, but not more than sixteen days after the date of the suspension. However, the administrator may prescribe different time periods than those specified in this subsection by rule or order.

b. If, based upon the record of the hearing, the administrator finds that the registration statement fails to provide for full and fair disclosure of all material information concerning the offer, or that the takeover is in violation of any of the provisions of this article, the administrator shall permanently suspend the effectiveness of the takeover offer. The administrator may provide an opportunity for the offeror to correct disclosure and other deficiencies identified by the administrator and to reinstate the takeover offer by filing a new or amended registration statement pursuant to this section.

6. *Required information.* The form required to be filed by subsection 2, paragraph "*a*", shall contain all of the following information:

a. The identity and background of all persons on whose behalf the acquisition of any equity security of the target company has been or is to be effected.

b. The source and amount of funds or other consideration used or to be used in acquiring any equity security including, if applicable, a statement describing any securities which are being offered in exchange for the equity securities of the target company. If any part of the acquisition price is or will be represented by borrowed funds or other consideration, the information shall also include a description of the material terms of any financing arrangements and the names of the parties from whom the funds were or are to be borrowed.

c. If the offeror is other than a natural person, information concerning its organization and operations, including all of the following:

(1) The year, form, and jurisdiction of its organization.

(2) A description of each class of equity security and long-term debt.

(3) A description of the business conducted by the offeror and its subsidiaries and any material changes in the offeror or subsidiaries during the past three years.

(4) A description of the location and character of the principal properties of the offeror and its subsidiaries.

(5) A description of any pending and material legal or administrative proceedings in which the offeror or any of its affiliates is a party.

(6) The names of all directors and executive officers of the offeror and their material business activities and affiliations during the past five years.

(7) The financial statements of the offeror in a form and for periods of time as the administrator may prescribe by rule pursuant to section 17A.4, subsection 1.

d. If the offeror is a natural person, information concerning the offeror's identity and background, including business activities and affiliations during the past five years and a description of any pending and material legal or administrative proceedings in which the offeror is a party.

e. If the purpose of the acquisition is to gain control of the target company, the material terms of any plans or proposals which the offeror has, upon gaining control, to do any of the following:

(1) Liquidate the target company.

(2) Sell its assets.

(3) Effect its merger or consolidation.

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(4) Change the location of its principal place of business or of a material portion of its business activities.

(5) Change its management or policies of employment.

(6) Materially alter its relationship with suppliers or customers or the community in which it operates.

(7) Make any other major changes in its business, corporate structure, management, or personnel.

(8) Other information which would materially affect the shareholders' evaluation of the acquisition.

f. The number of shares or units of any equity security of the target company owned beneficially by the offeror and any affiliate or associate of the offeror, together with the name and address of each affiliate or associate.

g. The material terms of any contract, arrangement, or understanding with any other person with respect to the equity securities of the target company by which the offeror has or will acquire any interest in additional equity securities of the target company, or is or will be obligated to transfer any interest in the equity securities to another.

h. Information required to be included in a tender offer statement pursuant to section 14(d) of the Securities Exchange Act of 1934 and the rules and regulations of the securities and exchange commission issued pursuant to the Act.

2004 Acts, ch 1161, §18, 68; 2012 Acts, ch 1023, §157

Referred to in §502.321D, 502.509

502.321C Filing of solicitation materials.

Copies of all advertisements, circulars, letters, or other materials disseminated by the offeror or the target company, soliciting or requesting the acceptance or rejection of a takeover offer, shall be filed with the administrator and sent to the target company or offeror not later than the time the solicitation or request materials are first published, sent, or given to the offerees. The administrator may prohibit the use of any materials deemed false or misleading.

2004 Acts, ch 1161, §19, 68

502.321D Fraudulent, deceptive, or manipulative acts and practices prohibited.

An offeror, target company, affiliate or associate of an offeror or target company, or broker-dealer acting on behalf of an offeror or target company shall not engage in a fraudulent, deceptive, or manipulative act or practice in connection with a takeover offer. For purposes of this section, a fraudulent, deceptive, or manipulative act or practice includes, but is not limited to, any of the following:

1. The publication or use in connection with a takeover offer of a false statement of a material fact, or the omission of a material fact which renders the statements made misleading.

2. The purchase of any of the equity securities of an officer, director, or beneficial owner of five percent or more of the equity securities of the target company by the offeror or the target company for a consideration greater than that to be paid to other shareholders, unless the terms of the purchase are disclosed in a registration statement filed pursuant to section 502.321B.

3. The refusal by a target company to permit an offeror who is a shareholder of record to examine or copy its list of shareholders, pursuant to the applicable corporation statutes, for the purpose of making a takeover offer.

4. The refusal by a target company to mail any solicitation materials published by the offeror to its security holders with reasonable promptness after receipt from the offeror of the materials, together with the reasonable expenses of postage and handling.

5. The solicitation of any offeree for acceptance or rejection of a takeover offer, or acquisition of any equity security pursuant to a takeover offer, when the offer is suspended under section 502.321B, provided, however, that the target company may communicate

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during a suspension with its equity security holders to the extent required to respond to the takeover offer made pursuant to the Securities Exchange Act of 1934.

2004 Acts, ch 1161, §20, 68

502.321E Limitations on offers and offerors.

1. *Same terms required.* A takeover offer shall contain substantially the same terms for shareholders residing within and outside this state.

2. *Offeree withdrawal of securities.* An offeror shall provide that any equity securities of a target company deposited or tendered pursuant to a takeover offer may be withdrawn by or on behalf of an offeree within seven days after the date the offer has become effective and after sixty days from the date the offer has become effective, or as otherwise determined by the administrator pursuant to a rule or order issued for the protection of the shareholders.

3. *Pro rata acceptance.* If an offeror makes a takeover offer for less than all the outstanding equity securities of any class and, within ten days after the offer has become effective and copies of the offer, or notice of any increase in the consideration offered, are first published or sent or given to equity security holders, the number of securities deposited or tendered pursuant to the offer is greater than the number of securities that the offeror has offered to accept and pay for, the securities shall be accepted pro rata, disregarding fractions, according to the number of securities deposited or tendered for each offeree.

4. *Increased consideration.* If an offeror varies the terms of a takeover offer before the offer's expiration date by increasing the consideration offered to equity security holders, the offeror shall pay the increased consideration for all equity securities accepted, whether the securities have been accepted by the offeror before or after the variation in the terms of the offer.

5. *Proceedings — stop offers or acquisitions.* An offeror shall not make a takeover offer or acquire any equity securities in this state pursuant to a takeover offer during the period of time that an administrator's proceeding alleging a violation of this chapter is pending against the offeror.

6. *Proceedings — halt moving of target company assets.* An offeror shall not acquire, remove, or exercise control, directly or indirectly, over any target company assets located in this state pursuant to a takeover offer during the period of time that an administrator's proceeding alleging a violation of this chapter is pending against the offeror.

7. *Acquisitions subsequent to takeover purchases.* An offeror shall not acquire from a resident of this state an equity security of any class of a target company at any time within two years following the last purchase of securities pursuant to a takeover offer with respect to that class, including, but not limited to, acquisitions made by purchase, exchange, merger, consolidation, partial or complete liquidation, redemption, reverse stock split, recapitalization, reorganization, or any other similar transaction, unless the holders of the equity securities are afforded, at the time of the acquisition, a reasonable opportunity to dispose of the securities to the offeror upon substantially equivalent terms as those provided in the earlier takeover offer.

2004 Acts, ch 1161, §21, 68

502.321F Administration — rules and orders.

1. *Exemption authority.* The administrator may by rule or order exempt from any provision of this article the following:

a. A proposed takeover offer or a category or type of takeover offer which the administrator determines does not have the purpose or effect of changing or influencing the control of a target company.

b. A proposed takeover offer for which the administrator determines that compliance with the sections is not necessary for the protection of the offerees.

c. A person from the requirement of filing statements.

2. *Conflicts with chapter 17A.* In the event of a conflict between the provisions of chapter 17A and the provisions of this article, the provisions of this article shall prevail.

2004 Acts, ch 1161, §22, 68

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502.321G Fees.

The administrator shall charge a nonrefundable filing fee of two hundred fifty dollars for a registration statement filed by an offeror. The fee shall be deposited as provided in section 505.7.

2004 Acts, ch 1161, §23, 68; 2009 Acts, ch 181, §60
Referred to in §502.321B

502.321H Nonapplication of corporate takeover law.

If the target company is a public utility, public utility holding company, national banking association, bank holding company, or savings and loan association which is subject to regulation by a federal agency and the takeover of such company is subject to approval by the federal agency, this article does not apply.

2004 Acts, ch 1161, §24, 68

502.321I Application of securities law.

All of the provisions of this chapter which are not in conflict with this article apply to any takeover offer involving a target company.

2004 Acts, ch 1161, §25, 68
Referred to in §502.701

502.322 through 502.400 Reserved.

ARTICLE 4

BROKER-DEALERS, AGENTS, INVESTMENT ADVISERS, INVESTMENT ADVISER REPRESENTATIVES, AND FEDERAL COVERED INVESTMENT ADVISERS

502.401 Broker-dealer registration requirement and exemptions.

1. *Registration requirement.* It is unlawful for a person to transact business in this state as a broker-dealer unless the person is registered under this chapter as a broker-dealer or is exempt from registration as a broker-dealer under subsection 2 or 4.

2. *Exemptions from registration.* The following persons are exempt from the registration requirement of subsection 1:

a. A broker-dealer without a place of business in this state if its only transactions effected in this state are with any of the following:

(1) The issuer of the securities involved in the transactions.

(2) A broker-dealer registered as a broker-dealer under this chapter or not required to be registered as a broker-dealer under this chapter.

(3) An institutional investor.

(4) A nonaffiliated federal covered investment adviser with investments under management in excess of one hundred million dollars acting for the account of others pursuant to discretionary authority in a signed record.

(5) A bona fide preexisting customer whose principal place of residence is not in this state and the broker-dealer is registered as a broker-dealer under the Securities Exchange Act of 1934 or not required to be registered under the Securities Exchange Act of 1934 and is registered under the securities Act of the state in which the customer maintains a principal place of residence.

(6) A bona fide preexisting customer whose principal place of residence is in this state but was not present in this state when the customer relationship was established, if all of the following apply:

(a) The broker-dealer is registered under the Securities Exchange Act of 1934 or not required to be registered under the Securities Exchange Act of 1934 and is registered under the securities laws of the state in which the customer relationship was established and where the customer had maintained a principal place of residence.

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(b) Within forty-five days after the customer's first transaction in this state, the broker-dealer files an application for registration as a broker-dealer in this state and a further transaction is not effected more than seventy-five days after the date on which the application is filed, or, if earlier, the date on which the administrator notifies the broker-dealer that the administrator has denied the application for registration or has stayed the pendency of the application for good cause.

(7) Not more than three customers in this state during the previous twelve months, in addition to those customers specified in this paragraph *"a"*, if the broker-dealer is registered under the Securities Exchange Act of 1934 or not required to be registered under the Securities Exchange Act of 1934 and is registered under the securities Act of the state in which the broker-dealer has its principal place of business.

(8) Any other person exempted by rule adopted or order issued under this chapter.

b. A person that deals solely in United States government securities and is supervised as a dealer in government securities by the board of governors of the federal reserve system, the comptroller of the currency, the federal deposit insurance corporation, or the office of thrift supervision.

3. *Limits on employment or association.* It is unlawful for a broker-dealer, or for an issuer engaged in offering, offering to purchase, purchasing, or selling securities in this state, directly or indirectly, to employ or associate with an individual to engage in an activity related to securities transactions in this state if the registration of the individual is suspended or revoked or the individual is barred from employment or association with a broker-dealer, an issuer, an investment adviser, or a federal covered investment adviser by an order of the administrator under this chapter, the securities and exchange commission, or a self-regulatory organization. A broker-dealer or issuer does not violate this subsection if the broker-dealer or issuer did not know, and in the exercise of reasonable care could not have known, of the suspension, revocation, or bar. Upon request from a broker-dealer or issuer and for good cause, an order under this chapter may modify or waive, in whole or in part, the application of the prohibitions of this subsection to the broker-dealer or issuer.

4. *Foreign transactions.* A rule adopted or order issued under this chapter may permit any of the following:

a. A broker-dealer that is registered in Canada or other foreign jurisdiction and that does not have a place of business in this state to effect transactions in securities with or for, or attempt to effect the purchase or sale of any securities by, any of the following:

(1) An individual from Canada or other foreign jurisdiction who is temporarily present in this state and with whom the broker-dealer had a bona fide customer relationship before the individual entered the United States.

(2) An individual from Canada or other foreign jurisdiction who is present in this state and whose transactions are in a self-directed tax advantaged retirement plan of which the individual is the holder or contributor in that foreign jurisdiction.

(3) An individual who is present in this state, with whom the broker-dealer customer relationship arose while the individual was temporarily or permanently residing in Canada or the other foreign jurisdiction.

b. An agent who represents a broker-dealer that is exempt under this subsection to effect transactions in securities or attempt to effect the purchase or sale of securities in this state as permitted for a broker-dealer described in paragraph *"a"*.

[C31, 35, §8581-c17; C39, §**8581.21;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §502.21; C77, 79, 81, §502.401]

2004 Acts, ch 1161, §26, 68

Referred to in §502.202, 502.402, 502.407, 502.509, 502.604, 502.608, 502.610

502.402 Agent registration requirement and exemptions.

1. *Registration requirement.* It is unlawful for an individual to transact business in this state as an agent unless the individual is registered under this chapter as an agent or is exempt from registration as an agent under subsection 2.

2. *Exemptions from registration.* The following individuals are exempt from the registration requirement of subsection 1:

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a. An individual who represents a broker-dealer in effecting transactions in this state limited to those described in section 15(h)(2) of the Securities Exchange Act of 1934, 15 U.S.C. §78(h)(2).

b. An individual who represents a broker-dealer that is exempt under section 502.401, subsection 2 or 4.

c. An individual who represents an issuer with respect to an offer or sale of the issuer's own securities or those of the issuer's parent or any of the issuer's subsidiaries, and who is not compensated in connection with the individual's participation by the payment of commissions or other remuneration based, directly or indirectly, on transactions in those securities.

d. An individual who represents an issuer and who effects transactions in the issuer's securities exempted by section 502.202, other than section 502.202, subsection 11 or 14.

e. An individual who represents an issuer that effects transactions solely in federal covered securities of the issuer, but an individual who effects transactions in a federal covered security under section 18(b)(3) or 18(b)(4)(D) of the Securities Act of 1933, 15 U.S.C. §77r(b)(3) or 77r(b)(4)(D), is not exempt if the individual is compensated in connection with the agent's participation by the payment of commissions or other remuneration based, directly or indirectly, on transactions in those securities.

f. An individual who represents a broker-dealer registered in this state under section 502.401, subsection 1, or exempt from registration under section 502.401, subsection 2, in the offer and sale of securities for an account of a nonaffiliated federal covered investment adviser with investments under management in excess of one hundred million dollars acting for the account of others pursuant to discretionary authority in a signed record.

g. An individual who represents an issuer in connection with the purchase of the issuer's own securities.

h. An individual who represents an issuer and who restricts participation to performing clerical or ministerial acts.

i. Any other individual exempted by rule adopted or order issued under this chapter.

3. *Registration effective only while employed or associated.* The registration of an agent is effective only while the agent is employed by or associated with a broker-dealer registered under this chapter or an issuer that is offering, selling, or purchasing its securities in this state.

4. *Limit on employment or association.* It is unlawful for a broker-dealer, or an issuer engaged in offering, selling, or purchasing securities in this state, to employ or associate with an agent who transacts business in this state on behalf of broker-dealers or issuers unless the agent is registered under subsection 1 or exempt from registration under subsection 2.

5. *Limit on affiliations.* An individual shall not act as an agent for more than one broker-dealer or one issuer at a time, unless the broker-dealer or the issuer for which the agent acts is affiliated by direct or indirect common control or is authorized by rule or order under this chapter.

[C77, 79, 81, §502.402]

2004 Acts, ch 1161, §27, 68; 2008 Acts, ch 1123, §3

Referred to in §502.304A, 502.411, 502.412, 502.509, 502.608, 502.610

502.403 Investment adviser registration requirement and exemptions.

1. *Registration requirement.* It is unlawful for a person to transact business in this state as an investment adviser unless the person is registered under this chapter as an investment adviser or is exempt from registration as an investment adviser under subsection 2.

2. *Exemptions from registration.* All of the following persons are exempt from the registration requirement of subsection 1:

a. A person without a place of business in this state that is registered under the securities Act of the state in which the person has its principal place of business if its only clients in this state are any of the following:

(1) Federal covered investment advisers, investment advisers registered under this chapter, or broker-dealers registered under this chapter.

(2) Institutional investors.

(3) Bona fide preexisting clients whose principal places of residence are not in this state

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if the investment adviser is registered under the securities Act of the state in which the clients maintain principal places of residence.

(4) Any other client exempted by rule adopted or order issued under this chapter.

b. A person without a place of business in this state if the person has had, during the preceding twelve months, not more than five clients that are resident in this state in addition to those specified under paragraph *"a"*.

c. Any other person exempted by rule adopted or order issued under this chapter.

3. *Limits on employment or association.* It is unlawful for an investment adviser, directly or indirectly, to employ or associate with an individual to engage in an activity related to investment advice in this state if the registration of the individual is suspended or revoked or the individual is barred from employment or association with an investment adviser, federal covered investment adviser, or broker-dealer by an order under this chapter, the securities and exchange commission, or a self-regulatory organization, unless the investment adviser did not know, and in the exercise of reasonable care could not have known, of the suspension, revocation, or bar. Upon request from the investment adviser and for good cause, the administrator, by order, may waive, in whole or in part, the application of the prohibitions of this subsection to the investment adviser.

4. *Investment adviser representative registration required.* It is unlawful for an investment adviser to employ or associate with an individual required to be registered under this chapter as an investment adviser representative who transacts business in this state on behalf of the investment adviser unless the individual is registered under section 502.404, subsection 1, or is exempt from registration under section 502.404, subsection 2.

[C77, 79, 81, §502.403]

2004 Acts, ch 1161, §28, 68

Referred to in §502.404, 502.407, 502.509, 502.511, 502.604, 502.608, 502.610

502.404 Investment adviser representative registration requirement and exemptions.

1. *Registration requirement.* It is unlawful for an individual to transact business in this state as an investment adviser representative unless the individual is registered under this chapter as an investment adviser representative or is exempt from registration as an investment adviser representative under subsection 2.

2. *Exemptions from registration.* All of the following individuals are exempt from the registration requirement of subsection 1:

a. An individual who is employed by or associated with an investment adviser that is exempt from registration under section 502.403, subsection 2, or a federal covered investment adviser that is excluded from the notice filing requirements of section 502.405.

b. Any other individual exempted by rule adopted or order issued under this chapter.

3. *Registration effective only while employed or associated.* The registration of an investment adviser representative is not effective while the investment adviser representative is not employed by or associated with an investment adviser registered under this chapter or a federal covered investment adviser that has made or is required to make a notice filing under section 502.405.

4. *Limit on affiliations.* An individual may transact business as an investment adviser representative for more than one investment adviser or federal covered investment adviser unless a rule adopted or order issued under this chapter prohibits or limits an individual from acting as an investment adviser representative for more than one investment adviser or federal covered investment adviser.

5. *Limits on employment or association.* It is unlawful for an individual acting as an investment adviser representative, directly or indirectly, to conduct business in this state on behalf of an investment adviser or a federal covered investment adviser if the registration of the individual as an investment adviser representative is suspended or revoked or the individual is barred from employment or association with an investment adviser or a federal covered investment adviser by an order under this chapter, the securities and exchange commission, or a self-regulatory organization. Upon request from a federal covered investment adviser and for good cause, the administrator, by order issued, may waive, in

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whole or in part, the application of the requirements of this subsection to the investment adviser representative.

6. *Referral fees.* An investment adviser registered under this chapter, a federal covered investment adviser that has filed a notice under section 502.405, or a broker-dealer registered under this chapter is not required to employ or associate with an individual as an investment adviser representative if the only compensation paid to the individual for a referral of investment advisory clients is paid to an investment adviser registered under this chapter, a federal covered investment adviser who has filed a notice under section 502.405, or a broker-dealer registered under this chapter with whom the individual is employed or associated as an investment adviser representative.

[C77, 79, 81, §502.404]

83 Acts, ch 169, §14; 97 Acts, ch 23, §60; 2004 Acts, ch 1161, §29, 68; 2006 Acts, ch 1030, §61; 2007 Acts, ch 126, §87

Referred to in §502.403, 502.411, 502.412, 502.509, 502.511, 502.608, 502.610

502.405 Federal covered investment adviser notice filing requirement.

1. *Notice filing requirement.* Except with respect to a federal covered investment adviser described in subsection 2, it is unlawful for a federal covered investment adviser to transact business in this state as a federal covered investment adviser unless the federal covered investment adviser complies with subsection 3.

2. *Notice filing requirement not required.* The following federal covered investment advisers are not required to comply with subsection 3:

a. A federal covered investment adviser without a place of business in this state if its only clients in this state are any of the following:

(1) Federal covered investment advisers, investment advisers registered under this chapter, and broker-dealers registered under this chapter.

(2) Institutional investors.

(3) Bona fide preexisting clients whose principal places of residence are not in this state.

(4) Other clients specified by rule adopted or order issued under this chapter.

b. A federal covered investment adviser without a place of business in this state if the person has had, during the preceding twelve months, not more than five clients that are resident in this state in addition to those specified under paragraph *"a"*.

c. Any other person excluded by rule adopted or order issued under this chapter.

3. *Notice filing procedure.* A person acting as a federal covered investment adviser, not excluded under subsection 2, shall file a notice, a consent to service of process complying with section 502.611, and such records as have been filed with the securities and exchange commission under the Investment Advisers Act of 1940 required by rule adopted or order issued under this chapter and pay the fees specified in section 502.410, subsection 5.

4. *Effectiveness of filing.* The notice under subsection 3 becomes effective upon its filing.

[SS15, §1920-u19; C24, 27, §8577; C31, 35, §8581-c21; C39, §**8581.26;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §502.26; C77, 79, 81, §502.405]

2004 Acts, ch 1161, §30, 68

Referred to in §502.404, 502.407, 502.408, 502.410, 502.610

502.406 Registration by broker-dealer, agent, investment adviser, and investment adviser representative.

1. *Application for initial registration.* A person shall register as a broker-dealer, agent, investment adviser, or investment adviser representative by filing an application and a consent to service of process complying with section 502.611, and paying the fee specified in section 502.410 and any reasonable fees charged by the designee of the administrator for processing the filing. The application must contain all of the following:

a. The information or record required for the filing of a uniform application.

b. Upon request by the administrator, any other financial or other information or record that the administrator determines is appropriate.

2. *Amendment.* If the information or record contained in an application filed under

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subsection 1 is or becomes inaccurate or incomplete in a material respect, the registrant shall promptly file a correcting amendment.

3. *Effectiveness of registration.* If an order is not in effect and a proceeding is not pending under section 502.412, registration becomes effective at noon on the forty-fifth day after a completed application is filed, unless the registration is denied. A rule adopted or order issued under this chapter may set an earlier effective date or may defer the effective date until noon on the forty-fifth day after the filing of any amendment completing the application.

4. *Registration renewal.* A registration is effective until midnight on December 31 of the year for which the application for registration is filed. Unless an order is in effect under section 502.412, a registration may be automatically renewed each year by filing such records as are required by rule adopted or order issued under this chapter, by paying the fee specified in section 502.410, and by paying costs charged by the designee of the administrator for processing the filings.

5. *Additional conditions or waivers.* A rule adopted or order issued under this chapter may impose such other conditions, not inconsistent with the National Securities Markets Improvement Act of 1996. A rule adopted or order issued under this chapter may waive, in whole or in part, specific requirements in connection with registration as are in the public interest and for the protection of investors.

[C24, 27, §8580; C31, 35, §8581-c24; C39, §**8581.29;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §502.29; C77, 79, 81, §502.406]

97 Acts, ch 114, §13; 98 Acts, ch 1106, §14, 24; 2004 Acts, ch 1161, §31, 68; 2018 Acts, ch 1074, §5; 2019 Acts, ch 59, §176

Referred to in §502.408

502.407 Succession and change in registration of broker-dealer or investment adviser.

1. *Succession.* A broker-dealer or investment adviser may succeed to the current registration of another broker-dealer or investment adviser or a notice filing of a federal covered investment adviser, and a federal covered investment adviser may succeed to the current registration of an investment adviser or notice filing of another federal covered investment adviser, by filing as a successor an application for registration pursuant to section 502.401 or 502.403 or a notice pursuant to section 502.405 for the unexpired portion of the current registration or notice filing.

2. *Organizational change.* A broker-dealer or investment adviser that changes its form of organization or state of incorporation or organization may continue its registration by filing an amendment to its registration if the change does not involve a material change in its financial condition or management. The amendment becomes effective when filed or on a date designated by the registrant in its filing. The new organization is a successor to the original registrant for the purposes of this chapter. If there is a material change in financial condition or management, the broker-dealer or investment adviser shall file a new application for registration. A predecessor registered under this chapter shall stop conducting its securities business other than winding down transactions and shall file for withdrawal of broker-dealer or investment adviser registration within forty-five days after filing its amendment to effect succession.

3. *Name change.* A broker-dealer or investment adviser that changes its name may continue its registration by filing an amendment to its registration. The amendment becomes effective when filed or on a date designated by the registrant.

4. *Change of control.* A change of control of a broker-dealer or investment adviser may be made in accordance with a rule adopted or order issued under this chapter.

[SS15, §1920-u21; C24, 27, §8579; C31, 35, §8581-c23; C39, §**8581.28;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §502.28; C77, 79, 81, §502.407]

87 Acts, ch 53, §11; 2004 Acts, ch 1161, §32, 68

502.408 Termination of employment or association of agent and investment adviser representative and transfer of employment or association.

1. *Notice of termination.* If an agent registered under this chapter terminates employment by or association with a broker-dealer or issuer, or if an investment adviser

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representative registered under this chapter terminates employment by or association with an investment adviser or federal covered investment adviser, or if either registrant terminates activities that require registration as an agent or investment adviser representative, the broker-dealer, issuer, investment adviser, or federal covered investment adviser shall promptly file a notice of termination. If the registrant learns that the broker-dealer, issuer, investment adviser, or federal covered investment adviser has not filed the notice, the registrant may do so.

2. *Transfer of employment or association.* If an agent registered under this chapter terminates employment by or association with a broker-dealer registered under this chapter and begins employment by or association with another broker-dealer registered under this chapter, or if an investment adviser representative registered under this chapter terminates employment by or association with an investment adviser registered under this chapter or a federal covered investment adviser that has filed a notice under section 502.405 and begins employment by or association with another investment adviser registered under this chapter or a federal covered investment adviser that has filed a notice under section 502.405, then upon the filing by or on behalf of the registrant, within thirty days after the termination, of an application for registration that complies with the requirement of section 502.406, subsection 1, and payment of the filing fee required under section 502.410, the registration of the agent or investment adviser representative is one of the following:

a. Immediately effective as of the date of the completed filing, if the agent's central registration depository record or successor record or the investment adviser representative's investment adviser registration depository record or successor record does not contain a new or amended disciplinary disclosure within the previous twelve months.

b. Temporarily effective as of the date of the completed filing, if the agent's central registration depository record or successor record or the investment adviser representative's investment adviser registration depository record or successor record contains a new or amended disciplinary disclosure within the preceding twelve months.

3. *Withdrawal of temporary registration.* The administrator may withdraw a temporary registration if there are or were grounds for discipline as specified in section 502.412 and the administrator does so within thirty days after the filing of the application. If the administrator does not withdraw the temporary registration within the thirty-day period, registration becomes automatically effective on the thirty-first day after filing.

4. *Power to prevent registration.* The administrator may prevent the effectiveness of a transfer of an agent or investment adviser representative under subsection 2, paragraph *"a"* or *"b"*, based on the public interest and the protection of investors.

5. *Termination of registration or application for registration.* If the administrator determines that a registrant or applicant for registration is no longer in existence or has ceased to act as a broker-dealer, agent, investment adviser, or investment adviser representative, or is the subject of an adjudication of incapacity or is subject to the control of a committee, conservator, or guardian, or cannot reasonably be located, a rule adopted or order issued under this chapter may require that the registration be canceled or terminated or the application denied. The administrator may reinstate a canceled or terminated registration, with or without hearing, and may make the registration retroactive.

98 Acts, ch 1106, §15, 24; 2004 Acts, ch 1161, §33, 68

502.409 Withdrawal of registration of broker-dealer, agent, investment adviser, and investment adviser representative — cessation of business — abandoned filings.

1. *Withdrawal of registration.* Withdrawal of registration by a broker-dealer, agent, investment adviser, or investment adviser representative becomes effective sixty days after the filing of the application to withdraw or within any shorter period as provided by rule adopted or order issued under this chapter unless a revocation or suspension proceeding is pending when the application is filed. If a proceeding is pending, withdrawal becomes effective when and upon such conditions as required by rule adopted or order issued under this chapter. The administrator may institute a disciplinary action under section 502.412, including an action to revoke, suspend, condition, or limit the registration of a registrant, censure, impose a bar, or impose a civil penalty, within two years after the withdrawal

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became effective automatically and issue a disciplinary order as of the last date on which registration was effective if a proceeding is not pending.

2. *Ceasing to do business and abandoned filings.* If the administrator finds that any registrant or applicant for registration is no longer in existence or has ceased to do business as a broker-dealer, agent, investment adviser, or investment adviser representative, or is subject to an adjudication of mental incompetence or to the control of a committee, conservator, or guardian, or cannot be located after search, the administrator may by order revoke the registration or application. If the administrator finds that the applicant for registration or registrant has abandoned the application or registration, the administrator may enter an order of abandonment, and limit or eliminate further consideration of the application or registration, as provided by the administrator. The administrator may enter an order under this subsection if notice is sent to the applicant or registrant, and either the administrator does not receive a response by the applicant or registrant within forty-five days from the date that the notice was delivered, or action is not taken by the applicant or registrant within the time specified by the administrator in the notice, whichever is later.

2004 Acts, ch 1161, §34, 68; 2009 Acts, ch 145, §2; 2014 Acts, ch 1007, §2

502.410 Filing fees.

1. *Broker-dealers.* A person shall pay a fee of two hundred dollars when initially filing an application for registration as a broker-dealer and a fee of two hundred dollars when filing a renewal of registration as a broker-dealer. If the filing results in a denial or withdrawal, the administrator shall retain the fee.

2. *Agents.* The fee for an individual is forty dollars when filing an application for registration as an agent, a fee of forty dollars when filing a renewal of registration as an agent, and a fee of forty dollars when filing for a change of registration as an agent. Of each forty-dollar fee collected, ten dollars is appropriated to the securities investor education and financial literacy training fund established under section 502.601, subsection 5. If the filing results in a denial or withdrawal, the administrator shall retain the fee.

3. *Investment advisers.* A person shall pay a fee of one hundred dollars when filing an application for registration as an investment adviser and a fee of one hundred dollars when filing a renewal of registration as an investment adviser. If the filing results in a denial or withdrawal, the administrator shall retain the fee.

4. *Investment adviser representatives.*

a. The fee for an individual is thirty dollars when filing an application for registration as an investment adviser representative, a fee of thirty dollars when filing a renewal of registration as an investment adviser representative, and a fee of thirty dollars when filing a change of registration as an investment adviser representative. If the filing results in a denial or withdrawal, the administrator shall retain the fee.

b. However, an investment adviser representative is not required to pay a filing fee if the investment adviser is a sole proprietorship or the substantial equivalent and the investment adviser representative is the same individual as the investment adviser.

5. *Federal covered investment advisers.* A federal covered investment adviser required to file a notice under section 502.405 shall pay an initial fee of one hundred dollars and an annual notice fee of one hundred dollars.

6. *Payment.* A person required to pay a filing or notice fee under this section may transmit the fee through or to a designee as a rule or order provides under this chapter.

7. *Deposit of fees.* Except as otherwise provided in subsection 2, fees collected under this section shall be deposited as provided in section 505.7.

2004 Acts, ch 1161, §35, 68; 2008 Acts, ch 1123, §4; 2009 Acts, ch 181, §61

Referred to in §502.405, 502.406, 502.408, 502.601

502.411 Postregistration requirements.

1. *Financial requirements.* Subject to section 15(h) of the Securities Exchange Act of 1934, 15 U.S.C. §78o(h), or section 222 of the Investment Advisers Act of 1940, 15 U.S.C. §80b-22, a rule adopted or order issued under this chapter may establish minimum financial

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requirements for broker-dealers registered or required to be registered under this chapter and investment advisers registered or required to be registered under this chapter.

2. *Financial reports.* Subject to section 15(h) of the Securities Exchange Act of 1934, 15 U.S.C. §78o(h), or section 222(b) of the Investment Advisers Act of 1940, 15 U.S.C. §80b-22, a broker-dealer registered or required to be registered under this chapter and an investment adviser registered or required to be registered under this chapter shall file such financial reports as are required by a rule adopted or order issued under this chapter. If the information contained in a record filed under this subsection is or becomes inaccurate or incomplete in a material respect, the registrant shall promptly file a correcting amendment. The administrator may, by rule, assess a reasonable charge for the late filing of a financial report under this subsection.

3. *Recordkeeping.* Subject to section 15(h) of the Securities Exchange Act of 1934, 15 U.S.C. §78o(h), or section 222 of the Investment Advisers Act of 1940, 15 U.S.C. §80b-22, all of the following apply:

a. A broker-dealer registered or required to be registered under this chapter and an investment adviser registered or required to be registered under this chapter shall make and maintain the accounts, correspondence, memoranda, papers, books, and other records required by rule adopted or order issued under this chapter.

b. Broker-dealer records required to be maintained under paragraph *"a"* may be maintained in any form of data storage acceptable under section 17(a) of the Securities Exchange Act of 1934, 15 U.S.C. §78q(a), if they are readily accessible to the administrator.

c. Investment adviser records required to be maintained under paragraph *"a"* may be maintained in any form of data storage required by rule adopted or order issued under this chapter.

4. *Audits or inspections.* The records of a broker-dealer registered or required to be registered under this chapter and of an investment adviser registered or required to be registered under this chapter are subject to such reasonable periodic, special, or other audits or inspections by a representative of the administrator, within or without this state, as the administrator considers necessary or appropriate in the public interest and for the protection of investors. An audit or inspection may be made at any time and without prior notice. The administrator may copy, and remove for audit or inspection copies of, all records the administrator reasonably considers necessary or appropriate to conduct the audit or inspection. The administrator may assess a reasonable charge for conducting an audit or inspection under this subsection.

5. *Custody and discretionary authority bond or insurance.* Subject to section 15(h) of the Securities Exchange Act of 1934, 15 U.S.C. §78o(h), or section 222 of the Investment Advisers Act of 1940, 15 U.S.C. §80b-22, a rule adopted or order issued under this chapter may require a broker-dealer or investment adviser that has custody of or discretionary authority over funds or securities of a customer or client to obtain insurance or post a bond or other satisfactory form of security in an amount the administrator shall prescribe. The administrator may determine the requirements of the insurance, bond, or other satisfactory form of security. Insurance or a bond or other satisfactory form of security shall not be required of a broker-dealer registered under this chapter whose net capital exceeds, or of an investment adviser registered under this chapter whose minimum financial requirements exceed, the amounts required by rule or order under this chapter. The insurance, bond, or other satisfactory form of security must permit an action by a person to enforce any liability on the insurance, bond, or other satisfactory form of security if instituted within the time limitations in section 502.509, subsection 10, paragraph *"b"*.

6. *Requirements for custody.* Subject to section 15(h) of the Securities Exchange Act of 1934, 15 U.S.C. §78o(h), or section 222 of the Investment Advisers Act of 1940, 15 U.S.C. §80b-22, an agent shall not have custody of funds or securities of a customer except under the supervision of a broker-dealer and an investment adviser representative shall not have custody of funds or securities of a client except under the supervision of an investment adviser or a federal covered investment adviser. A rule adopted or order issued under this chapter may prohibit, limit, or impose conditions on a broker-dealer regarding custody of funds or

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securities of a customer and on an investment adviser regarding custody of securities or funds of a client.

7. *Investment adviser brochure rule.* With respect to an investment adviser registered or required to be registered under this chapter, a rule adopted or order issued under this chapter may require that information or other records be furnished or disseminated to clients or prospective clients in this state as necessary or appropriate in the public interest and for the protection of investors and advisory clients.

8. *Continuing education.* A rule adopted or order issued under this chapter may require an individual registered under section 502.402 or 502.404 to participate in a continuing education program approved by the securities and exchange commission and administered by a self-regulatory organization or, in the absence of such a program, a rule adopted or order issued under this chapter may require continuing education for an individual registered under section 502.404.

2004 Acts, ch 1161, §36, 68
Referred to in §502.412, 502.509, 502.607

502.412 Denial, revocation, suspension, withdrawal, restriction, condition, or limitation of registration.

1. *Disciplinary conditions — applicants.* If the administrator finds that the order is in the public interest and subsection 4 authorizes the action, an order issued under this chapter may deny an application, or may condition or limit registration of an applicant to be a broker-dealer, agent, investment adviser, or investment adviser representative, and, if the applicant is a broker-dealer or investment adviser, of 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.

2. *Disciplinary conditions — registrants.* If the administrator finds that the order is in the public interest and subsection 4 authorizes the action, an order issued under this chapter may revoke, suspend, condition, or limit the registration of a registrant and, if the registrant is a broker-dealer or investment adviser, of 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. However, the administrator shall not do any of the following:

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.

b. Under subsection 4, paragraph *"e"*, subparagraph (1) or (2), issue an order on the basis of an order issued under the securities Act of another state unless the other order was based on conduct for which subsection 4 would authorize the action had the conduct occurred in this state.

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"*, *"l"*, 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 ten thousand dollars for a single violation or one million dollars for more than one violation, or in an amount as agreed to by the parties, on a registrant, and, if the registrant is a broker-dealer or investment adviser, on a partner, officer, director, or person having a similar status or performing similar functions, or on a person directly or indirectly in control, of the broker-dealer or investment adviser.

4. *Grounds for discipline.* A person may be disciplined under subsections 1 through 3 if any of the following applies:

a. The person has filed an application for registration in this state under this chapter or chapter 502, Code 2003 and Code Supplement 2003, within the previous ten years, which, as of the effective date of registration or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained a statement that, in light of the circumstances under which it was made, was false or misleading with respect to a material fact.

b. The person willfully violated or willfully failed to comply with this chapter or chapter

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502, Code 2003 and Code Supplement 2003, or a rule adopted or order issued under this chapter or chapter 502, Code 2003 and Code Supplement 2003, within the previous ten years.

c. The person has been convicted of a felony or within the previous ten years has been convicted of a misdemeanor involving a security, a commodity future or option contract, or an aspect of a business involving securities, commodities, investments, franchises, insurance, banking, or finance.

d. The person is enjoined or restrained by a court of competent jurisdiction in an action instituted by the administrator under this chapter or chapter 502, Code 2003 and Code Supplement 2003, a state, the securities and exchange commission, or the United States from engaging in or continuing an act, practice, or course of business involving an aspect of a business involving securities, commodities, investments, franchises, insurance, banking, or finance.

e. The person is the subject of an order, issued after notice and opportunity for hearing, by any of the following:

(1) The securities or other financial services regulator of a state or the securities and exchange commission or other federal agency denying, revoking, barring, or suspending registration as a broker-dealer, agent, investment adviser, federal covered investment adviser, or investment adviser representative.

(2) The securities regulator of a state or the securities and exchange commission against a broker-dealer, agent, investment adviser, investment adviser representative, or federal covered investment adviser.

(3) The securities and exchange commission or a self-regulatory organization suspending or expelling the registrant from membership in the self-regulatory organization.

(4) A court adjudicating a United States postal service fraud order.

(5) The insurance regulator of a state denying, suspending, or revoking registration as an insurance agent or insurance producer.

(6) A depository institution regulator or financial services regulator suspending or barring the person from the depository institution or other financial services business.

f. The person is the subject of an adjudication or determination, after notice and opportunity for hearing, by the securities and exchange commission, the commodity futures trading commission, the federal trade commission, a federal depository institution regulator, or a depository institution, insurance, or other financial services regulator of a state that the person willfully violated the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, or the Commodity Exchange Act, the securities or commodities law of a state, or a federal or state law under which a business involving investments, franchises, insurance, banking, or finance is regulated.

g. The person is insolvent, either because the person's liabilities exceed the person's assets or because the person cannot meet the person's obligations as they mature, but the administrator shall not enter an order against an applicant or registrant under this paragraph without a finding of insolvency as to the applicant or registrant.

h. The person refuses to allow or otherwise impedes the administrator from conducting an audit or inspection under section 502.411, subsection 4, or refuses access to a registrant's office to conduct an audit or inspection under section 502.411, subsection 4.

i. The person has failed to reasonably supervise an agent, investment adviser representative, or other individual, if the agent, investment adviser representative, or other individual was subject to the person's supervision and committed a violation of this chapter or chapter 502, Code 2003 and Code Supplement 2003, or a rule adopted or order issued under this chapter or chapter 502, Code 2003 and Code Supplement 2003, within the previous ten years.

j. The person has not paid the proper filing fee within thirty days after having been notified by the administrator of a deficiency, but the administrator shall vacate an order under this paragraph when the deficiency is corrected.

k. The person after notice and opportunity for a hearing has been found within the previous ten years to have done any of the following:

(1) By a court of competent jurisdiction to have willfully violated the laws of a foreign

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jurisdiction under which the business of securities, commodities, investment, franchises, insurance, banking, or finance is regulated.

(2) To have been the subject of an order of a securities regulator of a foreign jurisdiction denying, revoking, or suspending the right to engage in the business of securities as a broker-dealer, agent, investment adviser, investment adviser representative, or similar person.

(3) To have been suspended or expelled from membership by or participation in a securities exchange or securities association operating under the securities laws of a foreign jurisdiction.

l. The person is the subject of a cease and desist order issued by the securities and exchange commission or issued under the securities, commodities, investment, franchise, banking, finance, or insurance laws of a state.

m. The person has engaged in dishonest or unethical practices in the securities, commodities, investment, franchise, banking, finance, or insurance business within the previous ten years.

n. The person is not qualified on the basis of factors such as training, experience, and knowledge of the securities business. However, in the case of an application by an agent for a broker-dealer that is a member of a self-regulatory organization or by an individual for registration as an investment adviser representative, a denial order shall not be based on this paragraph if the individual has successfully completed all examinations required by subsection 5. The administrator may require an applicant for registration under section 502.402 or 502.404 who has not been registered in a state within the two years preceding the filing of an application in this state to successfully complete an examination.

5. *Examinations.* A rule adopted or order issued under this chapter may require that an examination, including an examination developed or approved by an organization of securities regulators, be successfully completed by a class of individuals or all individuals. An order issued under this chapter may waive, in whole or in part, an examination as to an individual and a rule adopted under this chapter may waive, in whole or in part, an examination as to a class of individuals if the administrator determines that the examination is not necessary or appropriate in the public interest and for the protection of investors.

6. *Summary process.* The administrator may suspend or deny an application summarily; restrict, condition, limit, or suspend a registration; or censure, bar, or impose a civil penalty on a registrant before final determination of an administrative proceeding. Upon the issuance of an order, the administrator shall promptly notify each person subject to the order that the order has been issued, the reasons for the action, and that within fifteen days after the receipt of a request in a record from the person the matter will be scheduled for a hearing. If a hearing is not requested and none is ordered by the administrator within thirty days after the date of service of the order, the order becomes final by operation of law. If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend the order until final determination. Section 17A.18A is inapplicable to a summary order issued under this subsection.

7. *Procedural requirements.* An order issued shall not be issued under this section, except under subsection 6, without all of the following:

a. Appropriate notice to the applicant or registrant.

b. Opportunity for hearing.

c. Findings of fact and conclusions of law in a record in accordance with chapter 17A.

8. *Control person liability.* A person that controls, directly or indirectly, a person not in compliance with this section may be disciplined by order of the administrator under subsections 1 through 3 to the same extent as the noncomplying person, unless the controlling person did not know, and in the exercise of reasonable care could not have known, of the existence of conduct that is a ground for discipline under this section.

9. *Limit on investigation or proceeding.* The administrator shall not institute a proceeding under subsection 1, 2, or 3 based solely on material facts actually known by the

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administrator unless an investigation or the proceeding is instituted within two years after the administrator actually acquires knowledge of the material facts.

2004 Acts, ch 1161, §37, 68; 2005 Acts, ch 3, §77; 2006 Acts, ch 1117, §9, 10; 2013 Acts, ch 124, §4; 2014 Acts, ch 1092, §110; 2015 Acts, ch 128, §8, 50, 51

Referred to in §502.304A, 502.406, 502.408, 502.409

502.413 through 502.500 Reserved.

ARTICLE 5
FRAUD AND LIABILITIES

Referred to in §502.604A

502.501 General fraud.

It is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly:

1. To employ a device, scheme, or artifice to defraud;
2. To make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
3. To engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

[C77, 79, 81, §502.501]

87 Acts, ch 53, §12; 97 Acts, ch 114, §14; 98 Acts, ch 1106, §16, 24; 2004 Acts, ch 1161, §38, 68

Referred to in §502.508, 502.610

502.501A Prohibited transactions of broker-dealers and agents.

A broker-dealer or agent shall not effect a transaction in, or induce or attempt to induce the purchase or sale of, any security in this state by means of any manipulative, deceptive, or other fraudulent scheme, device, or contrivance, fictitious quotation, or in violation of this chapter. A broker-dealer or agent shall not recommend to a customer the purchase, sale, or exchange of a security without reasonable grounds to believe that the transaction or recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and other relevant information known by the broker-dealer.

2004 Acts, ch 1161, §39, 68

502.502 Prohibited conduct in providing investment advice.

1. *Fraud in providing investment advice.* It is unlawful for a person that advises others for compensation, either directly or indirectly or through publications or writings, as to the value of securities or the advisability of investing in, purchasing, or selling securities or that, for compensation and as part of a regular business, issues or promulgates analyses or reports relating to securities to do any of the following:

a. Employ a device, scheme, or artifice to defraud another person.

b. Engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

2. *Rules defining fraud.* A rule adopted under this chapter may define an act, practice, or course of business of an investment adviser or an investment adviser representative, other than a supervised person of a federal covered investment adviser, as fraudulent, deceptive, or manipulative, and prescribe means reasonably designed to prevent investment advisers and investment adviser representatives, other than supervised persons of a federal covered investment adviser, from engaging in acts, practices, and courses of business defined as fraudulent, deceptive, or manipulative.

3. *Rules specifying contents of advisory contract.* A rule adopted under this chapter may

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specify the contents of an investment advisory contract entered into, extended, or renewed by an investment adviser.

[C31, 35, §8581-c18; C39, §**8581.23;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §502.23; C77, 79, 81, §502.502]

96 Acts, ch 1025, §13; 2004 Acts, ch 1161, §40, 68

Referred to in §502.508, 502.610

502.502A Advisory misconduct. Repealed by 2004 Acts, ch 1161, §63, 68. See §502.509.

502.503 Evidentiary burden.

1. *Civil.* In a civil action or administrative proceeding under this chapter, a person claiming an exemption, exception, preemption, or exclusion has the burden to prove the applicability of the claim.

2. *Criminal.* In a criminal proceeding under this chapter, a person claiming an exemption, exception, preemption, or exclusion has the burden of going forward with evidence of the claim.

[C77, 79, 81, §502.503]

98 Acts, ch 1106, §18, 19, 24; 99 Acts, ch 166, §6; 2004 Acts, ch 1161, §41, 68

502.504 Filing of sales and advertising literature.

1. *Filing requirement.* Except as otherwise provided in subsection 2, a rule adopted or order issued under this chapter may require the filing of a prospectus, pamphlet, circular, form letter, advertisement, sales literature, or other advertising record relating to a security or investment advice, addressed or intended for distribution to prospective investors, including clients or prospective clients of a person registered or required to be registered as an investment adviser under this chapter.

2. *Excluded communications.* This section does not apply to sales and advertising literature specified in subsection 1 which relates to a federal covered security, a federal covered investment adviser, or a security or transaction exempted by section 502.201, 502.202, or 502.203 except as required pursuant to section 502.201, subsection 7.

2A. *Authority to prohibit false advertising.* The administrator may by rule or order prohibit the publication, circulation, or use of any advertising deemed false or misleading.

[C77, 79, 81, §502.504]

99 Acts, ch 166, §7; 2004 Acts, ch 1161, §42, 68

Referred to in §502.201, 502.202, 502.203, 502.204, 536A.22

502.505 Misleading filings.

It is unlawful for a person to make or cause to be made, in a record that is used in an action or proceeding or filed under this chapter, a statement that, at the time and in the light of the circumstances under which it is made, is false or misleading in a material respect, or, in connection with the statement, to omit to state a material fact necessary to make the statement made, in the light of the circumstances under which it was made, not false or misleading.

[C77, 79, 81, §502.505]

2004 Acts, ch 1161, §43, 68

Referred to in §502.610

502.506 Misrepresentations concerning registration or exemption — official endorsements prohibited.

1. *Certain representations not allowed.* The filing of an application for registration, a registration statement, a notice filing under this chapter, the registration of a person, the notice filing by a person, or the registration of a security under this chapter does not constitute a finding by the administrator that a record filed under this chapter is true, complete, and not misleading. The filing or registration or the availability of an exemption, exception, preemption, or exclusion for a security or a transaction does not mean that the administrator has passed upon the merits or qualifications of, or recommended or given approval to, a person, security, or transaction. It is unlawful to make, or cause to be made, to

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a purchaser, customer, client, or prospective customer or client a representation inconsistent with this section.

1A. *Official endorsement prohibited.* A state official or employee of the state shall not use such person's name in an official capacity in connection with the endorsement or recommendation of the organization or the promotion of any issuer or in the sale to the public of its securities, and no one shall use the stationery of the state or of any official thereof in connection with any such transaction.

[C77, 79, 81, §502.506]
2004 Acts, ch 1161, §44, 68
Referred to in §502.509, 502.610

502.506A Misstatements in publicity prohibited.

It is unlawful for any person to make or cause to be made, in any public report or press release, or in other information which is either made generally available to the public or used in opposition to a tender offer, any statement of a material fact relating to a target company or made in connection with a takeover offer which is, at the time and in the light of the circumstances under which it is made, false or misleading, if it is reasonably foreseeable that such statement will induce other persons to buy, sell, or hold securities of the target company.

2004 Acts, ch 1161, §45, 68

502.507 Qualified immunity.

A broker-dealer, agent, investment adviser, federal covered investment adviser, or investment adviser representative is not liable to another broker-dealer, agent, investment adviser, federal covered investment adviser, or investment adviser representative for defamation relating to a statement that is contained in a record required by the administrator, or designee of the administrator, the securities and exchange commission, or a self-regulatory organization, unless the person knew, or should have known at the time that the statement was made, that it was false in a material respect or the person acted in reckless disregard of the statement's truth or falsity.

[C77, 79, 81, §502.507]
2004 Acts, ch 1161, §46, 68

502.508 Criminal penalties.

1. *Criminal penalties.*

a. Except as provided in paragraph "*b*", a person who willfully violates any provision of this chapter, or any rule adopted or order issued under this chapter, is guilty of a class "D" felony.

b. A person who willfully violates section 502.501 or section 502.502, subsection 1, resulting in a loss of more than ten thousand dollars is guilty of a class "C" felony.

2. *Criminal reference not required.* The attorney general or the proper county attorney, with or without a reference from the administrator, may institute criminal proceedings under this chapter.

3. *No limitation on other criminal enforcement.* This chapter does not limit the power of this state to punish a person for conduct that constitutes a crime under other laws of this state.

2004 Acts, ch 1161, §47, 68; 2005 Acts, ch 19, §76

502.509 Civil liability.

1. *Securities Litigation Uniform Standards Act.* Enforcement of civil liability under this section is subject to the Securities Litigation Uniform Standards Act of 1998.

2. *Liability of seller to purchaser.* A person is liable to the purchaser if the person sells a security in violation of section 502.301 or, by means of an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statement made, in light of the circumstances under which it is made, not misleading, the purchaser not knowing the untruth or omission and the seller not sustaining the burden of proof that the seller did

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not know and, in the exercise of reasonable care, could not have known of the untruth or omission. An action under this subsection is governed by the following:

a. The purchaser may maintain an action to recover the consideration paid for the security, less the amount of any income received on the security, and interest at the legal rate from the date of the purchase, costs, and reasonable attorney fees determined by the court, upon the tender of the security, or for actual damages as provided in paragraph "*c*".

b. The tender referred to in paragraph "*a*" may be made any time before entry of judgment. Tender requires only notice in a record of ownership of the security and willingness to exchange the security for the amount specified. A purchaser that no longer owns the security may recover actual damages as provided in paragraph "*c*".

c. Actual damages in an action arising under this subsection are the amount that would be recoverable upon a tender less the value of the security when the purchaser disposed of it, and interest at the legal rate from the date of the purchase, costs, and reasonable attorney fees determined by the court.

3. *Liability of purchaser to seller.* A person is liable to the seller if the person buys a security by means of an untrue statement of a material fact or omission to state a material fact necessary in order to make the statement made, in light of the circumstances under which it is made, not misleading, the seller not knowing of the untruth or omission, and the purchaser not sustaining the burden of proof that the purchaser did not know, and in the exercise of reasonable care, could not have known of the untruth or omission. An action under this subsection is governed by all of the following:

a. The seller may maintain an action to recover the security, and any income received on the security, costs, and reasonable attorney fees determined by the court, upon the tender of the purchase price, or for actual damages as provided in paragraph "*c*".

b. The tender referred to in paragraph "*a*" may be made any time before entry of judgment. Tender requires only notice in a record of the present ability to pay the amount tendered and willingness to take delivery of the security for the amount specified. If the purchaser no longer owns the security, the seller may recover actual damages as provided in paragraph "*c*".

c. Actual damages in an action arising under this subsection are the difference between the price at which the security was sold and the value the security would have had at the time of the sale in the absence of the purchaser's conduct causing liability, and interest at the legal rate from the date of the sale of the security, costs, and reasonable attorney fees determined by the court.

4. *Liability of unregistered broker-dealer and agent.* A person acting as a broker-dealer or agent that sells or buys a security in violation of section 502.401, subsection 1, section 502.402, subsection 1, or section 502.506 is liable to the customer. The customer, if a purchaser, may maintain an action for recovery of actual damages as specified in subsection 2, paragraphs "*a*" through "*c*", or, if a seller, for a remedy as specified in subsection 3, paragraphs "*a*" through "*c*".

5. *Liability of unregistered investment adviser and investment adviser representative.* A person acting as an investment adviser or investment adviser representative that provides investment advice for compensation in violation of section 502.403, subsection 1, section 502.404, subsection 1, or section 502.506 is liable to the client. The client may maintain an action to recover the consideration paid for the advice, interest at the legal rate from the date of payment, costs, and reasonable attorney fees determined by the court and taxed as court costs.

6. *Liability for investment advice.* A person that receives directly or indirectly any consideration for providing investment advice to another person and that employs a device, scheme, or artifice to defraud the other person or engages in an act, practice, or course of business that operates or would operate as a fraud or deceit on the other person is liable to the other person. An action under this subsection is governed by all of the following:

a. The person defrauded may maintain an action to recover the consideration paid for the advice and the amount of any actual damages caused by the fraudulent conduct, interest at the legal rate from the date of the fraudulent conduct, costs, and reasonable attorney fees determined by the court, less the amount of any income received as a result of the fraudulent conduct.

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b. This subsection does not apply to a broker-dealer or its agents if the investment advice provided is solely incidental to transacting business as a broker-dealer and no special compensation is received for the investment advice.

7. *Joint and several liability.* The following persons are liable jointly and severally with and to the same extent as persons liable under subsections 2 through 6:

a. A person that directly or indirectly controls a person liable under subsections 2 through 6, unless the controlling person sustains the burden of proof that the person did not know, and in the exercise of reasonable care could not have known, of the existence of conduct by reason of which the liability is alleged to exist.

b. An individual who is a managing partner, executive officer, or director of a person liable under subsections 2 through 6, including an individual having a similar status or performing similar functions, unless the individual sustains the burden of proof that the individual did not know and, in the exercise of reasonable care could not have known, of the existence of conduct by reason of which the liability is alleged to exist.

c. An individual who is an employee of or associated with a person liable under subsections 2 through 6 or a person, whether an employee of such person or otherwise, who materially aids in the act or transaction constituting the violation, and who materially aids the conduct giving rise to the liability, unless the individual sustains the burden of proof that the individual did not know and, in the exercise of reasonable care could not have known, of the existence of conduct by reason of which the liability is alleged to exist.

d. A person that is a broker-dealer, agent, investment adviser, or investment adviser representative that materially aids the conduct giving rise to the liability under subsections 2 through 6, unless the person sustains the burden of proof that the person did not know and, in the exercise of reasonable care could not have known, of the existence of conduct by reason of which liability is alleged to exist.

8. *Right of contribution.* A person liable under this section has a right of contribution as in cases of contract against any other person liable under this section for the same conduct.

9. *Survival of cause of action.* A cause of action under this section survives the death of an individual who might have been a plaintiff or defendant.

10. *Statute of limitations.* A person shall not obtain relief under any of the following:

a. Under subsection 2 for violation of section 502.301, or under subsection 4 or 5, unless the action is instituted within one year after the violation occurred.

b. Under subsection 2, other than for violation of section 502.301, or under subsection 3 or 6, unless the action is instituted within the earlier of two years after discovery of the facts constituting the violation or five years after the violation.

11. *No enforcement of violative contract.* A person that has made, or has engaged in the performance of, a contract in violation of this chapter or a rule adopted or order issued under this chapter, or that has acquired a purported right under the contract with knowledge of conduct by reason of which its making or performance was in violation of this chapter, shall not base an action on the contract.

12. *No contractual waiver.* A condition, stipulation, or provision binding a person purchasing or selling a security or receiving investment advice to waive compliance with this chapter or a rule adopted or order issued under this chapter is void.

13. *Survival of other rights or remedies.* The rights and remedies provided by this chapter are in addition to any other rights or remedies that may exist, but this chapter does not create a cause of action not specified in this section or section 502.411, subsection 5.

13A. *Informational filing with the administrator.* A copy of any suit or arbitration action filed under this section shall be served upon the administrator within twenty days of the filing in the form and manner prescribed by the administrator by rule or order, provided that all of the following apply:

a. The failure to comply with this provision shall not invalidate the action which is the subject of the suit.

b. The suit or arbitration action has not been filed in a record with the central registration depository or the investment adviser registration depository.

13B. *Liability for takeover violations.*

a. Any person who violates section 502.321B shall be liable to the person selling the

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security to such violator, which seller may sue either at law or in equity to recover the security, costs, and reasonable attorney fees, plus any income or distributions, in cash or in kind, received by the purchaser thereon, upon tender of the consideration received, or for damages if the purchaser no longer owns the security. Damages shall be the excess of the value of the security when the purchaser disposed of it, plus interest at the legal rate from the date of disposition, over the consideration paid for the security. Tender requires only notice of willingness to pay the amount specified in exchange for the security. Any notice may be given by service as in civil actions or by certified mail to the last known address of the person liable.

b. In addition to other remedies provided in this chapter, in a proceeding alleging a violation of article 3A, the court may provide that all shares acquired from a resident of this state in violation of any provision of this chapter or rule or order issued pursuant to this chapter be denied voting rights for one year after acquisition, that the shares be nontransferable on the books of the target company, or that during this one-year period the target company have the option to call the shares for redemption either at the price at which the shares were acquired or at book value per share as of the last day of the fiscal quarter ended prior to the date of the call for redemption, which redemption shall occur on the date set in the call notice but not later than sixty days after the call notice is given.

2004 Acts, ch 1161, §48, 68; 2012 Acts, ch 1023, §157
Referred to in §502.411, 502.510, 502.610

502.510 Rescission offers.

A purchaser, seller, or recipient of investment advice may not maintain an action under section 502.509 if all of the following apply:

1. The purchaser, seller, or recipient of investment advice receives in a record, before the action is instituted, any of the following:

a. An offer stating the respect in which liability under section 502.509 may have arisen and fairly advising the purchaser, seller, or recipient of investment advice of that person's rights in connection with the offer, and any financial or other information necessary to correct all material misrepresentations or omissions in the information that was required by this chapter to be furnished to that person at the time of the purchase, sale, or investment advice.

b. If the basis for relief under this section may have been a violation of section 502.509, subsection 2, an offer to repurchase the security for cash, payable on delivery of the security, equal to the consideration paid, and interest at the legal rate from the date of the purchase, less the amount of any income received on the security; or, if the purchaser no longer owns the security, an offer to pay the purchaser upon acceptance of the offer damages in an amount that would be recoverable upon a tender, less the value of the security when the purchaser disposed of it, and interest at the legal rate from the date of the purchase in cash equal to the damages computed in the manner provided in this subsection.

c. If the basis for relief under this section may have been a violation of section 502.509, subsection 3, an offer to tender the security, on payment by the seller of an amount equal to the purchase price paid, less income received on the security by the purchaser and interest at the legal rate from the date of the sale; or if the purchaser no longer owns the security, an offer to pay the seller upon acceptance of the offer, in cash, damages in the amount of the difference between the price at which the security was purchased and the value the security would have had at the time of the purchase in the absence of the purchaser's conduct that may have caused liability and interest at the legal rate of interest from the date of the sale.

d. If the basis for relief under this section may have been a violation of section 502.509, subsection 4; and if the customer is a purchaser, an offer to pay as specified in paragraph "*b*"; or, if the customer is a seller, an offer to tender or to pay as specified in paragraph "c".

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

f. If the basis for relief under this section may have been a violation of section 502.509, subsection 6, an offer to reimburse in cash the consideration paid for the advice, the amount

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of any actual damages that may have been caused by the conduct, and interest at the legal rate from the date of the violation causing the loss.

2. The offer under subsection 1 states that it must be accepted by the purchaser, seller, or recipient of investment advice within thirty days after the date of its receipt by the purchaser, seller, or recipient of investment advice or any shorter period, of not less than three days, that the administrator, by order, specifies.

3. The offeror has the present ability to pay the amount offered or to tender the security under subsection 1.

4. The offer under subsection 1 is delivered to the purchaser, seller, or recipient of investment advice, or sent in a manner that ensures receipt by the purchaser, seller, or recipient of investment advice.

5. The purchaser, seller, or recipient of investment advice that accepts the offer under subsection 1 in a record within the period specified under subsection 2 is paid in accordance with the terms of the offer.

6. If the basis for relief under this section alleges a violation of section 502.509 which employed a device, scheme, or artifice to defraud, made an untrue statement of a material fact necessary in order to make the statement made, in light of the circumstances under which it was made, not misleading, or engaged in an act, practice, or course of business that operated or would operate as a fraud or deceit on another person, the offer is filed with the administrator ten business days before the offering and conforms in form and content with a rule prescribed by the administrator.

2004 Acts, ch 1161, §49, 68; 2006 Acts, ch 1117, §11; 2017 Acts, ch 54, §76

Referred to in §502.202, 502.204, 502.610

502.511 Investment advisers and investment adviser representatives — expungement of certain reported information.

1. An investment adviser authorized to do business in this state under this chapter, including as provided in section 502.403, or an investment adviser representative authorized to do business in this state under this chapter, including as provided in section 502.404, may petition the district court sitting in equity to expunge information in a record in the investment adviser registration depository as provided in this section.

2. The commissioner of insurance, or the investment adviser that reported the information in the record in the investment adviser registration depository, may be named as a respondent or as respondents in the proceeding to expunge the information.

3. The district court may grant relief by ordering the expungement of the information in the record, and all references to such information in other records, in the investment adviser registration depository, if all of the following apply:

a. The information makes an allegation about the investment adviser or investment adviser representative.

b. The investment adviser filing the petition to expunge the information was doing business in this state, or the investment adviser representative filing the petition to expunge the information was a resident of this state as provided in section 422.4, when either of the following occurred:

(1) The information was first included in the record.

(2) The petition was filed in district court.

c. The information arises out of a dispute involving the client of an investment adviser and the investment adviser or investment adviser representative.

d. Any of the following apply:

(1) The petitioner was not involved in the event that resulted in the creation of the record.

(2) The information in the record is erroneous or impossible to be true.

(3) The information in the record is false.

(4) A decision in an administrative, judicial, or arbitration proceeding found that the petitioner did not act in a manner described by the record.

(5) The court determines that equitable principles require that such relief be granted.

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4. Notwithstanding section 614.1, a petition may be filed and relief granted as provided in this section at any time.

2023 Acts, ch 151, §1

502.512 through 502.600 Reserved.

ARTICLE 6

ADMINISTRATION AND JUDICIAL REVIEW

502.601 Administration.

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 insurance and financial services. 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.

2. *Unlawful use of records or information.* It is unlawful for the administrator or an officer, employee, or designee of the administrator to use for personal benefit or the benefit of others records or other information obtained by or filed with the administrator that are not public under section 502.607, subsection 2. This chapter does not authorize the administrator or an officer, employee, or designee of the administrator to disclose the record or information, except in accordance with section 502.602, section 502.607, subsection 3, or section 502.608.

3. *No privilege or exemption created or diminished.* This chapter does not create or diminish a privilege or exemption that exists at common law, by statute or rule, or otherwise.

4. *Investor education and financial literacy.* The administrator may develop and implement investor education and financial literacy initiatives to inform the public about investing in securities, with particular emphasis on the prevention and detection of securities fraud. In developing and implementing these initiatives, the administrator may collaborate with public and nonprofit organizations with an interest in investor education and financial literacy. The administrator may accept a grant or donation from a person who is not affiliated with the securities industry or from a nonprofit organization, regardless of whether the organization is affiliated with the securities industry, to develop and implement investor education and financial literacy initiatives. This subsection does not authorize the administrator to require participation or monetary contributions of a registrant in an investor education or financial literacy program.

5. *The securities investor education and financial literacy training fund.* A securities investor education and financial literacy training fund is created in the state treasury under the control of the administrator to provide moneys for the purposes specified in subsection 4. All moneys received by the state by reason of civil penalties pursuant to this chapter and the moneys appropriated to the fund pursuant to section 502.410, subsection 2, shall be deposited in the securities investor education and financial literacy training fund. Notwithstanding section 12C.7, interest or earnings on moneys deposited into the fund shall be credited to the fund. Notwithstanding section 8.33, unencumbered or unobligated moneys remaining in the fund shall not revert but shall be available for expenditure for the following

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fiscal year. However, if, on June 30, unencumbered or unobligated moneys remaining in the fund exceed five hundred thousand dollars, moneys in excess of that amount shall revert to the general fund of the state in the same manner as provided in section 8.33.

[SS15, §1920-u, -u10; C24, 27, §8525, 8550; C31, 35, §8581-c2; C39, §**8581.02;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §502.2; C77, 79, 81, §502.601]

83 Acts, ch 169, §15; 91 Acts, ch 258, §55; 2003 Acts, ch 145, §268; 2004 Acts, ch 1161, §50, 68; 2005 Acts, ch 3, §78; 2006 Acts, ch 1117, §12; 2008 Acts, ch 1123, §5, 6; 2023 Acts, ch 19, §2723

Referred to in §502.102, 502.410, 523D.1

502.602 Investigations and subpoenas.

1. *Authority to investigate.* The administrator may do any of the following:

a. Conduct public or private investigations within or outside of this state which the administrator considers necessary or appropriate to determine whether a person has violated, is violating, or is about to violate this chapter or a rule adopted or order issued under this chapter, or to aid in the enforcement of this chapter or in the adoption of rules and forms under this chapter.

b. Require or permit a person to testify, file a statement, or produce a record, under oath or otherwise as the administrator determines, as to all the facts and circumstances concerning a matter to be investigated or about which an action or proceeding is to be instituted.

c. Notwithstanding section 502.607, subsection 2, publish a record concerning an action, proceeding, or an investigation under, or a violation of, this chapter or a rule adopted or order issued under this chapter if the administrator determines it is necessary or appropriate in the public interest and for the protection of investors.

2. *Administrator powers to investigate.* For the purpose of an investigation under this chapter, the administrator or the administrator's designated officer may administer oaths and affirmations, subpoena witnesses, seek compulsion of attendance, take evidence, require the filing of statements, and require the production of any records that the administrator considers relevant or material to the investigation, all of which may be enforced pursuant to chapter 17A.

3. *Procedure and remedies for noncompliance.* If a person does not appear or refuses to testify, file a statement, or produce records, or otherwise does not obey a subpoena as required by the administrator under this chapter, the administrator may apply to the Polk county district court or the district court for the county in which the person resides or is located or a court of another state to enforce compliance. The court may do any of the following:

a. Hold the person in contempt.

b. Order the person to appear before the administrator.

c. Order the person to testify about the matter under investigation or in question.

d. Order the production of records.

e. Grant injunctive relief, including restricting or prohibiting the offer or sale of securities or the providing of investment advice.

f. Impose a civil penalty of 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.

g. Grant any other necessary or appropriate relief.

4. *Application for relief.* This section does not preclude a person from applying to district court or a court of another state for relief from a request to appear, testify, file a statement, produce records, or obey a subpoena.

5. *Use immunity procedure.* An individual is not excused from attending, testifying, filing a statement, producing a record or other evidence, or obeying a subpoena of the administrator under this chapter or in an action or proceeding instituted by the administrator under this chapter on the ground that the required testimony, statement, record, or other evidence, directly or indirectly, may tend to incriminate the individual or subject the individual to a criminal fine, penalty, or forfeiture. If the individual refuses to testify, file a statement, or produce a record or other evidence on the basis of the individual's privilege against self-incrimination, the administrator may apply to the district court to compel the testimony, the filing of the statement, the production of the record, or the giving of other

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evidence. The testimony, record, or other evidence compelled under such an order shall not be used, directly or indirectly, against the individual in a criminal case, except in a prosecution for perjury or contempt or otherwise failing to comply with the order.

6. *Assistance to securities regulator of another jurisdiction.* At the request of the securities regulator of another state or a foreign jurisdiction, the administrator may provide assistance if the requesting regulator states that it is conducting an investigation to determine whether a person has violated, is violating, or is about to violate a law or rule of the other state or foreign jurisdiction relating to securities matters that the requesting regulator administers or enforces. The administrator may provide the assistance by using the authority to investigate and the powers conferred by this section as the administrator determines is necessary or appropriate. The assistance may be provided without regard to whether the conduct described in the request would also constitute a violation of this chapter or other law of this state if occurring in this state. In deciding whether to provide the assistance, the administrator may consider whether the requesting regulator is permitted and has agreed to provide assistance reciprocally within its state or foreign jurisdiction to the administrator on securities matters when requested, whether compliance with the request would violate or prejudice the public policy of this state, and the availability of resources and employees of the administrator to carry out the request for assistance.

[SS15, §1590-u2; C24, 27, §8527; C31, 35, §8581-c8; C39, §**8581.07(4);** C46, 50, 54, 58, 62, 66, 71, 73, 75, §502.7(2, d); C77, 79, 81, §502.602]

97 Acts, ch 114, §15; 98 Acts, ch 1106, §20, 24; 2004 Acts, ch 1161, §51, 68; 2007 Acts, ch 137, §3; 2009 Acts, ch 133, §167

Referred to in §502.601, 502.607

502.603 Civil enforcement.

1. *Civil action instituted by administrator.* If the administrator believes that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of this chapter or a rule adopted or order issued under this chapter or that a person has, is, or is about to engage in an act, practice, or course of business that materially aids a violation of this chapter or a rule adopted or order issued under this chapter, the administrator may maintain an action in the county in which the person against whom the action is being brought resides, has a principal place of business, or is doing business, or in the county where the transaction or any substantial portion of the transaction which is the subject of the action occurred, or in the county in which one or more of the victims of the transaction which is the subject of the action resides, to enjoin the act, practice, or course of business and to enforce compliance with this chapter or a rule adopted or order issued under this chapter.

2. *Relief available.* In an action under this section and on a proper showing, the court may do any of the following:

a. Issue a permanent or temporary injunction, restraining order, or declaratory judgment.

b. Order other appropriate or ancillary relief, which may include any of the following:

(1) Ordering an asset freeze, accounting, writ of attachment, writ of general or specific execution, and appointment of a receiver or conservator, that may be the administrator, for the defendant or the defendant's assets.

(2) Ordering the administrator to take charge and control of a defendant's property, including investment accounts and accounts in a depository institution, rents, and profits; to collect debts; and to acquire and dispose of property.

(3) Imposing a civil penalty not to exceed a maximum of five thousand dollars for a single violation or five hundred thousand dollars for more than one violation; an order of rescission, restitution, or disgorgement directed to a person that has engaged in an act, practice, or course of business constituting a violation of this chapter or the predecessor chapter or a rule adopted or order issued under this chapter or the predecessor chapter.

(4) Ordering the payment of prejudgment and postjudgment interest.

c. Order such other relief as the court considers appropriate.

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3. *No bond required.* The administrator shall not be required to post a bond in an action or proceeding under this chapter.

[C31, 35, §8581-c17; C39, §**8581.21;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §502.21(1 – 4); C77, 79, 81, §502.603]

83 Acts, ch 169, §16; 91 Acts, ch 40, §31; 94 Acts, ch 1031, §16; 2001 Acts, ch 118, §9; 2004 Acts, ch 1161, §52, 68; 2007 Acts, ch 137, §4; 2017 Acts, ch 54, §76

Referred to in §502.604A

502.603A Cooperation with other agencies. Repealed by 2004 Acts, ch 1161, §63, 68. See §502.608.

502.604 Administrative enforcement.

1. *Issuance of an order or notice.* If the administrator determines that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of this chapter or a rule adopted or order issued under this chapter or that a person has materially aided, is materially aiding, or is about to materially aid an act, practice, or course of business constituting a violation of this chapter or a rule adopted or order issued under this chapter, the administrator may do any of the following:

a. Issue an order directing the person to cease and desist from engaging in the act, practice, or course of business or to take other action necessary or appropriate to comply with this chapter.

b. Issue an order denying, suspending, revoking, or conditioning the exemptions for a broker-dealer under section 502.401, subsection 2, paragraph *"a"*, subparagraph (4) or (6), or an investment adviser under section 502.403, subsection 2, paragraph *"a"*, subparagraph (3).

c. Issue an order under section 502.204.

2. *Summary process.* An order under subsection 1 is effective on the date of issuance. Upon issuance of the order, the administrator shall promptly serve each person subject to the order with a copy of the order and a notice that the order has been entered. The order must include a statement of any restitution order, civil penalty, or costs of investigation the administrator will seek, a statement of the reasons for the order, and notice that, within thirty days after receipt of a request in a record from the person, the matter will be scheduled for a hearing. If a person subject to the order does not request a hearing and none is ordered by the administrator within thirty days after the date of service of the order, the order, including an order for restitution, the imposition of a civil penalty, or a requirement for payment of costs of investigation sought in the order, becomes final as to that person by operation of law. If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend it until final determination.

3. *Procedure for final order.* If a hearing is requested or ordered pursuant to subsection 2, a hearing must be held pursuant to chapter 17A. A final order shall not be issued unless the administrator makes findings of fact and conclusions of law in a record in accordance with chapter 17A. The final order may make final, vacate, or modify the order issued under subsection 1.

4. *Civil penalty — restitution — corrective action.* In a final order under subsection 3, the administrator may impose a civil penalty up to an amount not to exceed a maximum of ten thousand dollars for a single violation or one million dollars for more than one violation, or in an amount as agreed to by the parties, order restitution, or take other corrective action as the administrator deems necessary and appropriate to accomplish compliance with the laws of the state relating to all securities business transacted in the state.

5. *Costs.* In a final order, the administrator may charge the actual cost of an investigation or proceeding for a violation of this chapter or a rule adopted or order issued under this chapter.

5A. *Failure to obey cease and desist order.* A person who fails to obey a valid cease and desist order issued by the administrator under this section may, after notice and opportunity for a hearing, be subject to a civil penalty in an amount of not less than one thousand dollars

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and not to exceed ten thousand dollars for violating the order. Each day the failure to obey the cease and desist order occurs or continues constitutes a separate violation of the order. The penalties provided in this subsection are in addition to, and not exclusive of, other remedies that may be available.

6. *Filing of certified final order with court — effect of filing.* If a petition for judicial review of a final order is not filed in accordance with section 502.609, the administrator may file a certified copy of the final order with the clerk of a court of competent jurisdiction. The order so filed has the same effect as a judgment of the court and may be recorded, enforced, or satisfied in the same manner as a judgment of the court.

7. *Enforcement by court — further civil penalty.* If a person does not comply with an order under this section, the administrator may petition the Polk county district court or the district court for the county in which the person resides or is located to enforce the order. The court shall not require the administrator to post a bond in an action or proceeding under this section. If the court finds, after service and opportunity for hearing, that the person was not in compliance with the order, the court may adjudge the person in civil contempt of the order. The court may impose a further civil penalty against the person for contempt in an amount not less than three thousand dollars but not greater than ten thousand dollars for each violation and may grant any other relief the court determines is just and proper in the circumstances.

[C31, 35, §8581-c17; C39, §**8581.21;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §502.21(5); C77, 79, 81, §502.604]

91 Acts, ch 40, §33; 96 Acts, ch 1025, §14; 99 Acts, ch 166, §8; 2000 Acts, ch 1147, §17; 2001 Acts, ch 118, §10, 11; 2004 Acts, ch 1161, §53, 68; 2007 Acts, ch 137, §5; 2011 Acts, ch 70, §1; 2013 Acts, ch 124, §5, 6

Referred to in §502.204, 502.604A

502.604A Law enforcement authority.

The administrator or the administrator's designee, when carrying out the provisions of section 502.603 or 502.604, may develop, share, and receive information related to any law enforcement purpose, including any criminal investigation. An insurance fraud bureau investigator shall be authorized to conduct an investigation under article 5 of this chapter and shall have law enforcement authority pursuant to section 507E.8.

91 Acts, ch 40, §34; 94 Acts, ch 1031, §17; 2004 Acts, ch 1161, §54, 68; 2020 Acts, ch 1016, §1

502.604B Limited law enforcement authority. Repealed by 2004 Acts, ch 1161, §63, 68. See §502.604A.

502.605 Rules, forms, orders, interpretative opinions, and hearings.

1. *Issuance and adoption of forms, orders, and rules.* Pursuant to chapter 17A, the administrator may do any of the following:

a. Issue forms and orders and, after notice and comment, may adopt and amend rules necessary or appropriate to carry out this chapter and may repeal rules, including rules and forms governing registration statements, applications, notice filings, reports, and other records.

b. Define terms, whether or not used in this chapter, but those definitions shall not be inconsistent with this chapter.

c. Classify securities, persons, and transactions and adopt different requirements for different classes.

2. *Findings and cooperation.* Under this chapter, a rule or form shall not be adopted or amended, or an order issued or amended, unless the administrator finds that the rule, form, order, or amendment is necessary or appropriate in the public interest or for the protection of investors and is consistent with the purposes intended by this chapter. In adopting, amending, and repealing rules and forms, section 502.608 applies in order to achieve uniformity among the states and coordination with federal laws in the form and

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content of registration statements, applications, reports, and other records, including the adoption of uniform rules, forms, and procedures.

3. *Financial statements.* Subject to section 15(h) of the Securities Exchange Act and section 222 of the Investment Advisers Act of 1940, the administrator may require that a financial statement filed under this chapter be prepared in accordance with generally accepted accounting principles in the United States and comply with other requirements specified by rule adopted or order issued under this chapter. A rule adopted or order issued under this chapter may establish any of the following:

a. Subject to section 15(h) of the Securities Exchange Act and section 222 of the Investment Advisers Act of 1940, the form and content of financial statements required under this chapter.

b. Whether unconsolidated financial statements must be filed.

c. Whether required financial statements must be audited by an independent certified public accountant.

4. *Interpretative opinions.* The administrator may provide interpretative opinions or issue determinations that the administrator will not institute a proceeding or an action under this chapter against a specified person for engaging in a specified act, practice, or course of business if the determination is consistent with this chapter. A rule adopted or order issued under this chapter may establish a reasonable charge for interpretative opinions or determinations that the administrator will not institute an action or a proceeding under this chapter.

5. *Effect of compliance.* A penalty under this chapter shall not be imposed for, and liability does not arise from, conduct that is engaged in or omitted in good faith believing it conforms to a rule, form, or order of the administrator under this chapter.

6. *Presumption for public hearings.* A hearing in an administrative proceeding under this chapter must be conducted in public unless the administrator for good cause consistent with this chapter determines that the hearing will not be so conducted.

[SS15, §1920-u19, -u20, -u21; C24, 27, §8577 – 8579; C31, 35, §8581-c21, -c22, -c23; C39, §**8581.26 – 8581.28;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §502.26 – 502.28; C77, 79, 81, §502.605]

2000 Acts, ch 1147, §18; 2001 Acts, ch 118, §13, 14; 2004 Acts, ch 1161, §55, 68

502.606 Administrative files and opinions.

1. *Public register of filings.* The administrator shall maintain, or designate a person to maintain, a register of applications for registration of securities; registration statements; notice filings; applications for registration of broker-dealers, agents, investment advisers, and investment adviser representatives; notice filings by federal covered investment advisers that are or have been effective under this chapter or the predecessor chapter; notices of claims of exemption from registration or notice filing requirements contained in a record; orders issued under this chapter or the predecessor chapter; and interpretative opinions or no action determinations issued under this chapter.

2. *Public availability.* The administrator shall make all rules, forms, interpretative opinions, and orders available to the public.

3. *Copies of public records.* The administrator shall furnish a copy of a record that is a public record or a certification that the public record does not exist to a person that so requests. A rule adopted under this chapter may establish a reasonable charge for furnishing the record or certification. A copy of the record certified or a certificate by the administrator of a record's nonexistence is prima facie evidence of a record or its nonexistence.

[SS15, §1920-u17; C24, 27, §8575; C31, 35, §8581-c19; C39, §**8581.24;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §502.24; C77, 79, 81, §502.606]

2004 Acts, ch 1161, §56, 68

502.607 Public records — confidentiality.

1. *Presumption of public records.* Except as otherwise provided in subsection 2, records obtained by the administrator or filed under this chapter, including a record contained in or filed with a registration statement, application, notice filing, or report, are public records and are available for public examination.

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2. *Nonpublic records.* Notwithstanding chapter 22, the following records are not public records and are not available for public examination under subsection 1:

a. A record obtained by the administrator in connection with an audit or inspection under section 502.411, subsection 4, or an investigation under section 502.602.

b. A part of a record filed in connection with a registration statement under sections 502.301 and 502.303 through 502.305 or a record under section 502.411, subsection 4, that contains trade secrets or confidential information if the person filing the registration statement or report has asserted a claim of confidentiality or privilege that is authorized by law.

c. A record that is not required to be provided to the administrator or filed under this chapter and is provided to the administrator only on the condition that the record will not be subject to public examination or disclosure.

d. A nonpublic record received from a person specified in section 502.608, subsection 1.

e. Any social security number, residential address unless used as a business address, and residential telephone number unless used as a business telephone number, contained in a record that is filed.

f. A record obtained by the administrator through a designee that the administrator determines by rule or order has been appropriately expunged from its own records by that designee, if the administrator finds that such expungement is in the public interest and does not impair investor protection.

g. A record obtained by the administrator or by law enforcement under section 502.809.

3. *Administrator discretion to disclose.* If disclosure is for the purpose of a civil, administrative, or criminal investigation, action, or proceeding or to a person specified in section 502.608, subsection 1, the administrator may disclose a record obtained in connection with an audit or inspection under section 502.411, subsection 4, or a record obtained in connection with an investigation under section 502.602 or section 502.809.

[C35, §8581-f6; C39, §**8581.22;** C46, 50, 54, 58, 62, §502.22; C66, 71, 73, 75, §502.2, 502.22; C77, 79, 81, §502.607]

97 Acts, ch 114, §16; 2004 Acts, ch 1161, §57, 68; 2021 Acts, ch 137, §1, 2

Referred to in §22.7(43), 502.601, 502.602, 502.608

502.608 Uniformity and cooperation with other agencies.

1. *Objective of uniformity.* The administrator shall, in its discretion, cooperate, coordinate, consult, and, subject to section 502.607, share records and information with the securities regulator of another state, Canada, a Canadian province or territory, a foreign jurisdiction, the securities and exchange commission, the United States department of justice, the commodity futures trading commission, the federal trade commission, the securities investor protection corporation, a self-regulatory organization, a national or international organization of securities regulators, a federal or state banking and insurance regulator, and a governmental law enforcement agency to effectuate greater uniformity in securities matters among the federal government, self-regulatory organizations, states, and foreign governments.

2. *Policies to consider.* In cooperating, coordinating, consulting, and sharing records and information under this section and in acting by rule, order, or waiver under this chapter, the administrator shall, in its discretion, take into consideration in carrying out the public interest, all of the following general policies:

a. Maximizing effectiveness of regulation for the protection of investors.

b. Maximizing uniformity in federal and state regulatory standards.

c. Minimizing burdens on the business of capital formation, without adversely affecting essentials of investor protection.

3. *Subjects for cooperation.* The cooperation, coordination, consultation, and sharing of records and information authorized by this section includes all of the following:

a. Establishing or employing one or more designees as a central depository for registration and notice filings under this chapter and for records required or allowed to be maintained under this chapter.

b. Developing and maintaining uniform forms.

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c. Conducting a joint examination or investigation.

d. Holding a joint administrative hearing.

e. Instituting and prosecuting a joint civil or administrative proceeding.

f. Sharing and exchanging personnel.

g. Coordinating registrations under sections 502.301 and 502.401 through 502.404 and exemptions under section 502.203.

h. Sharing and exchanging records, subject to section 502.607.

i. Formulating rules, statements of policy, guidelines, forms, and interpretative opinions and releases.

j. Formulating common systems and procedures.

k. Notifying the public of proposed rules, forms, statements of policy, and guidelines.

l. Attending conferences and other meetings among securities regulators, which may include representatives of governmental and private sector organizations involved in capital formation, deemed necessary or appropriate to promote or achieve uniformity.

m. Developing and maintaining a uniform exemption from registration for small issuers, and taking other steps to reduce the burden of raising investment capital by small businesses.

[C31, 35, §8581-c11, -c26; C39, §**8581.11, 8581.31;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §502.11, 502.31; C77, 79, 81, §502.608]

83 Acts, ch 169, §17; 97 Acts, ch 114, §17; 98 Acts, ch 1106, §21, 24; 2002 Acts, ch 1111, §5; 2004 Acts, ch 1161, §58, 68

Referred to in §502.601, 502.605, 502.607

502.609 Judicial review of orders.

A final order issued by the administrator under this chapter is subject to judicial review in accordance with chapter 17A.

[SS15, §1920-u5; C24, 27, §8534, 8535; C31, 35, §8581-c9; C39, §**8581.09;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §502.9; C77, 79, 81, §502.609]

91 Acts, ch 40, §35; 97 Acts, ch 114, §18; 2000 Acts, ch 1147, §19; 2004 Acts, ch 1161, §59, 68

Referred to in §502.604

502.610 Jurisdiction.

1. *Sales and offers to sell.* Sections 502.301, 502.302, section 502.401, subsection 1, section 502.402, subsection 1, section 502.403, subsection 1, section 502.404, subsection 1, and sections 502.501, 502.506, 502.509, and 502.510 do not apply to a person that sells or offers to sell a security unless the offer to sell or the sale is made in this state or the offer to purchase or the purchase is made and accepted in this state.

2. *Purchases and offers to purchase.* Section 502.401, subsection 1, section 502.402, subsection 1, section 502.403, subsection 1, section 502.404, subsection 1, and sections 502.501, 502.506, 502.509, and 502.510 do not apply to a person that purchases or offers to purchase a security unless the offer to purchase or the purchase is made in this state or the offer to sell or the sale is made and accepted in this state.

3. *Offers in this state.* For the purpose of this section, an offer to sell or to purchase a security is made in this state, whether or not either party is then present in this state, if any of the following apply to the offer:

a. The offer originates from within this state.

b. The offer is directed by the offeror to a place in this state and received at the place to which it is directed.

4. *Acceptances in this state.* For the purpose of this section, an offer to purchase or to sell is accepted in this state, whether or not either party is then present in this state, if all of the following apply to the acceptance:

a. The acceptance is communicated to the offeror in this state and the offeree reasonably believes the offeror to be present in this state and the acceptance is received at the place in this state to which it is directed.

b. The acceptance has not previously been communicated to the offeror, orally or in a record, outside this state.

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5. *Publications, radio, television, or electronic communications.* An offer to sell or to purchase is not made in this state when a publisher circulates or there is circulated on the publisher's behalf in this state a bona fide newspaper or other publication of general, regular, and paid circulation that is not published in this state, or that is published in this state but has had more than two-thirds of its circulation outside this state during the previous twelve months or when a radio or television program or other electronic communication originating outside this state is received in this state. A radio or television program, or other electronic communication, is considered as having originated in this state if either the broadcast studio or the originating source of transmission is located in this state, unless any of the following apply:

a. The program or communication is syndicated and distributed from outside this state for redistribution to the general public in this state.

b. The program or communication is supplied by a radio, television, or other electronic network with the electronic signal originating from outside this state for redistribution to the general public in this state.

c. The program or communication is an electronic communication that originates outside this state and is captured for redistribution to the general public in this state by a community antenna or cable, radio, cable television, or other electronic system.

d. The program or communication consists of an electronic communication that originates in this state, but which is not intended for distribution to the general public in this state.

6. *Investment advice and misrepresentations.* Section 502.403, subsection 1, section 502.404, subsection 1, section 502.405, subsection 1, and sections 502.502, 502.505, and 502.506 apply to a person if the person engages in an act, practice, or course of business instrumental in effecting prohibited or actionable conduct in this state, whether or not either party is then present in this state.

[C77, 79, 81, §502.610]

98 Acts, ch 1106, §22, 24; 2004 Acts, ch 1161, §60, 68; 2013 Acts, ch 30, §118

502.611 Service of process.

1. *Signed consent to service of process.* A consent to service of process required by this chapter must be signed and filed in the form required by a rule or order under this chapter. A consent appointing the administrator as a person's agent for service of process in a noncriminal action or proceeding against the person, or the person's successor or personal representative under this chapter or a rule adopted or order issued under this chapter after the consent is filed, has the same force and validity as if the service of process were made personally on the person filing the consent. A person that has filed a consent complying with this subsection in connection with a previous application for registration or notice filing need not file an additional consent.

2. *Conduct constituting appointment of agent for service of process.* If a person, including a nonresident of this state, engages in an act, practice, or course of business prohibited or made actionable by this chapter or a rule adopted or order issued under this chapter and the person has not filed a consent to service of process under subsection 1, the act, practice, or course of business constitutes the appointment of the administrator as the person's agent for service of process in a noncriminal action or proceeding against the person or the person's successor or personal representative.

3. *Procedure for service of process.* If service of process is made on the administrator under subsection 1 or 2 it shall be made as provided in section 505.30, but is not effective unless all of the following apply:

a. The plaintiff, which may be the administrator, shall promptly send notice of the service of process and a copy of the service of process by certified mail to the defendant or respondent at the address set forth in the consent to service of process or, if a consent to service of process has not been filed, to the defendant's or respondent's last known principal place of business.

b. The plaintiff shall file an affidavit of compliance with this subsection in the action or proceeding on or before the return day of the service of process, if any, or within the time that the court, or the administrator in a proceeding before the administrator, allows.

4. *Service of process in an administrative proceeding or civil action by*

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administrator. Service of process pursuant to subsection 3 may be used in a proceeding before the administrator or by the administrator in a civil action in which the administrator is the moving party.

5. *Opportunity to defend.* If process is served under subsection 3, the court, or the administrator in a proceeding before the administrator, shall order continuances as are necessary or appropriate to afford the defendant or respondent reasonable opportunity to defend.

[C77, 79, 81, §502.611]
90 Acts, ch 1196, §5; 2004 Acts, ch 1161, §61, 68; 2018 Acts, ch 1018, §1
Referred to in §502.201, 502.302, 502.303, 502.304, 502.405, 502.406

502.612 Severability clause.

If any provision of this chapter or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

2004 Acts, ch 1161, §62, 68

502.613 through 502.700 Reserved.

ARTICLE 7

JOINT INVESTMENT TRUSTS

502.701 Public joint investment trusts.

1. A joint investment trust organized pursuant to chapter 28E for the purposes of joint investment of public funds is subject to the jurisdiction and authority of the administrator, including all requirements of this chapter, except the registration provisions of sections 502.301 and 502.321I.

2. The administrator may make examinations within or without the state, of the business and records of each joint investment trust, at the times and in the scope as the administrator determines. The administrator shall have the authority to contract for outside professional services in the conduct of examinations. The examinations may be made without prior notice to the joint investment trust or the trust's investment advisor. The administrator may copy all records the administrator feels are necessary to conduct the examination. The expense reasonably attributable to the examination shall be paid by the joint investment trusts whose business is examined. For the purpose of avoiding unnecessary duplication of examinations, the administrator may cooperate with other regulatory authorities.

92 Acts, ch 1156, §41; 2005 Acts, ch 19, §124, 126

502.702 through 502.800 Reserved.

ARTICLE 8

FINANCIAL EXPLOITATION OF ELIGIBLE ADULTS

502.801 Definitions.

For purposes of this article, unless the context otherwise requires:

1. *"Eligible adult"* means any of the following:

a. A person sixty-five years of age or older.

b. A dependent adult as defined in section 235B.2.

2. *"Financial exploitation"* means any act or omission taken by a person to wrongfully and knowingly deprive an eligible adult of money, assets, or property, or to obtain control over or otherwise use, convert, or divert the benefits, property, resources, or assets of the eligible adult by intimidation, deception, coercion, fraud, extortion, or undue influence.

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3. *"Permissible third party"* means any of the following:

a. A person the eligible adult previously designated to receive the notification described in section 502.804.

b. A person otherwise permitted to receive the notification described in section 502.804 by any state or federal law or any rule issued by the financial industry regulatory authority.

4. *"Qualified individual"* means any of the following:

a. An agent who has received training pursuant to section 502.808.

b. An investment adviser representative who has received training pursuant to section 502.808.

c. A person who has received training pursuant to section 502.808 and who serves in a supervisory, compliance, senior investor protection, or legal capacity for any of the following:

(1) A broker-dealer.

(2) An investment adviser.

2021 Acts, ch 137, §3
Referred to in §508.101

502.802 Notification to administrator.

If a broker-dealer, investment adviser, or qualified individual reasonably believes financial exploitation of an eligible adult has occurred, has been attempted, or is being attempted, the broker-dealer, investment adviser, or qualified individual may promptly notify the administrator. The administrator may adopt rules regarding the form and manner of the notification under this section.

2021 Acts, ch 137, §4
Referred to in §502.809

502.803 Notification to administrator — immunity.

A broker-dealer, investment adviser, or qualified individual who, acting reasonably and in good faith, makes a disclosure of information to the administrator pursuant to this article shall be immune from administrative or civil liability that might otherwise arise from such disclosure or for any failure to notify the eligible adult of the disclosure. Other than matters related to the reporting of the financial exploitation of an eligible adult pursuant to this section, this section shall not abrogate or modify any existing statutory or common law privileges or immunities.

2021 Acts, ch 137, §5

502.804 Notification to permissible third party.

1. If a broker-dealer, investment adviser, or qualified individual reasonably believes financial exploitation of an eligible adult has occurred, has been attempted, or is being attempted, the broker-dealer, investment adviser, or qualified individual may notify a permissible third party. The administrator may adopt rules regarding the form and manner of the notification under this section.

2. Broker-dealers, investment advisers, and qualified individuals shall not notify a permissible third party the broker-dealer, investment adviser, or qualified individual reasonably suspects of financial exploitation or other abuse of the eligible adult.

2021 Acts, ch 137, §6
Referred to in §502.801, 502.805

502.805 Notification to permissible third party — immunity.

A broker-dealer, investment adviser, or qualified individual who, acting reasonably and in good faith, complies with section 502.804 shall be immune from any administrative or civil liability that might otherwise arise from such disclosure.

2021 Acts, ch 137, §7

502.806 Disbursements or transactions — delay.

1. If a broker-dealer, investment adviser, or qualified individual reasonably believes a disbursement or transaction will likely result in or contribute to the financial exploitation of

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an eligible adult, the broker-dealer, investment adviser, or qualified individual shall initiate an internal review of the requested disbursement or transaction.

2. A broker-dealer or investment adviser may delay a disbursement or transaction from an eligible adult's account or an account on which an eligible adult is a beneficiary if all of the following apply:

a. The broker-dealer, investment adviser, or qualified individual reasonably believes, after initiating the internal review referenced in subsection 1, that the requested disbursement or transaction will likely result in or contribute to the financial exploitation of an eligible adult.

b. Immediately, but in no event more than two business days after the disbursement or transaction is delayed, the broker-dealer or investment adviser provides written notification of the delay and the reason for the delay to all persons authorized to transact business on the account. Broker-dealers, investment advisers, and qualified individuals shall not notify a person authorized to transact business on the account if the broker-dealer, investment adviser, or qualified individual reasonably believes the person has committed financial exploitation, attempted financial exploitation, or other abuse of the eligible adult.

c. Immediately, but in no event more than two business days after the disbursement or transaction is delayed, the broker-dealer or investment adviser notifies the administrator of the delay and provides to the administrator the reason for the delay, including the results of the internal review referenced in subsection 1.

d. The broker-dealer or investment adviser continues the internal review of the suspected or attempted financial exploitation of the eligible adult, as necessary, and provides the administrator with updates upon request.

3. Any delay of a disbursement or transaction authorized by this section will expire upon the first to occur of any of the following:

a. A determination by the broker-dealer or investment adviser that the disbursement or transaction will not result in or contribute to financial exploitation of the eligible adult.

b. Fifteen business days after the date on which the broker-dealer or investment adviser first delayed disbursement of the funds or transaction, unless extended pursuant to paragraph "*c*".

c. If the internal review under subsection 2, paragraph "*d*", continues to support the broker-dealer, investment adviser, or qualified individual's reasonable belief that the disbursement or transaction will likely result in or contribute to the financial exploitation of an eligible adult, the broker-dealer or investment adviser may extend the delay beyond the initial delay under paragraph "*b*" for no more than twenty-five business days after the date on which the broker-dealer or investment adviser first delayed disbursement of the funds or transaction, unless extended pursuant to paragraph "*d*".

d. If the internal review under subsection 2, paragraph "*d*", continues to support the broker-dealer, investment adviser, or qualified individual's reasonable belief that the disbursement or transaction will likely result in or contribute to the financial exploitation of an eligible adult, the broker-dealer or investment adviser may extend the delay beyond the delay under paragraph "*c*" for no more than fifty-five business days after the date on which the broker-dealer or investment adviser first delayed disbursement of the funds or transaction.

4. Notwithstanding subsection 3, upon the petition of the administrator, the broker-dealer or investment adviser who initiated the delay pursuant to this section, or another interested party, a court of competent jurisdiction may enter an order terminating, extending, or modifying the delay of the disbursement or transaction and may order other protective relief.

5. The administrator may adopt rules regarding the form and manner of the notifications under this section.

2021 Acts, ch 137, §8; 2026 Acts, ch 1017, §1, 2
Referred to in §502.807
Subsection 3, paragraph b amended
Subsection 3, NEW paragraphs c and d

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502.807 Disbursements or transactions — delay — immunity.

A broker-dealer or investment adviser who, acting reasonably and in good faith, complies with section 502.806 shall be immune from any administrative or civil liability that might otherwise arise from such delay in a disbursement or transaction.

2021 Acts, ch 137, §9

502.808 Training requirements.

1. A broker-dealer or investment adviser shall provide to its qualified individuals training appropriate to the job responsibilities of a qualified individual. The training shall include all of the following:

a. Instruction on how to identify the suspected or attempted exploitation of an eligible adult, including common signs indicating the financial exploitation of an eligible adult, and how to provide notification regarding the suspected or attempted exploitation of an eligible adult.

b. Instruction regarding privacy and confidentiality requirements.

2. A broker-dealer or investment adviser shall provide the training required by this section as soon as reasonably practicable, but at least within one year after the date the qualified individual begins employment with or becomes affiliated or associated with a broker-dealer or investment adviser.

3. The administrator may adopt rules specifying the content and method of the training required by this section.

2021 Acts, ch 137, §10

Referred to in §502.801

502.809 Records.

A broker-dealer or investment adviser shall provide access to or copies of records that are relevant to the suspected or attempted financial exploitation of an eligible adult to the administrator, either as part of a notification to the administrator pursuant to section 502.802, or upon the request of the administrator. The records may include historical records as well as records relating to the most recent transactions that may comprise financial exploitation of an eligible adult. The administrator may share the records with law enforcement if the administrator determines it is necessary or appropriate in the public interest and for the protection of the eligible adult. All records made available to the administrator or law enforcement pursuant to this section shall be considered confidential public records under chapter 22 and shall not be available for examination by the public pursuant to section 22.2. Nothing in this section shall limit or otherwise impede the authority of the administrator or law enforcement to access or examine the books and records of broker-dealers and investment advisers as otherwise provided by law.

2021 Acts, ch 137, §11

Referred to in §502.607

502.810 Financial exploitation — reporting.

Annually, on or before January 15 of each year, the insurance division shall submit a report to the governor and the general assembly concerning the notifications the insurance division received related to the potential financial exploitation of eligible adults, and the insurance division's investigation of the notifications, during the preceding calendar year. The report shall include the number of notifications the insurance division received, the amount of time employees of the insurance division spent investigating the notifications, and the number of incidents of founded financial exploitation of eligible adults.

2021 Acts, ch 137, §12

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CHAPTER 502A

COMMODITIES CODE

Referred to in §505.28, 505.29, 507E.8, 669.14

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SUBCHAPTER I

502A.1 Definitions.

For purposes of this chapter, unless the context otherwise requires:

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

2. *"Board of trade"* means a person or group of persons engaged in buying or selling any commodity or receiving the same for sale on consignment, whether the person or group of persons is characterized as a board of trade, exchange, or other form of marketplace.

3. *"CFTC rule"* means a regulation or order of the commodity futures trading commission in effect on July 1, 1990, and all subsequent amendments, additions or other revisions to the regulation or order, unless the administrator, within ten days following the effective date of the amendment, addition, or revision, disallows the application to this chapter in whole or in part by rule or order.

4. *a.* *"Commodity"* means, except as otherwise specified by the administrator by rule or order: an agricultural, grain, or livestock product or by-product; a metal or mineral, including a precious metal; a gem or gemstone, whether characterized as precious, semiprecious or otherwise; a fuel, whether liquid, gaseous or otherwise; a foreign currency; and all other goods, articles, products, or items of any kind.

b. The term *"commodity"* does not include any of the following:

(1) A numismatic coin whose fair market value is at least fifteen percent higher than the value of the metal it contains.

(2) Real property or any timber, agricultural, or livestock product grown or raised on real property and offered or sold by the owner or lessee of such real property.

(3) Any work of art offered or sold by art dealers, at public auction, or offered or sold through a private sale by the owner of the work of art.

5. *"Commodity contract"* means an account, agreement, or contract for the purchase or sale, primarily for speculation or investment purposes and not for use or consumption by the offeree or purchaser, of one or more commodities, whether for immediate or subsequent delivery or whether delivery is intended by the parties, and whether characterized as a cash contract, deferred shipment or deferred delivery contract, forward contract, futures contract, installment or margin contract, leverage contract, or otherwise. A commodity contract offered or sold, in the absence of evidence to the contrary, shall be presumed to be offered or sold for speculation or investment purposes. A commodity contract does not include a contract or agreement which requires, and under which the purchaser receives, within twenty-eight days from the payment in good funds of any portion of the purchase

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price, physical delivery of the total amount of each commodity to be purchased under the contract or agreement.

6. *"Commodity Exchange Act"* means the federal Commodity Exchange Act, as amended to July 1, 1990, codified at 7 U.S.C. §1 et seq., and all subsequent amendments, additions, or other revisions to the Act, unless the administrator, within ten days following the effective date of the amendment, addition, or revision, disallows its application to this chapter in whole or in part by rule or order.

7. *"Commodity futures trading commission"* or *"CFTC"* means the independent regulatory agency established by the United States Congress to administer the Commodity Exchange Act.

8. *"Commodity merchant"* means any of the following as defined or described in the Commodity Exchange Act or by CFTC rule:

a. A futures commission merchant.

b. A commodity pool operator.

c. A commodity trading adviser.

d. An introducing broker.

e. A leverage transaction merchant.

f. An associated person of any of the persons listed in paragraphs *"a"* through *"e"*.

g. A floor broker.

h. Any other person, other than a futures association, required to register with the commodity futures trading commission.

9. *"Commodity option"* means an account, agreement, or contract giving a party to the account, agreement, or contract the right but not the obligation to purchase or sell one or more commodities or one or more commodity contracts, whether characterized as an option, privilege, indemnity, bid, offer, put, call, advance guaranty, decline guaranty or otherwise, but shall not include an option traded on a national securities exchange registered with the United States securities and exchange commission.

10. *"Financial institution"* means a bank, savings institution, or trust company organized under, or supervised pursuant to, the laws of the United States or of any state.

11. *"Offer"* includes every offer to sell, offer to purchase, or offer to enter into a commodity contract or commodity option.

12. *"Person"* means a person as defined in section 4.1, but does not include a contract market designated by the commodity futures trading commission or any clearinghouse of the CFTC or a national securities exchange registered with the securities and exchange commission, or any employee, officer, or director of a contract market, clearinghouse, or exchange acting solely in that capacity.

13. *"Precious metal"* means one or more of the following in either coin, bullion, or other form:

a. Silver.

b. Gold.

c. Platinum.

d. Palladium.

e. Copper.

f. Such other items as the administrator may specify by rule or order.

14. *"Sale"* or *"sell"* includes every sale, contract of sale, contract to sell, or disposition, for value.

90 Acts, ch 1169, §1; 2006 Acts, ch 1117, §13; 2012 Acts, ch 1023, §157; 2023 Acts, ch 19, §2724

Referred to in §502A.22

502A.2 Unlawful commodity transactions.

Except as otherwise provided in section 502A.3 or 502A.4, a person shall not sell or purchase, or offer to sell or purchase, a commodity under a commodity contract, or under

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a commodity option, or offer to enter into, or enter into as seller or purchaser, a commodity contract or commodity option.

90 Acts, ch 1169, §2
Referred to in §502A.3, 502A.4, 502A.6, 502A.19, 502A.22

502A.3 Exempt person transactions.

1. The prohibitions in section 502A.2 do not apply to a transaction in which any of the following persons, or any employee, officer, or director of a listed person acting solely in that capacity, is the purchaser or seller:

a. A person registered with the commodity futures trading commission as a futures commission merchant or as a leverage transaction merchant whose activities require such registration.

b. A person registered with the securities and exchange commission as a broker-dealer whose activities require such registration.

c. A person affiliated with, and whose obligations and liabilities under the transaction are guaranteed by, a person referred to in paragraph *"a"* or *"b"*.

d. A person who is a member of a contract market designated by the commodity futures trading commission, or any CFTC clearinghouse.

e. A financial institution.

f. A person registered under the laws of this state as a securities broker-dealer whose activities require such registration.

2. This exemption provided by this section does not apply to any transaction or activity which is prohibited by the Commodity Exchange Act or CFTC rule.

90 Acts, ch 1169, §3; 2012 Acts, ch 1023, §100
Referred to in §502A.2, 502A.4, 502A.6

502A.4 Exempt transactions.

1. Section 502A.2 does not apply to any of the following:

a. An account, agreement, or transaction within the exclusive jurisdiction of the commodity futures trading commission as granted under the Commodity Exchange Act.

b. A commodity contract, offered or sold by a qualified seller as defined in subsection 2, for the purchase of one or more precious metals which requires, and under which the purchaser receives, within twenty-eight days from the payment in good funds of any portion of the purchase price, physical delivery of the quantity of the precious metals purchased by the payment. For purposes of this paragraph, physical delivery shall be deemed to have occurred if both of the following conditions are satisfied:

(1) Within twenty-eight days, the required quantity of precious metals purchased by the payment is delivered, whether in specifically segregated or fungible bulk form, into the possession of a depository, other than the seller, which is any of the following:

(a) A financial institution.

(b) A depository the warehouse receipts of which are recognized for delivery purposes for any commodity on a contract market designated by the commodity futures trading commission.

(c) A storage facility licensed or regulated by the United States or any agency of the United States.

(d) A depository designated by the administrator.

(2) The depository or a qualified seller issues and the purchaser receives, a certificate, document of title, confirmation, or other instrument evidencing that the required quantity of precious metals has been delivered to the depository and is being and will continue to be held by the depository on the purchaser's behalf, free and clear of all liens and encumbrances, other than liens of the purchaser, tax liens, liens agreed to by the purchaser, or liens of the depository for fees and expenses, which have previously been disclosed to the purchaser.

c. For the purposes of paragraph *"b"*, a depository other than the seller shall not include a financial institution which makes loans to enable the borrower to finance the purchase of one or more precious metals if any of the following apply:

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(1) The financial institution knows that the seller arranged for a commission, brokerage, or referral fee for the extension of credit by the financial institution.

(2) The financial institution is a person related to the seller, unless the relationship is remote or is not a factor in the transaction.

(3) The seller guarantees the loan or otherwise assumes the risk of loss by the financial institution upon the loan.

(4) The financial institution directly supplies the seller with the contract document used by the borrower to evidence the loan, and the seller has knowledge of the credit terms and participates in the preparation of the document.

(5) The loan is conditioned upon the borrower's purchase of the precious metals from a particular seller, but the financial institution's payment of proceeds of the loan to the seller does not in itself establish that the loan was so conditioned.

(6) The financial institution otherwise knowingly participates with the seller in the sale. The fact that the financial institution takes a security interest in the precious metals sold or makes the proceeds of the loan payable to the seller does not in itself constitute knowing participation in the sale.

d. A commodity contract solely between persons engaged in producing, processing, using commercially or handling as merchants, the commodity which is the subject of the contract, or any by-product of the commodity.

e. A commodity contract under which the offeree or the purchaser is a person under section 502A.3, an insurance company, an investment company as defined in the federal Investment Company Act of 1940, 15 U.S.C. §80a-1 et seq., or an employee pension and profit sharing or benefit plan other than a self-employed individual retirement plan, or individual retirement account.

2. For the purposes of subsection 1, paragraph *"b"*, a qualified seller is a person who satisfies all of the following conditions:

a. Is a seller of precious metals and has a tangible net worth of at least five million dollars, or has an affiliate who has unconditionally guaranteed the obligations and liabilities of the seller and the affiliate has a tangible net worth of at least five million dollars.

b. Has stored precious metals with one or more depositories on behalf of customers for at least the previous three years.

c. Prior to any offer, files with the administrator a sworn notice of intent to act as a qualified seller under subsection 1, paragraph *"b"*, and annually files a new notice. A notice of intent to act as a qualified seller must contain all of the following:

(1) The seller's name and address, names of its directors, officers, controlling shareholders, partners, principals, and other controlling persons.

(2) The address of its principal place of business, state and date of incorporation or organization, and the name and address of seller's registered agent in this state.

(3) A statement that the seller, or a person affiliated with the seller who has guaranteed the obligations and liabilities of the seller, has a tangible net worth of at least five million dollars.

(4) Depository information including all of the following:

(a) The name and address of the depository or depositories that the seller intends to use.

(b) The name and address of each and every depository where the seller has stored precious metals on behalf of customers for the previous three years.

(c) Independent verification from each and every depository named in subparagraph division (b) that the seller has in fact stored precious metals on behalf of the seller's customers for the previous three years and a statement of total deposits made during this period.

(5) Financial statements for the seller, or the person affiliated with the seller who has guaranteed the obligations and liabilities of the seller, for the past three years, audited by an independent certified public accountant, together with the accountant's reports.

(6) A statement describing the details of all civil, criminal, or administrative proceedings currently pending or adversely resolved against the seller or its directors, officers, controlling shareholders, partners, principals, or other controlling persons during the past ten years

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including all of the following in subparagraph divisions (a) through (d), or if not applicable, subparagraph division (e):

(a) Civil litigation and administrative proceedings involving securities or commodities violations, or fraud.

(b) Criminal proceedings.

(c) Denials, suspensions, or revocations of securities or commodities, licenses, or registrations.

(d) Suspensions or expulsions from membership in, or associations with, self-regulatory organizations registered under the Securities Exchange Act of 1934, or the Commodities Exchange Act.

(e) A statement that there were no such proceedings.

d. Notifies the administrator within fifteen days of any material changes in the information provided in the notice of intent.

e. Annually furnishes to each purchaser for whom the seller is then storing precious metals, and to the administrator, a report by an independent certified public accountant of the accountant's examination of the seller's precious metals storage program.

3. The administrator may, upon request by the seller, waive any of the exempt transaction requirements of this section, conditionally or unconditionally.

4. The administrator may, by order, deny, suspend, revoke, or place limitations on the authority to engage in business as a qualified seller under subsection 1, paragraph *"b"* if the administrator finds that the order is in the public interest and that the person, the person's officers, directors, partners, agents, servants or employees, a person occupying a similar status or performing similar functions, a person who directly or indirectly controls or is controlled by the seller, or any of them, the seller's affiliates or subsidiaries meets any of the following conditions:

a. Has filed a notice of intention under subsection 2 with the administrator or the designee of the administrator which was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact.

b. Has, within the last ten years, pled guilty or nolo contendere to, or been convicted of any crime indicating a lack of fitness to engage in the investment commodity business.

c. Has been permanently or temporarily enjoined by any court of competent jurisdiction from engaging in, or continuing, any conduct or practice which injunction indicates a lack of fitness to engage in the investment commodities business.

d. Is the subject of an order of the administrator denying, suspending, or revoking the person's license as a securities broker-dealer, sales representative, or investment adviser.

e. Is the subject of any of the following orders which are currently effective and which were issued within the last five years:

(1) An order by the securities agency or administrator of another state, Canadian province or territory, the securities and exchange commission, or the commodity futures trading commission, entered after notice and opportunity for hearing, denying, suspending, or revoking the person's registration as a futures commission merchant, commodity trading adviser, commodity pool operator, securities broker-dealer, sales representative, or investment adviser, or the substantial equivalent of those terms.

(2) Suspension or expulsion from membership in, or association with, a self-regulatory organization registered under the federal Securities Exchange Act of 1934 or the Commodity Exchange Act.

(3) A United States postal service fraud order.

(4) A cease and desist order entered after notice and opportunity of hearing by the administrator or the securities agency or administrator of any other state, Canadian province or territory, the United States securities and exchange commission, or the commodity futures trading commission.

(5) An order entered by the commodity futures trading commission denying, suspending, or revoking registration under the Commodity Exchange Act.

f. Has engaged in an unethical or dishonest act or practice in the investment commodities or securities business.

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g. Has failed reasonably to supervise sales representatives or employees.

5. If the public interest or the protection of investors so requires, the administrator may, by order, summarily deny or suspend the exemption for a qualified seller. Upon the entry of the order, the administrator shall promptly notify the person claiming such status that an order has been entered and the reasons for the order and that within thirty days after the receipt of a written request the matter will be set for hearing. Section 502A.20 applies with respect to all subsequent proceedings.

6. If the administrator finds that any applicant or qualified seller is no longer in existence or has ceased to do business or is subject to an adjudication of mental incompetence or to the control of a committee, conservator, or guardian, or cannot be located after reasonable search, the administrator may, by order, deny or revoke the exemption for a qualified seller.

7. The administrator may issue rules or orders prescribing the terms and conditions of all transactions and contracts covered by this chapter which are not within the exclusive jurisdiction of the commodity futures trading commission as granted by the Commodity Exchange Act, exempting and conditionally or unconditionally and otherwise implementing this chapter for the protection of purchasers and sellers of commodities.

90 Acts, ch 1169, §4; 2009 Acts, ch 41, §263; 2015 Acts, ch 30, §162
Referred to in §502A.2, 502A.6, 502A.22

502A.5 Unlawful commodity activities.

1. A person shall not engage in a trade or business or otherwise act as a commodity merchant unless the person is either of the following:

a. Registered or temporarily licensed with the commodity futures trading commission for each activity constituting the person as a commodity merchant and the registration or temporary license has not expired, been suspended, or revoked.

b. Exempt from such registration by virtue of the Commodity Exchange Act or of a CFTC rule.

2. A board of trade shall not trade, or provide a place for the trading of, any commodity contract or commodity option required to be traded on or subject to the rules of a contract market designated by the commodity futures trading commission unless the board of trade has been so designated for the commodity contract or commodity option and the designation has not been vacated, suspended, or revoked.

90 Acts, ch 1169, §5
Referred to in §502A.19

502A.6 Fraudulent conduct.

A person shall not directly or indirectly do any of the following in or in connection with the purchase or sale of, the offer to sell, the offer to purchase, the offer to enter into, or the entry into of, a commodity contract or commodity option subject to section 502A.2, 502A.3, 502A.4, subsection 1, paragraph *"b"*, or section 502A.4, subsection 1, paragraph *"d"*:

1. Cheat or defraud, or attempt to cheat or defraud, another person or employ any device, scheme, or artifice to defraud another person.

2. Make a false report or enter a false record.

3. Make an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

4. Engage in a transaction, act, practice, or course of business, including, without limitation, any form of advertising or solicitation, which operates or would operate as a fraud or deceit upon any person.

5. Misappropriate or convert the funds, security, or property of another person.

90 Acts, ch 1169, §6
Referred to in §502A.19

502A.7 Liability of principals, controlling persons, and others.

1. The act, omission, or failure of an official, agent, or other person acting for an individual, association, partnership, corporation, or trust within the scope of the person's

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employment or office shall be deemed the act, omission, or failure of the individual, association, partnership, corporation, or trust, as well as of the person.

2. A person who directly or indirectly controls another person liable under this chapter, a partner, officer, or director of the other person, a person occupying a similar status or performing similar functions, and an employee of such other person who materially aids in the violation, is liable jointly and severally with and to the same extent as the other person, unless the person who is liable by virtue of this provision sustains the burden of proof that the person did not know, and in exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist.

90 Acts, ch 1169, §7

502A.8 Securities laws unaffected.

This chapter does not impair, derogate, or otherwise affect the authority or powers of the administrator under chapter 502 or the application of any provision of chapter 502 to a person or transaction subject to that chapter.

90 Acts, ch 1169, §8

502A.9 Purpose.

This chapter may be construed and implemented to effectuate its general purpose to protect investors, to prevent and prosecute illegal and fraudulent schemes involving commodity contracts and to maximize coordination with federal and other states' laws and the administration and enforcement of those laws. This chapter is not intended to create any rights or remedies upon which actions may be brought by private persons against persons who violate this chapter.

90 Acts, ch 1169, §9

502A.10 Reserved.

SUBCHAPTER II

502A.11 Investigations.

1. The administrator may make investigations, within or without this state, as the administrator finds necessary or appropriate to do either or both of the following:

a. Determine whether any person has violated, or is about to violate this chapter or any rule or order of the administrator.

b. Aid in enforcement of this chapter.

2. The administrator may publish information concerning a violation of this chapter or any rule or order of the administrator.

3. For purposes of an investigation or proceeding under this chapter, the administrator or any officer or employee designated by rule or order, may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the administrator finds to be relevant or material to the inquiry.

4. *a.* If a person does not give testimony or produce the documents required by the administrator or a designated employee pursuant to an administrative subpoena, the administrator or designated employee may apply for a court order compelling compliance with the subpoena or the giving of the required testimony.

b. The request for order of compliance may be addressed to either of the following:

(1) The Polk county district trial court or the district court where service may be obtained on the person refusing to testify or produce, if the person is within this state.

(2) The appropriate court of the state having jurisdiction over the person refusing to testify or produce, if the person is outside this state.

90 Acts, ch 1169, §10

Referred to in §502A.12, 502A.15

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502A.12 Enforcement of chapter.

1. If the administrator believes, whether or not based upon an investigation conducted under section 502A.11, that a person has engaged or is about to engage in an act or practice constituting a violation of this chapter or a rule or order issued under this chapter, the administrator may do any or all of the following:

a. Issue a cease and desist order.

b. Issue an order imposing a civil penalty in amount which may not exceed ten thousand dollars for a single violation or one hundred thousand dollars for multiple violations in a single proceeding or a series of related proceedings.

c. Initiate any of the actions specified in subsection 2.

2. The administrator may institute any or all of the following actions in the appropriate courts of this state, or in the appropriate courts of another state, in addition to any legal or equitable remedies otherwise available:

a. A declaratory judgment.

b. An action for a prohibitory or mandatory injunction to enjoin the violation and to ensure compliance with this chapter or a rule or order of the administrator.

c. An action for disgorgement.

d. An action for appointment of a receiver or conservator for the defendant or the defendant's assets.

e. An action for restitution.

90 Acts, ch 1169, §11

502A.13 Power of court to grant relief.

1. *a.* Upon a proper showing by the administrator that a person has violated, or is about to violate, this chapter or a rule or order of the administrator, a court of competent jurisdiction may grant appropriate legal or equitable remedies.

b. Upon showing of violation of this chapter or a rule or order of the administrator, the court, in addition to traditional legal and equitable remedies, including temporary restraining orders, permanent or temporary prohibitory or mandatory injunctions, and writs of prohibition or mandamus, may grant any or all of the following special remedies:

(1) Imposition of a civil penalty in amount which may not exceed ten thousand dollars for any single violation or one hundred thousand dollars for multiple violations in a single proceeding or a series of related proceedings.

(2) Disgorgement.

(3) Declaratory judgment.

(4) Restitution to investors wishing restitution.

(5) Appointment of a receiver or conservator for the defendant or the defendant's assets.

c. Appropriate remedies when the defendant is shown only about to violate this chapter or a rule or order of the administrator shall be limited to any or all of the following:

(1) A temporary restraining order.

(2) A temporary or permanent injunction.

(3) A writ of prohibition or mandamus.

(4) An order appointing a receiver or conservator for the defendant or the defendant's assets.

2. The court shall not require the administrator to post a bond in any official action under this chapter.

3. *a.* Upon a proper showing by the administrator or securities or commodity agency of another state that a person, other than a government or governmental agency or instrumentality, has violated, or is about to violate, the commodity code of that state or a rule or order of the administrator or securities or commodity agency of that state, the district court may grant appropriate legal and equitable remedies.

b. Upon showing of a violation of the securities or commodity act of the foreign state or a rule or order of the administrator or securities or commodity agency of the foreign state, the court, in addition to traditional legal or equitable remedies including temporary restraining orders, permanent or temporary prohibitory or mandatory injunctions and writs of prohibition or mandamus, may grant either or both of the following special remedies:

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(1) Disgorgement.

(2) Appointment of a receiver, conservator, or ancillary receiver or conservator for the defendant or the defendant's assets located in this state.

c. Appropriate remedies when the defendant is shown only about to violate the securities or commodity act of the foreign state or a rule or order of the administrator or securities or commodity agency of the foreign state shall be limited to any or all of the following:

(1) A temporary restraining order.

(2) A temporary or permanent injunction.

(3) A writ of prohibition or mandamus.

(4) An order appointing a receiver, conservator, or ancillary receiver or conservator for the defendant or the defendant's assets located in this state.

90 Acts, ch 1169, §12

502A.14 Criminal penalties.

1. A person who willfully violates either of the following shall, upon conviction, be fined not more than twenty thousand dollars or be imprisoned not more than ten years, or both, for each violation.

a. This chapter.

b. A rule or order of the administrator under this chapter.

2. A person convicted of violating a rule or order under this chapter may be fined, but may not be imprisoned, if the person proves the person had no knowledge of the rule or order.

3. The administrator may refer such evidence as is available concerning violations of this chapter or any rule or order of the administrator to the attorney general or the proper county attorney, who may, with or without such a reference from the administrator, institute the appropriate criminal proceedings under this chapter.

4. This chapter does not limit the power of the state to proceed against a person for conduct which constitutes a breach of duty, a crime, or a violation under common law, rule, or another statute. An action pursuant to this chapter is not an election of remedies, and an aggrieved person or the state retains any other common law or statutory causes of action which may exist against a person alleged to have violated this chapter or against a person convicted of such a violation.

90 Acts, ch 1169, §13

502A.15 Administration of chapter.

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

2. The administrator or any employees of the administrator shall not use any information which is filed with or obtained by the administrator which is not public information for personal gain or benefit, and the administrator or any employees of the administrator shall not conduct any securities or commodity dealings based upon any such information, even though public, if there has not been a sufficient period of time for the securities or commodity markets to assimilate such information.

3. *a.* Except as provided in paragraph *"b"*, all information collected, assembled, or maintained by the administrator is public information and is available for the examination of the public as provided by chapter 22.

b. The following are exceptions to paragraph *"a"* and are confidential:

(1) Information obtained in an investigation pursuant to section 502A.11, unless published pursuant to section 502A.11, subsection 2.

(2) Information made confidential by chapter 22.

(3) Information obtained from federal agencies which cannot be disclosed under federal law.

c. The administrator in the administrator's discretion may disclose any information made confidential under paragraph *"b"* to persons identified in section 502A.16, subsection 1.

d. This chapter does not create or derogate any privilege which exists at common law, by

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statute or otherwise when documentary or other evidence is sought under subpoena directed to the administrator or any employee of the administrator.

90 Acts, ch 1169, §14; 2006 Acts, ch 1117, §14; 2023 Acts, ch 19, §2725

502A.16 Cooperation with other agencies.

1. To encourage uniform application and interpretation of this chapter and securities regulation and enforcement in general, the administrator and the employees of the administrator may cooperate, including bearing the expense of the cooperation, with the securities agencies or administrator of another jurisdiction, Canadian province or territory or such other agencies administering this chapter, the commodity futures trading commission, the United States securities and exchange commission, any self-regulatory organization established under the Commodity Exchange Act or the federal Securities Exchange Act of 1934, any national or international organization of commodities or securities officials or agencies, and any governmental law enforcement agency.

2. The cooperation authorized by subsection 1 shall include, but need not be limited to, any or all of the following:

a. Making joint examinations or investigations.

b. Holding joint administrative hearings.

c. Filing and prosecuting joint litigation.

d. Sharing and exchanging personnel.

e. Sharing and exchanging information and documents.

f. Formulating and adopting mutual regulations, statements of policy, guidelines, proposed statutory changes, and releases.

g. Issuing and enforcing subpoenas at the request of the agency administering this chapter in another jurisdiction, the securities agency of another jurisdiction, the commodity futures trading commission or the United States securities and exchange commission if the information sought would also be subject to lawful subpoena for conduct occurring in this state.

90 Acts, ch 1169, §15
Referred to in §502A.15

502A.17 General authority to adopt rules, forms, and orders.

1. In addition to specific authority granted elsewhere in this chapter, the administrator may adopt rules and forms, pursuant to chapter 17A, and issue orders as are necessary to administer this chapter. Rules or forms to be adopted shall include, but need not be limited to, the following:

a. Rules defining any terms, whether or not used in this chapter, insofar as the definitions are not inconsistent with the provisions of this chapter.

b. For the purpose of rules or forms, the administrator may classify commodities and commodity contracts, persons, and matters within the administrator's jurisdiction.

2. Unless specifically provided in this chapter, a rule, form, or order shall not be adopted or issued unless the administrator finds that the action is both of the following:

a. Necessary or appropriate in the public interest or for the protection of investors.

b. Consistent with the purposes fairly intended by the policy of this chapter.

3. All rules and forms of the administrator shall be published as provided in chapter 17A.

4. A provision of this chapter imposing any liability shall not apply to an act done or omitted in good faith in conformity with a rule or form adopted or order issued by the administrator, notwithstanding that the rule, order, or form may later be amended, or rescinded, or be determined by judicial or other authority to be invalid for any reason.

90 Acts, ch 1169, §16

502A.18 Consent to service of process.

When a person, including a nonresident of this state, engages in conduct prohibited or made actionable by this chapter or any rule or order of the administrator, the conduct shall constitute the appointment of the administrator as the person's attorney to receive service of any lawful process in a noncriminal proceeding against the person, a successor, or personal

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representative, which grows out of that conduct and which is brought under this chapter or any rule or order of the administrator with the same force and validity as if served personally.

90 Acts, ch 1169, §17

502A.19 Chapter scope.

1. Sections 502A.2, 502A.5, and 502A.6 apply to a person who sells or offers to sell when either of the following occurs:

a. An offer to sell is made in this state.

b. An offer to buy is made and accepted in this state.

2. Sections 502A.2, 502A.5, and 502A.6 apply to a person who buys or offers to buy when either of the following occur:

a. An offer to buy is made in this state.

b. An offer to sell is made and accepted in this state.

3. For the purpose of this section, an offer to sell or to buy is made in this state, whether or not either party is then present in this state, when either of the following occurs:

a. The offer originates from this state.

b. The offer is directed by the offeror to this state and received at the place to which it is directed, or at any post office in this state in the case of a mailed offer.

4. For the purpose of this section, an offer to buy or to sell is accepted in this state when the acceptance satisfies both of the following conditions:

a. The acceptance is communicated to the offeror in this state.

b. The acceptance has not previously been communicated to the offeror, orally or in writing, outside this state; and acceptance is communicated to the offeror in this state, whether or not either party is then present in this state, when the offeree directs it to the offeror in this state, reasonably believing the offeror to be in this state and it is received at the place to which it is directed, or at any post office in this state in the case of a mailed acceptance.

5. An offer to sell or to buy is not made in this state when either of the following occurs:

a. The publisher circulates or there is circulated on the publisher's behalf in this state any bona fide newspaper or other publication of general, regular, and paid circulation which is not published in this state, or which is published in this state but has had more than two-thirds of its circulation outside this state during the past twelve months.

b. A radio or television program originating outside this state is received in this state.

90 Acts, ch 1169, §18

502A.20 Effect of pending judicial review.

The filing of a petition for judicial review pursuant to chapter 17A does not, unless specifically ordered by the court, operate as a stay of the administrator's order, and the administrator may enforce or ask the court to enforce the order pending the outcome of the review proceedings.

90 Acts, ch 1169, §19

Referred to in §502A.4

502A.21 Pleading exemptions.

It is not necessary for the state to plead the absence of an exemption under this chapter in a complaint, information, or indictment, or a writ or proceeding brought under this chapter. The burden of proof of a claimed exemption is upon the party claiming the exemption.

90 Acts, ch 1169, §20

502A.22 Affirmative defense.

It is an affirmative defense in a complaint, information, indictment, writ, or proceeding brought under this chapter alleging a violation of section 502A.2 based solely on the failure in an individual case to make physical delivery within the applicable time period under section 502A.1, subsection 5, or section 502A.4, subsection 1, paragraph *"b"* if both of the following apply:

1. Failure to make physical delivery was due solely to factors beyond the control of

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the seller, the seller's officers, directors, partners, agents, servants, or employees, every person occupying a similar status or performing similar functions, every person who directly or indirectly controls or is controlled by the seller, or any of them, the seller's affiliates, subsidiaries, or successors.

2. Physical delivery was completed within a reasonable time under the applicable circumstances.

90 Acts, ch 1169, §21

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RESERVED

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NONPROFIT CORPORATIONS

Referred to in §491.39

CHAPTER 504

REVISED IOWA NONPROFIT CORPORATION ACT

Referred to in §9.11, 10B.4, 10B.7, 10D.1, 15.106B, 15.107, 15.293A, 15E.64, 16.134, 22A.1, 84A.1C, 89A.3, 123.173A, 135D.4, 135D.5, 190B.201, 190C.6, 217.41, 256.182, 306.46, 331.427, 331.441, 357A.1, 357A.11, 357A.15, 357A.20, 357A.22A, 357A.23, 357A.24, 423.3, 423.4, 425.11, 455B.183, 462A.17B, 462A.27B, 476.1, 476.27, 480.3, 486A.901, 489.1003, 490.140, 497.22, 498.24, 499.5, 499.5A, 499.49, 500.3, 501A.102, 501B.14, 504B.1, 504B.6, 504C.1, 509.1, 513C.10, 514.1, 514.2, 514.5, 514.13, 514.14, 514.15, 514.19, 514.23, 515.1, 547.1, 558.72, 602.6803, 616.10, 633.63, 669.14, 715D.1, 716.6B, 717F.7, 915.47

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SUBCHAPTER I

GENERAL PROVISIONS

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SHORT TITLE AND APPLICATIONS

504.101 Short title.

This chapter shall be known and may be cited as the "*Revised Iowa Nonprofit Corporation Act*".

2004 Acts, ch 1049, §1, 192

504.102 Reservation of power to amend or repeal.

The general assembly has power to amend or repeal all or part of this chapter at any time and all domestic and foreign corporations subject to this chapter are governed by the amendment or repeal.

2004 Acts, ch 1049, §2, 192

504.103 Limitation on requirements imposed on corporations.

A state agency or state official shall not impose any regulation or reporting requirement on corporations, as defined in section 504.141, that exceeds the requirements of state or federal law.

2021 Acts, ch 124, §1

504.104 through 504.110 Reserved.

PART 2

FILING DOCUMENTS

504.111 Filing requirements.

1. A document must satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to filing by the secretary of state.

2. This chapter must require or permit filing the document in the office of the secretary of state.

3. The document must contain the information required by this chapter. It may contain other information as well.

4. The document must be typewritten or printed. If the document is electronically transmitted, it must be in a format that can be retrieved or reproduced in typewritten or printed form.

5. The document must be in the English language. However, a corporate name need not be in English if written in English letters or Arabic or Roman numerals. The certificate

of existence required of foreign corporations need not be in English if accompanied by a reasonably authenticated English translation.

6. The document must be executed by one of the following:

a. The presiding officer of the board of directors of a domestic or foreign corporation, its president, or by another of its officers.

b. If directors have not been selected or the corporation has not been formed, by an incorporator.

c. If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

7. The person executing a document shall sign it and state beneath or opposite the signature the person's name and the capacity in which the person signs. The document may contain a corporate seal, an attestation, an acknowledgment, or a verification.

8. If the secretary of state has prescribed a mandatory form for a document under section 504.112, the document must be in or on the prescribed form.

9. The document must be delivered to the office of the secretary of state for filing. Delivery may be made by electronic transmission if and to the extent permitted by the secretary of state. If it is filed in typewritten or printed form and not transmitted electronically, the secretary of state may require one exact or conformed copy to be delivered with the document, except as provided in sections 504.503 and 504.1509.

10. When the document is delivered to the office of the secretary of state for filing, the correct filing fee, and any franchise tax, license fee, or penalty, shall be paid in a manner permitted by the secretary of state.

11. The secretary of state may adopt rules for the electronic filing of documents and the certification of electronically filed documents.

12. Whenever a provision of this chapter permits any of the terms of a plan or a filed document to be dependent on facts objectively ascertainable outside the plan or filed document, all of the following provisions apply:

a. The manner in which the facts will operate upon the terms of the plan or filed document shall be set forth in the plan or filed document.

b. The facts may include any of the following:

(1) Any of the following that is available in a nationally recognized news or information medium either in print or electronically: statistical or market indices, market prices of any security or group of securities, interest rates, currency exchange rates, or similar economic or financial data.

(2) A determination or action by any person or body, including the corporation or any other party to a plan or filed document.

(3) The terms of, or actions taken under, an agreement to which the corporation is a party, or any other agreement or document.

c. As used in this subsection, all of the following apply:

(1) *"Filed document"* means a document filed with the secretary of state under any provision of this chapter except subchapter XV or section 504.1613.

(2) *"Plan"* means a plan of entity conversion or merger.

2004 Acts, ch 1049, §3, 192; 2005 Acts, ch 19, §77; 2015 Acts, ch 45, §2
Referred to in §9.11, 504.116, 504.1104

504.111A Secretary of state — extra services — surcharge.

Upon the request of a filer of a document under this chapter, the secretary of state shall provide an extra filing service and assess a surcharge as provided in chapter 9, subchapter II.

2021 Acts, ch 165, §262

504.112 Forms.

1. The secretary of state may prescribe and furnish on request forms for an application for a certificate of existence, a foreign corporation's application for a certificate of authority to transact business in this state, a foreign corporation's application for a certificate of withdrawal, and the biennial report. If the secretary of state so requires, use of these forms is mandatory.

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2. The secretary of state may prescribe and furnish on request forms for other documents required or permitted to be filed by this chapter, but their use is not mandatory.

2004 Acts, ch 1049, §4, 192
Referred to in §504.111

504.113 Filing, service, and copying fees.

1. The secretary of state shall collect the following fees, as provided by the secretary of state, when the documents described in this subsection are delivered for filing:

DOCUMENT	FEE
a. Articles of incorporation	$ __
b. Application for use of indistinguishable name	$ __
c. Application for reserved name	$ __
d. Notice of transfer of reserved name	$ __
e. Application for registered name	$ __
f. Application for renewal of registered name	$ __
g. Corporation's statement of change of registered agent or registered office or both	$ __
h. Agent's statement of change of registered office for each affected corporation not to exceed a total of	$ __
i. Agent's statement of resignation	No fee
j. Amendment of articles of incorporation	$ __
k. Restatement of articles of incorporation with amendments	$ __
l. Articles of merger	$ __
m. Articles of dissolution	$ __
n. Articles of revocation of dissolution	$ __
o. Certificate of administrative dissolution	$ __
p. Application for reinstatement following administrative dissolution	$ __
q. Certificate of reinstatement	No fee
r. Certificate of judicial dissolution	No fee
s. Application for certificate of authority	$ __
t. Application for amended certificate of authority	$ __
u. Application for certificate of withdrawal	$ __
v. Certificate of revocation of authority to transact business	No fee
w. Biennial report	$ __
x. Articles of correction	$ __
y. Application for certificate of existence or authorization	$ __
z. Any other document required or permitted to be filed by this chapter	$ __

2. The secretary of state shall collect a fee upon being served with process under this chapter. The party to a proceeding causing service of process is entitled to recover the fee paid the secretary of state as costs if the party prevails in the proceeding.

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3. The secretary of state shall collect fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation.

2004 Acts, ch 1049, §5, 192
Referred to in §9.11
See annual Iowa Acts for provisions relating to the authority to refund fees

504.114 Effective date of document.

1. Except as provided in subsection 2 and section 504.115, a document is effective at the later of the following times:

a. At the date and time of filing, as evidenced by such means as the secretary of state may use for the purpose of recording the date and time of filing.

b. At the time specified in the document as its effective time on the date it is filed.

2. A document may specify a delayed effective time and date, and if it does so the document becomes effective at the time and date specified. If a delayed effective date but no time is specified, the document is effective at the close of business on that date. A delayed effective date for a document shall not be later than the ninetieth day after the date filed.

2004 Acts, ch 1049, §6, 192
Referred to in §504.1104, 504.1613

504.115 Correcting filed document.

1. A domestic or foreign corporation may correct a document filed by the secretary of state if the document satisfies one of the following:

a. The document contains an inaccuracy.

b. The document was defectively executed, attested, sealed, verified, or acknowledged.

c. The electronic transmission was defective.

2. A document is corrected by doing both of the following:

a. By preparing articles of correction that satisfy all of the following requirements:

(1) Describe the document, including its filing date, or attach a copy of the document to the articles.

(2) Specify the inaccuracy or defect to be corrected.

(3) Correct the incorrect statement or defective execution.

b. By delivering the articles of correction to the secretary of state for filing.

3. Articles of correction are effective on the effective date of the document they correct except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, articles of correction are effective when filed.

2004 Acts, ch 1049, §7, 192; 2005 Acts, ch 3, §79
Referred to in §9.11, 9.14, 504.114

504.116 Filing duty of secretary of state.

1. Except as provided in subsection 5, if a document delivered to the office of the secretary of state for filing satisfies the requirements of section 504.111, the secretary of state shall file it.

2. The secretary of state files a document by recording the document as filed on the date and the time of receipt. After filing a document, except as provided in sections 504.504, 504.1510, and 504.1613, the secretary of state shall deliver to the domestic or foreign corporation or its representative a copy of the document with an acknowledgment of the date and time of filing.

3. Upon refusing to file a document, the secretary of state shall return it to the domestic or foreign corporation or its representative, together with a brief, written explanation of the reason or reasons for the refusal.

4. The secretary of state's duty to file documents under this section is ministerial. Filing or refusal to file a document does not do any of the following:

a. Affect the validity or invalidity of the document in whole or in part.

b. Relate to the correctness or incorrectness of information contained in the document.

c. Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

5. *a.* The secretary of state may require a document to be delivered by mail or in person if

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the secretary of state receives credible information that the document is being submitted for filing fraudulently or may be used to accomplish a fraudulent, criminal, or unlawful purpose.

b. As used in paragraph *"a"*, *"credible information"* means any of the following:

(1) An affidavit of unauthorized use as provided in section 504.1621A.

(2) Information provided to the secretary of state by another government agency.

(3) Information collected by the secretary of state from a credible third-party data set.

2004 Acts, ch 1049, §8, 192; 2026 Acts, ch 1145, §43, 44
Subsection 1 amended
NEW subsection 5

504.117 Appeal from secretary of state's refusal to file document.

1. If the secretary of state refuses to file a document delivered for filing to the secretary of state's office, the domestic or foreign corporation may appeal the refusal to the district court in the county where the corporation's principal office, or if there is none in this state, its registered office, is or will be located. The appeal is commenced by petitioning the court to compel filing the document and by attaching to the petition the document and the secretary of state's explanation of the refusal to file.

2. The court may summarily order the secretary of state to file the document or take other action the court considers appropriate.

3. The court's final decision may be appealed as in other civil proceedings.

2004 Acts, ch 1049, §9, 192

504.118 Evidentiary effect of copy of filed document.

A certificate from the secretary of state delivered with a copy of a document filed by the secretary of state is conclusive evidence that the original document is on file with the secretary of state.

2004 Acts, ch 1049, §10, 192

504.119 Certificate of existence.

1. Any person may apply to the secretary of state to furnish a certificate of existence for a domestic or foreign corporation.

2. The certificate of existence shall set forth all of the following:

a. The domestic corporation's corporate name or the foreign corporation's corporate name used in this state.

b. That the domestic corporation is duly incorporated under the laws of this state, the date of its incorporation, and the period of its duration if less than perpetual; or that the foreign corporation is authorized to transact business in this state.

c. That all fees have been paid.

d. That its most recent biennial report required by section 504.1613 has been delivered to the secretary of state.

e. That articles of dissolution have not been filed.

f. Other facts of record in the office of the secretary of state that may be requested by the applicant.

3. Subject to any qualification stated in the certificate, a certificate of existence issued by the secretary of state may be relied upon as conclusive evidence that the domestic or foreign corporation is in good standing in this state.

2004 Acts, ch 1049, §11, 192

504.120 Penalty for signing false document.

1. A person commits an offense by signing a document the person knows is false in any material respect with intent that the document be delivered to the secretary of state for filing.

2. An offense under this section is a serious misdemeanor punishable by a fine not to exceed one thousand dollars.

2004 Acts, ch 1049, §12, 192

504.121 through 504.130 Reserved.

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PART 3

SECRETARY OF STATE

504.131 Powers.

The secretary of state has all powers reasonably necessary to perform the duties required of the secretary of state's office by this chapter.

2004 Acts, ch 1049, §13, 192

504.132 Secretary of state — internet site.

The secretary of state shall place on the secretary of state's internet site a link to a free internet site with completed internal revenue service forms 990 and 990EZ.

2008 Acts, ch 1184, §72

504.133 through 504.140 Reserved.

PART 4

DEFINITIONS

504.141 Chapter definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Approved by the members"* or *"approval by the members"* means approved or ratified by the affirmative vote of a majority of the votes represented and voting at a duly held meeting at which a quorum is present, which affirmative votes also constitute a majority of the required quorum, or by a written ballot or written consent in conformity with this chapter or by the affirmative vote, written ballot, or written consent of such greater proportion, including the votes of all the members of any class, unit, or grouping as may be provided in the articles, bylaws, or this chapter for any specified member action.
2. *"Articles of incorporation"* or *"articles"* includes amended and restated articles of incorporation and articles of merger.
3. *"Board"* or *"board of directors"* means the board of directors of a corporation except that no person or group of persons are the board of directors because of powers delegated to that person or group pursuant to section 504.801.
4. *"Bylaws"* means the code or codes of rules other than the articles adopted pursuant to this chapter for the regulation or management of the affairs of a corporation irrespective of the name or names by which such rules are designated.
5. *"Class"* means a group of memberships which have the same rights with respect to voting, dissolution, redemption, and transfer. For purposes of this section, rights shall be considered the same if they are determined by a formula applied uniformly.
6. *"Corporation"* means a public benefit, mutual benefit, or religious corporation.
7. *"Delegates"* means those persons elected or appointed to vote in a representative assembly for the election of a director or directors or on other matters.
8. *"Deliver"* or *"delivery"* means any method of delivery used in conventional commercial practice, including delivery in person, by mail, commercial delivery, and electronic transmission.
9. *"Directors"* means individuals, designated in the articles or bylaws or elected by the incorporators, and their successors and individuals elected or appointed by any other name or title to act as members of the board.
10. *"Distribution"* means the payment of a dividend or any part of the income or profit of a corporation to its members, directors, or officers.
11. *"Domestic corporation"* means a corporation.
12. *"Domestic unincorporated entity"* means an unincorporated entity whose internal affairs are governed by the laws of this state.
13. *"Effective date of notice"* is defined in section 504.142.

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14. *"Electronic transmission"* or *"electronically transmitted"* means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient.

15. *"Employee"* does not include an officer or director of a corporation who is not otherwise employed by the corporation.

16. *"Entity"* includes a domestic or foreign business corporation; domestic or foreign nonprofit corporation; domestic or foreign unincorporated entity; estate; trust; state; the United States; governmental subdivision; and foreign government.

17. *"File"*, *"filed"*, or *"filing"* means filed in the office of the secretary of state.

18. *"Foreign corporation"* means a corporation organized under laws other than the laws of this state which would be a nonprofit corporation if formed under the laws of this state.

19. *"Foreign unincorporated entity"* means an unincorporated entity whose internal affairs are governed by an organic law of a jurisdiction other than this state.

20. *"Governmental subdivision"* includes an authority, county, district, and municipality.

21. *"Includes"* denotes a partial definition.

22. *"Individual"* includes the estate of an incompetent individual.

23. *"Means"* denotes a complete definition.

24. *"Member"* means a person who on more than one occasion, pursuant to the provisions of a corporation's articles or bylaws, has a right to vote for the election of a director or directors of a corporation, irrespective of how a member is defined in the articles or bylaws of the corporation. A person is not a member because of any of the following:

a. The person's rights as a delegate.

b. The person's rights to designate a director.

c. The person's rights as a director.

25. *"Membership"* refers to the rights and obligations a member or members have pursuant to a corporation's articles, bylaws, and this chapter.

26. *"Mutual benefit corporation"* means a domestic or foreign corporation that is required to be a mutual benefit corporation pursuant to section 504.1705.

27. *"Notice"* is defined in section 504.142.

28. *"Organic law"* means a statute principally governing the internal affairs of a domestic or foreign business corporation, nonprofit corporation, or unincorporated entity.

29. *"Organic record"* means a public organic record or private organic record.

30. *"Person"* includes any individual or entity.

31. *"Principal office"* means the office in or out of this state so designated in the biennial report filed pursuant to section 504.1613 where the principal offices of a domestic or foreign corporation are located.

32. *"Private organic record"* means any record, other than a public organic record, if any, that determines the internal governance of an unincorporated entity. Where a private organic record has been amended or restated, *"private organic record"* means the private organic record as last amended or restated.

33. *"Proceeding"* includes a civil suit and criminal, administrative, or investigatory actions.

34. *"Public benefit corporation"* means a domestic or foreign corporation that is required to be a public benefit corporation pursuant to section 504.1705.

35. *"Public organic record"* means the record, if any, that is filed of public record, to create an unincorporated entity. Where a public organic record has been amended or restated, *"public organic record"* means the public organic record as last amended or restated.

36. *"Record"* means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

37. *"Record date"* means the date established under subchapter VI or VII on which a corporation determines the identity of its members for the purposes of this chapter.

38. *"Religious corporation"* means a domestic or foreign corporation that engages in religious activity as one of the corporation's principal purposes.

39. *"Secretary"* means the corporate officer to whom the board of directors has delegated responsibility under section 504.841, subsection 2, for custody of the minutes of the directors' and members' meetings and for authenticating the records of the corporation.

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40. *"Sign"* or *"signature"* includes a manual, facsimile, conformed, or electronic signature.

41. *"State"*, when referring to a part of the United States, includes a state and commonwealth and their agencies and governmental subdivisions, and a territory and insular possession and their agencies and governmental subdivisions of the United States.

42. *a. "Unincorporated entity"* means an organization or other legal entity that is not a corporation and that either has a separate legal existence or has the power to acquire an estate in real property in the entity's own name. *"Unincorporated entity"* includes a general partnership, limited liability company, limited partnership, business or statutory trust, joint stock association, and unincorporated nonprofit association.

b. "Unincorporated entity" does not include a domestic or foreign business corporation, a nonprofit corporation, an estate, a trust, a governmental subdivision, a state, the United States, or a foreign government.

43. *"United States"* includes a district, authority, bureau, commission, department, and any other agency of the United States.

44. *"Vote"* includes authorization by written ballot and written consent.

45. *"Voting power"* means the total number of votes entitled to be cast for the election of directors at the time the determination of voting power is made, excluding a vote that is contingent upon the happening of a condition or event that has not occurred at the time. When a class is entitled to vote as a class for directors, the determination of voting power of the class shall be based on the percentage of the number of directors the class is entitled to elect out of the total number of authorized directors.

2004 Acts, ch 1049, §14, 192; 2005 Acts, ch 19, §78; 2012 Acts, ch 1049, §1, 2
Referred to in §9H.1, 123.173A, 462A.17B, 504.103, 504.611

504.142 Notice.

1. Notice under this chapter must be in writing unless oral notice is reasonable under the circumstances. Notice by electronic transmission is written notice.

2. Subject to subsection 1, notice may be communicated in person, by mail, or other method of delivery; or by telephone, voice mail, or other electronic means. If these forms of personal notice are impracticable, notice may be communicated by a newspaper of general circulation in the area where published or by radio, television, or other form of public broadcast communication.

3. Oral notice is effective when communicated if communicated in a comprehensible manner.

4. Written notice by a domestic or foreign corporation to its member, if in a comprehensible form, is effective according to one of the following:

a. Upon deposit in the United States mail, if mailed postpaid and correctly addressed to the member's address shown in the corporation's current record of members.

b. When electronically transmitted to the member in a manner authorized by the member.

5. Except as provided in subsection 4, written notice, if in a comprehensible form, is effective at the earliest of the following:

a. When received.

b. Five days after its deposit in the United States mail, if mailed correctly addressed and with first class postage affixed.

c. On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

d. Thirty days after its deposit in the United States mail, if mailed correctly addressed and with other than first class, registered, or certified postage affixed.

6. Written notice is correctly addressed to a member of a domestic or foreign corporation if addressed to the member's address shown in the corporation's current list of members.

7. A written notice or report delivered as part of a newsletter, magazine, or other publication regularly sent to members shall constitute a written notice or report if addressed or delivered to the member's address shown in the corporation's current list of members, or in the case of members who are residents of the same household and who have the same address in the corporation's current list of members, if addressed or delivered to one of such members, at the address appearing on the current list of members.

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8. Written notice is correctly addressed to a domestic or foreign corporation authorized to transact business in this state, other than in its capacity as a member, if addressed to its registered agent or to its secretary at its principal office shown in its most recent biennial report or, in the case of a foreign corporation that has not yet delivered a biennial report, in its application for a certificate of authority.

9. If section 504.705, subsection 2, or any other provision of this chapter prescribes notice requirements for particular circumstances, those requirements govern. If articles or bylaws prescribe notice requirements not inconsistent with this section or other provisions of this chapter, those requirements govern.

2004 Acts, ch 1049, §15, 192; 2005 Acts, ch 19, §79, 80
Referred to in §504.141

504.143 through 504.150 Reserved.

PART 5

JUDICIAL RELIEF

504.151 Judicial relief.

1. If for any reason it is impractical or impossible for a corporation to call or conduct a meeting of its members, delegates, or directors, or otherwise obtain their consent, in the manner prescribed by its articles, bylaws, or this chapter, then upon petition of a director, officer, delegate, member, or the attorney general, the district court may order that such a meeting be called or that a written ballot or other form of obtaining the vote of members, delegates, or directors be authorized, in such a manner as the court finds fair and equitable under the circumstances.

2. The court shall, in an order issued pursuant to this section, provide for a method of notice reasonably designed to give actual notice to all persons who would be entitled to notice of a meeting held pursuant to the articles, bylaws, and this chapter, whether or not the method results in actual notice to all such persons or conforms to the notice requirements that would otherwise apply. In a proceeding under this section, the court may determine who the members or directors are.

3. An order issued pursuant to this section may dispense with any requirement relating to the holding of or voting at meetings or obtaining votes, including any requirement as to quorums or as to the number or percentage of votes needed for approval, that would otherwise be imposed by the articles, bylaws, or this chapter.

4. Whenever practical, an order issued pursuant to this section shall limit the subject matter of meetings or other forms of consent authorized to items, including amendments to the articles or bylaws, the resolution of which will or may enable the corporation to continue managing its affairs without further resort to this section; provided, however, that an order under this section may also authorize the obtaining of whatever votes and approvals are necessary for the dissolution, merger, or sale of assets.

5. A meeting or other method of obtaining the vote of members, delegates, or directors conducted pursuant to an order issued under this section, and which complies with all the provisions of such order, is for all purposes a valid meeting or vote, as the case may be, and shall have the same force and effect as if it complied with every requirement imposed by the articles, bylaws, and this chapter.

2004 Acts, ch 1049, §16, 192

504.152 through 504.200 Reserved.

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SUBCHAPTER II

ORGANIZATION

504.201 Incorporators.

One or more persons may act as the incorporator or incorporators of a corporation by delivering articles of incorporation to the secretary of state for filing.

2004 Acts, ch 1049, §17, 192
Referred to in §15E.64

504.202 Articles of incorporation.

1. The articles of incorporation shall set forth all of the following:

a. A corporate name for the corporation that satisfies the requirements of section 504.401.

b. The address of the corporation's initial registered office and the name of its initial registered agent at that office.

c. The name and address of each incorporator.

d. Whether the corporation will have members. A corporation incorporated prior to January 1, 2005, may state whether it will have members in either the articles of incorporation or in the corporate bylaws.

e. For corporations incorporated after January 1, 2005, provisions not inconsistent with law regarding the distribution of assets on dissolution.

2. The articles of incorporation may set forth any of the following:

a. The purpose for which the corporation is organized, which may be, either alone or in combination with other purposes, the transaction of any lawful activity.

b. The names and addresses of the individuals who are to serve as the initial directors.

c. Provisions not inconsistent with law regarding all of the following:

(1) Managing and regulating the affairs of the corporation.

(2) Defining, limiting, and regulating the powers of the corporation, its board of directors, and members, or any class of members.

(3) The characteristics, qualifications, rights, limitations, and obligations attaching to each or any class of members.

d. (1) A provision eliminating or limiting the liability of a director to the corporation or its members for money damages for any action taken, or any failure to take any action, as a director, except liability for any of the following:

(a) The amount of a financial benefit received by a director to which the director is not entitled.

(b) An intentional infliction of harm on the corporation or its members.

(c) A violation of section 504.835.

(d) An intentional violation of criminal law.

(2) A provision set forth in the articles of incorporation pursuant to this paragraph shall not eliminate or limit the liability of a director for an act or omission that occurs prior to the date when the provision becomes effective. The absence of a provision eliminating or limiting the liability of a director pursuant to this paragraph shall not affect the applicability of section 504.901.

e. A provision permitting or requiring a corporation to indemnify a director for liability, as defined in section 504.851, subsection 5, to a person for any action taken, or any failure to take any action, as a director except liability for any of the following:

(1) Receipt of a financial benefit to which the person is not entitled.

(2) Intentional infliction of harm on the corporation or its members.

(3) A violation of section 504.835.

(4) Intentional violation of criminal law.

f. Any provision that under this chapter is required or permitted to be set forth in the bylaws.

3. An incorporator named in the articles must sign the articles.

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4. The articles of incorporation need not set forth any of the corporate powers enumerated in this chapter.

2004 Acts, ch 1049, §18, 192; 2005 Acts, ch 19, §81, 82; 2012 Acts, ch 1023, §157
Referred to in §504.832, 504.852, 504.854, 504.901

504.203 Incorporation.

1. Unless a delayed effective date is specified, the corporate existence begins when the articles of incorporation are filed.

2. The secretary of state's filing of the articles of incorporation is conclusive proof that the incorporators satisfied all conditions precedent to incorporation except in a proceeding by the state to cancel or revoke the incorporation or involuntarily dissolve the corporation.

2004 Acts, ch 1049, §19, 192

504.204 Liability for preincorporation transactions.

All persons purporting to act as or on behalf of a corporation, knowing there was no incorporation under this chapter, are jointly and severally liable for all liabilities created while so acting.

2004 Acts, ch 1049, §20, 192

504.205 Organization of corporation.

1. After incorporation:

a. If initial directors are named in the articles of incorporation, the initial directors shall hold an organizational meeting, at the call of a majority of the directors, to complete the organization of the corporation by appointing officers, adopting bylaws, and carrying on any other business brought before the meeting.

b. If initial directors are not named in the articles, the incorporator or incorporators shall hold an organizational meeting at the call of a majority of the incorporators to do one of the following:

(1) Elect directors and complete the organization of the corporation.

(2) Elect a board of directors who shall complete the organization of the corporation.

2. Action required or permitted by this chapter to be taken by incorporators at an organizational meeting may be taken without a meeting if the action taken is evidenced by one or more written consents describing the action taken and signed by each incorporator.

3. An organizational meeting may be held in or out of this state in accordance with section 504.821.

2004 Acts, ch 1049, §21, 192

504.206 Bylaws.

1. The incorporators or board of directors of a corporation shall adopt bylaws for the corporation.

2. The bylaws may contain any provision for regulating and managing the affairs of the corporation that is not inconsistent with law or the articles of incorporation.

2004 Acts, ch 1049, §22, 192

504.207 Emergency bylaws and powers.

1. Unless the articles provide otherwise, the directors of a corporation may adopt, amend, or repeal bylaws to be effective only in an emergency as described in subsection 4. The emergency bylaws, which are subject to amendment or repeal by the members, may provide special procedures necessary for managing the corporation during the emergency, including all of the following:

a. How to call a meeting of the board.

b. Quorum requirements for the meeting.

c. Designation of additional or substitute directors.

2. All provisions of the regular bylaws consistent with the emergency bylaws remain effective during the emergency. The emergency bylaws are not effective after the emergency ends.

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3. Corporate action taken in good faith in accordance with the emergency bylaws does both of the following:

a. Binds the corporation.

b. Shall not be used to impose liability on a corporate director, officer, employee, or agent.

4. An emergency exists for purposes of this section if a quorum of the corporation's directors cannot readily be assembled because of some catastrophic event.

2004 Acts, ch 1049, §23, 192

504.208 Foreign-trade zone corporation.

A domestic corporation may be incorporated or organized under the laws of this state, and a foreign corporation may be authorized or registered to transact business in this state, for the purpose of establishing, operating, and maintaining a foreign-trade zone as defined in 19 U.S.C. §81(a). The domestic or foreign corporation must maintain its principal place of business in this state. The domestic or foreign corporation described in this section has all powers necessary or convenient for applying for a grant of authority to establish, operate, and maintain a foreign-trade zone under 19 U.S.C. §81(a) et seq., and regulations promulgated under that law, and for establishing, operating, and maintaining a foreign-trade zone pursuant to that grant of authority.

2021 Acts, ch 165, §265, 266

504.209 through 504.300 Reserved.

SUBCHAPTER III

PURPOSES AND POWERS

504.301 Purposes.

1. Every corporation incorporated under this chapter has the purpose of engaging in any lawful activity unless a more limited purpose is set forth in the articles of incorporation.

2. A corporation engaging in an activity that is subject to regulation under another statute of this state may incorporate under this chapter only if incorporation under this chapter is not prohibited by the other statute. The corporation shall be subject to all limitations of the other statute.

2004 Acts, ch 1049, §24, 192

Referred to in §504.401

504.302 General powers.

Unless its articles of incorporation provide otherwise, every corporation has perpetual duration and succession in its corporate name and has the same powers as an individual to do all things necessary or convenient to carry out its affairs, including without limitation all of the following powers:

1. Sue and be sued, complain, and defend in its corporate name.

2. Have a corporate seal, which may be altered at will, and to use it, or a facsimile of it, by impressing, affixing, or in any other manner reproducing it.

3. Make and amend bylaws not inconsistent with its articles of incorporation or with the laws of this state, for regulating and managing the affairs of the corporation.

4. Purchase, receive, lease, or otherwise acquire, and own, hold, improve, use, and otherwise deal with real or personal property, or any legal or equitable interest in property, wherever located.

5. Sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property.

6. Purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of, and deal in and with, shares or other interests in, or obligations of, any entity.

7. Make contracts and guarantees, incur liabilities, borrow money, issue notes, bonds,

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and other obligations, and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income.

8. Lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment, except as limited by section 504.833.

9. Be a promoter, partner, member, associate, or manager of any partnership, joint venture, trust, or other entity.

10. Conduct its activities, locate offices, and exercise the powers granted by this chapter in or out of this state.

11. Elect or appoint directors, officers, employees, and agents of the corporation, define their duties, and fix their compensation.

12. Pay pensions and establish pension plans, pension trusts, and other benefit and incentive plans for any or all of its current or former directors, officers, employees, and agents.

13. Make donations not inconsistent with law for the public welfare or for charitable, religious, scientific, or educational purposes and for other purposes that further the corporate interest.

14. Impose dues, assessments, and admission and transfer fees upon its members.

15. Establish conditions for admission of members, admit members, and issue memberships.

16. Carry on a business.

17. Serve as a trustee of a trust of which the corporation is a beneficiary.

18. Do all things necessary or convenient, not inconsistent with law, to further the activities and affairs of the corporation.

2004 Acts, ch 1049, §25, 192; 2015 Acts, ch 45, §3

504.303 Emergency powers.

1. In anticipation of or during an emergency as described in subsection 4, the board of directors of a corporation may do both of the following:

a. Modify lines of succession to accommodate the incapacity of any director, officer, employee, or agent.

b. Relocate the principal office, designate alternative principal offices or regional offices, or authorize an officer to do so.

2. During an emergency described in subsection 4, unless emergency bylaws provide otherwise, all of the following shall apply:

a. Notice of a meeting of the board of directors need be given only to those directors whom it is practicable to reach and such notice may be given in any practicable manner, including by publication and radio.

b. One or more officers of the corporation present at a meeting of the board of directors may be deemed to be directors for the meeting, in order of rank and within the same rank in order of seniority, as necessary to achieve a quorum.

3. Corporate action taken in good faith during an emergency under this section to further the ordinary affairs of the corporation does both of the following:

a. Binds the corporation.

b. Shall not be used to impose liability on a corporate director, officer, employee, or agent.

4. An emergency exists for purposes of this section if a quorum of the corporation's directors cannot readily be assembled because of some catastrophic event.

2004 Acts, ch 1049, §26, 192

504.304 Ultra vires.

1. Except as provided in subsection 2, the validity of corporate action shall not be challenged on the ground that the corporation lacks or lacked power to act.

2. A corporation's power to act may be challenged in a proceeding against the corporation to enjoin an act when a third party has not acquired rights. The proceeding may be brought by the attorney general, a director, or by a member or members in a derivative proceeding.

3. A corporation's power to act may be challenged in a proceeding against an incumbent or former director, officer, employee, or agent of the corporation. The proceeding may be

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brought by a director, the corporation, directly, derivatively, or through a receiver, a trustee or other legal representative, or in the case of a public benefit corporation, by the attorney general.

2004 Acts, ch 1049, §27, 192; 2004 Acts, ch 1175, §384

504.305 through 504.400 Reserved.

SUBCHAPTER IV

NAMES

504.401 Corporate name.

1. A corporate name shall not contain language stating or implying that the corporation is organized for a purpose other than that permitted by section 504.301 and its articles of incorporation.

2. Except as authorized by subsections 3 and 4, a corporate name must be distinguishable upon the records of the secretary of state from:

a. The corporate name of any other nonprofit or business corporation incorporated or authorized to do business in this state.

b. A name reserved, registered, or protected as follows:

(1) For a limited liability partnership, section 486A.1001 or 486A.1002.

(2) For a limited partnership, section 488.108, 488.109, or 488.810.

(3) For a business corporation, section 490.401, 490.402, 490.403, or 490.1422.

(4) For a limited liability company under chapter 489, section 489.112, 489.113, 489.114, or 489.710.

(5) For a nonprofit corporation, this section or section 504.402, 504.403, or 504.1423.

c. The fictitious name of a foreign business or nonprofit corporation authorized to transact business in this state because its real name is unavailable.

3. A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable upon the secretary of state's records from one or more of the names described in subsection 2. The secretary of state shall authorize use of the name applied for if either of the following applies:

a. The other corporation consents to the use of the name in writing and submits an undertaking in a form satisfactory to the secretary of state to change its name to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation.

b. The applicant delivers to the secretary of state a certified copy of a final judgment from a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

4. A corporation may use the name, including the fictitious name, of another domestic or foreign business or nonprofit corporation that is being used in this state if the other corporation is incorporated or authorized to do business in this state and the proposed user corporation submits documentation to the satisfaction of the secretary of state establishing any of the following conditions:

a. The user corporation has merged with the other corporation.

b. The user corporation has been formed by reorganization of the other corporation.

c. The user corporation has acquired all or substantially all of the assets, including the corporate name, of the other corporation.

5. This chapter does not control the use of fictitious names; however, if a corporation or a foreign corporation uses a fictitious name in this state, it shall deliver to the secretary of state for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.

2004 Acts, ch 1049, §28, 192; 2004 Acts, ch 1049, §191; 2005 Acts, ch 19, §83, 84; 2006 Acts, ch 1089, §46; 2008 Acts, ch 1162, §145, 154, 155; 2023 Acts, ch 152, §156, 161

Referred to in §488.108, 490.401, 504.202, 504.403, 504.1423, 504.1506

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504.402 Reserved name.

1. A person may reserve the exclusive use of a corporate name, including a fictitious name for a foreign corporation whose corporate name is not available by delivering an application to the secretary of state for filing. Upon finding that the corporate name applied for is available, the secretary of state shall reserve the name for the applicant's exclusive use for a nonrenewable one hundred twenty-day period.

2. The owner of a reserved corporate name may transfer the reservation to another person by delivering to the secretary of state a signed notice of the transfer that states the name and address of the transferee.

2004 Acts, ch 1049, §29, 192

Referred to in §488.108, 490.401, 504.401, 504.403, 504.1506, 524.310

504.403 Registered name.

1. A foreign corporation may register its corporate name, or its corporate name with any change required by section 504.1506, if the name is distinguishable upon the records of the secretary of state from both of the following:

a. The corporate name of a nonprofit or business corporation incorporated or authorized to do business in this state.

b. A name reserved, registered, or protected as follows:

(1) For a limited liability partnership, section 486A.1001 or 486A.1002.

(2) For a limited partnership, section 488.108, 488.109, or 488.810.

(3) For a business corporation, section 490.401, 490.402, 490.403, or 490.1422.

(4) For a limited liability company under chapter 489, section 489.112, 489.113, 489.114, or 489.710.

(5) For a nonprofit corporation, this section or section 504.401, 504.402, or 504.1423.

2. A foreign corporation shall register its corporate name, or its corporate name with any change required by section 504.1506, by delivering to the secretary of state an application that does both of the following:

a. Sets forth its corporate name, or its corporate name with any change required by section 504.1506, the state or country and date of its incorporation, and a brief description of the nature of the activities in which it is engaged.

b. Is accompanied by a certificate of existence, or a document of similar import, from the state or country of incorporation.

3. The name is registered for the applicant's exclusive use upon the effective date of the application.

4. A foreign corporation whose registration is effective may renew it for successive years by delivering to the secretary of state for filing a renewal application which complies with the requirements of subsection 2, between October 1 and December 31 of the preceding year. The renewal application renews the registration for the following calendar year.

5. A foreign corporation whose registration is effective may thereafter qualify as a foreign corporation under that name or consent in writing to the use of that name by a corporation thereafter incorporated under this chapter or by another foreign corporation thereafter authorized to transact business in this state. The registration terminates when the domestic corporation is incorporated or the foreign corporation qualifies or consents to the qualification of another foreign corporation under the registered name.

2004 Acts, ch 1049, §30, 192; 2004 Acts, ch 1049, §191; 2005 Acts, ch 19, §85; 2006 Acts, ch 1089, §47; 2008 Acts, ch 1162, §146, 154, 155; 2023 Acts, ch 152, §157, 161

Referred to in §488.108, 490.401, 504.401, 504.1506, 524.310

504.404 through 504.500 Reserved.

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SUBCHAPTER V

OFFICE AND AGENT

504.501 Registered office and registered agent.

A corporation shall continuously maintain both of the following in this state:

1. A registered office with the same address as that of the registered agent.
2. A registered agent, who may be any of the following:

a. An individual who resides in this state and whose business office is identical with the registered office.

b. A domestic business corporation, domestic limited liability company, or domestic nonprofit corporation whose business office is identical to the registered office.

c. A foreign business corporation, foreign limited liability company, or foreign nonprofit corporation authorized to transact business in this state whose business office is identical to the registered office.

2004 Acts, ch 1049, §31, 192; 2015 Acts, ch 45, §4

504.502 Change of registered office or registered agent.

1. A corporation may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth all of the following:

a. The name of the corporation.

b. If the current registered office is to be changed, the address of the new registered office.

c. If the current registered agent is to be changed, the name of the new registered agent and the new agent's written consent, either on the statement or attached to it, to the change.

d. That after the change or changes are made, the addresses of its registered office and the office of its registered agent will be identical.

2. If the address of a registered agent's business office is changed, the registered agent may change the address of the registered office of any corporation for which the registered agent is the registered agent by notifying the corporation in writing of the change and by signing, either manually or in facsimile, and delivering to the secretary of state for filing, a statement that complies with the requirements of subsection 1 and recites that the corporation has been notified of the change.

3. If a registered agent changes the registered agent's business address to another place, the registered agent may change the address of the registered office of any corporation for which the registered agent is the registered agent by filing a statement as required in subsection 2 for each corporation, or by filing a single statement for all corporations named in the notice, except that it need be signed, either manually or in facsimile, only once by the registered agent and must recite that a copy of the statement has been mailed to each corporation named in the notice.

2004 Acts, ch 1049, §32, 192

Referred to in §504.1613

504.503 Resignation of registered agent.

1. *a.* A registered agent may resign as registered agent by signing and delivering to the secretary of state for filing a signed original statement of resignation. The statement may include a statement that the registered office is also discontinued.

b. The registered agent shall send a copy of the statement of resignation by certified mail to the corporation at its principal office and to the registered office, if not discontinued. The registered agent shall certify to the secretary of state that copies have been sent to the corporation, including the date the copies were sent.

2. A statement of resignation takes effect on the earlier of the following:

a. 12:01 a.m. on the thirty-first day after the day on which it is filed with the secretary of state.

b. The designation of a new registered agent for the corporation.

2004 Acts, ch 1049, §33, 192; 2012 Acts, ch 1023, §157; 2020 Acts, ch 1058, §10

Referred to in §504.111, 504.1613

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504.504 Service on corporation.

1. A corporation's registered agent is the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the corporation.

2. If a corporation has no registered agent, or the agent cannot with reasonable diligence be served, the corporation may be served by registered or certified mail, return receipt requested, addressed to the secretary of the corporation at its principal office shown in the most recent biennial report filed pursuant to section 504.1613. Service is perfected under this subsection on the earliest of any of the following:

a. The date the corporation receives the mail.

b. The date shown on the return receipt, if signed on behalf of the corporation.

c. Five days after its deposit in the United States mail, if mailed and correctly addressed with first class postage affixed.

3. This section does not prescribe the only means, or necessarily the required means, of serving a corporation. A corporation may also be served in any other manner permitted by law.

2004 Acts, ch 1049, §34, 192
Referred to in §504.116, 504.1422, 504.1423, 504.1424

504.505 through 504.600 Reserved.

SUBCHAPTER VI

MEMBERS AND MEMBERSHIPS

Referred to in §504.141

PART 1

ADMISSION OF MEMBERS

504.601 Admission.

1. The articles or bylaws may establish criteria or procedures for admission of members.

2. A person shall not be admitted as a member without the person's consent or affirmative action evidencing consent.

2004 Acts, ch 1049, §35, 192

504.602 Consideration.

Except as provided in its articles or bylaws, a corporation may admit members for no consideration or for such consideration as is determined by the board.

2004 Acts, ch 1049, §36, 192

504.603 No requirement of members.

A corporation is not required to have members.

2004 Acts, ch 1049, §37, 192

504.604 through 504.610 Reserved.

PART 2

TYPES OF MEMBERSHIPS — MEMBERS' RIGHTS AND OBLIGATIONS

504.611 Differences in rights and obligations of members.

All members shall have the same rights and obligations with respect to voting, dissolution, redemption, and transfer, unless the articles or bylaws establish classes of membership with different rights or obligations. All members shall have the same rights and obligations with

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respect to any other matters, except as set forth in or authorized by the articles or bylaws. A person that does not meet the qualifications for a member under section 504.141, subsection 24, and is identified as a member in the articles or bylaws of the corporation shall have only those rights set forth for such a member in the articles or bylaws of the corporation.

2004 Acts, ch 1049, §38, 192

504.612 Transfers.

1. Except as set forth in or authorized by the articles or bylaws, a member of a mutual benefit corporation shall not transfer a membership or any right arising therefrom.
2. A member of a public benefit or religious corporation shall not transfer a membership or any right arising therefrom.
3. Where transfer rights have been provided, a restriction on them shall not be binding with respect to a member holding a membership issued prior to the adoption of the restriction unless the restriction is approved by the members and the affected member.

2004 Acts, ch 1049, §39, 192

504.613 Member's liability to third parties.

A member of a corporation is not, as such, personally liable for the acts, debts, liabilities, or obligations of the corporation.

2004 Acts, ch 1049, §40, 192

504.614 Member's liability for dues, assessments, and fees.

A member may become liable to the corporation for dues, assessments, or fees. However, an article or bylaw provision or a resolution adopted by the board authorizing or imposing dues, assessments, or fees does not, of itself, create liability.

2004 Acts, ch 1049, §41, 192

504.615 Creditor's action against member.

1. A proceeding shall not be brought by a creditor to reach the liability, if any, of a member to the corporation unless final judgment has been rendered in favor of the creditor against the corporation and execution has been returned unsatisfied in whole or in part or unless such proceeding would be useless.
2. All creditors of the corporation, with or without reducing their claims to judgment, may intervene in any creditor's proceeding brought under subsection 1 to reach and apply unpaid amounts due the corporation. Any or all members who owe amounts to the corporation may be joined in such proceeding.

2004 Acts, ch 1049, §42, 192

504.616 through 504.620 Reserved.

PART 3

RESIGNATION AND TERMINATION

504.621 Resignation.

1. A member may resign at any time.
2. The resignation of a member does not relieve the member from any obligations the member may have to the corporation as a result of obligations incurred or commitments made prior to resignation.

2004 Acts, ch 1049, §43, 192

504.622 Termination, expulsion, or suspension.

1. A membership in a public benefit or mutual benefit corporation may be terminated or suspended for the reasons and in the manner provided in the articles of incorporation or bylaws.

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2. To the extent the articles of incorporation or bylaws do not address the termination or suspension of a member, a member of a public benefit or mutual benefit corporation shall not be expelled or suspended, and a membership or memberships in such a corporation shall not be terminated or suspended except pursuant to a procedure which is fair and reasonable and is carried out in good faith.

3. A procedure is fair and reasonable when either of the following occurs:

a. The articles or bylaws set forth a procedure which provides both of the following:

(1) Not less than fifteen days' prior written notice of the expulsion, suspension, or termination and the reasons therefor.

(2) An opportunity for the member to be heard, orally or in writing, not less than five days before the effective date of the expulsion, suspension, or termination by a person or persons authorized to decide that the proposed expulsion, termination, or suspension not take place.

b. The procedure requires consideration of all relevant facts and circumstances surrounding the expulsion, suspension, or termination by a person or persons authorized to make a decision regarding the proposed expulsion, termination, or suspension.

4. Any written notice given by mail pursuant to this section must be given by first class or certified mail sent to the last address of the member shown on the corporation's records.

5. A proceeding challenging an expulsion, suspension, or termination, including a proceeding alleging defective notice, must be commenced within one year after the effective date of the expulsion, suspension, or termination.

6. A member who has been expelled or suspended may be liable to the corporation for dues, assessments, or fees as a result of obligations incurred or commitments made prior to expulsion or suspension.

2004 Acts, ch 1049, §44, 192; 2012 Acts, ch 1049, §3, 4
Referred to in §504.1032

504.623 Purchase of memberships.

1. A public benefit or religious corporation shall not purchase any of its memberships or any right arising therefrom.

2. A mutual benefit corporation may purchase the membership of a member who resigns or whose membership is terminated for the amount and pursuant to the conditions set forth in or authorized by its articles or bylaws. A payment shall not be made in violation of subchapter XIII.

2004 Acts, ch 1049, §45, 192

504.624 through 504.630 Reserved.

PART 4

DERIVATIVE PROCEEDINGS

504.631 Derivative proceedings — definition.

In this part, unless the context otherwise requires, *"derivative proceeding"* means a civil suit in the right of a domestic corporation or, to the extent provided in section 504.638, in the right of a foreign corporation.

2004 Acts, ch 1049, §46, 192
Referred to in §504.810

504.632 Standing.

A derivative proceeding may be brought by any of the following persons:

1. A member or members of the corporation representing five percent or more of the voting power of the corporation or by fifty members, whichever is less.

2. A director of the corporation.

2004 Acts, ch 1049, §47, 192

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504.633 Demand.

A derivative proceeding shall not be commenced until both of the following have occurred:

1. A written demand has been made upon the corporation to take suitable action.

2. Ninety days have expired from the date the demand was made, unless the member or director has earlier been notified that the demand has been rejected by the corporation or unless irreparable injury to the corporation would result by waiting for the expiration of the ninety-day period.

2004 Acts, ch 1049, §48, 192
Referred to in §504.810

504.634 Stay of proceedings.

If a corporation commences an inquiry into the allegations made in a demand or complaint, the court may stay any derivative proceeding for a period of time as the court deems appropriate.

2004 Acts, ch 1049, §49, 192
Referred to in §504.638, 504.810

504.635 Dismissal.

1. A derivative proceeding shall be dismissed by the court on motion by the corporation if one of the groups specified in subsection 2 or 6 has determined in good faith after conducting a reasonable inquiry upon which its conclusions are based that the maintenance of the derivative proceeding is not in the best interests of the corporation. A corporation moving to dismiss on this basis shall submit in support of the motion a short and concise statement of the reasons for its determination.

2. Unless a panel is appointed pursuant to subsection 6, the determination in subsection 1 shall be made by one of the following:

a. A majority vote of independent directors present at a meeting of the board of directors if the independent directors constitute a quorum.

b. A majority vote of a committee consisting of two or more independent directors appointed by majority vote of independent directors present at a meeting of the board of directors, whether or not such independent directors constitute a quorum.

3. None of the following shall by itself cause a director to be considered not independent for purposes of this section:

a. The nomination or election of the director by persons who are defendants in the derivative proceeding or against whom action is demanded.

b. The naming of the director as a defendant in the derivative proceeding or as a person against whom action is demanded.

c. The approval by the director of the act being challenged in the derivative proceeding or demand if the act resulted in no personal benefit to the director.

4. *a.* If a derivative proceeding is commenced after a determination has been made rejecting a demand by a member or director, the complaint shall allege with particularity facts establishing one of the following:

(1) That a majority of the board of directors did not consist of independent directors at the time the determination was made.

(2) That the requirements of subsection 1 have not been met.

b. All discovery and other proceedings shall be stayed during the pendency of any motion to dismiss unless the court finds upon the motion of any party that particularized discovery is necessary to preserve evidence or prevent undue prejudice to that party.

5. If a majority of the board of directors does not consist of independent directors at the time the determination is made, the corporation shall have the burden of proving that the requirements of subsection 1 have been met. If a majority of the board of directors consists of independent directors at the time the determination is made, the plaintiff shall have the burden of proving that the requirements of subsection 1 have not been met.

6. The court may appoint a panel of one or more independent persons upon motion by the corporation to make a determination whether the maintenance of the derivative proceeding

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is in the best interests of the corporation. In such case, the plaintiff shall have the burden of proving that the requirements of subsection 1 have not been met.

2004 Acts, ch 1049, §50, 192; 2012 Acts, ch 1023, §157
Referred to in §504.810

504.636 Discontinuance or settlement.

A derivative proceeding shall not be discontinued or settled without the court's approval. If the court determines that a proposed discontinuance or settlement will substantially affect the interests of a corporation's member or class of members or director, the court shall direct that notice be given to the members or director affected.

2004 Acts, ch 1049, §51, 192
Referred to in §504.638, 504.810

504.637 Payment of expenses.

On termination of a derivative proceeding, the court may do either of the following:

1. Order the corporation to pay the plaintiff's reasonable expenses, including attorney fees incurred in the proceeding, if it finds that the proceeding has resulted in a substantial benefit to the corporation.

2. Order the plaintiff to pay any defendant's reasonable expenses, including attorney fees incurred in defending the proceeding, if it finds that the proceeding was commenced or maintained without reasonable cause or for an improper purpose.

2004 Acts, ch 1049, §52, 192
Referred to in §504.638, 504.810

504.638 Applicability to foreign corporations.

In any derivative proceeding in the right of a foreign corporation, the matters covered by this part shall be governed by the laws of the jurisdiction of incorporation of the foreign corporation except that sections 504.634, 504.636, and 504.637 shall apply.

2004 Acts, ch 1049, §53, 192
Referred to in §504.631, 504.810

504.639 and 504.640 Reserved.

PART 5

DELEGATES

504.641 Delegates.

1. A corporation may provide in its articles or bylaws for delegates having some or all of the authority of members.

2. The articles or bylaws may set forth provisions relating to all of the following:

a. The characteristics, qualifications, rights, limitations, and obligations of delegates including their selection and removal.

b. Calling, noticing, holding, and conducting meetings of delegates.

c. Carrying on corporate activities during and between meetings of delegates.

2004 Acts, ch 1049, §54, 192

504.642 through 504.700 Reserved.

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SUBCHAPTER VII

MEMBERS' MEETINGS AND VOTING

Referred to in §504.141

PART 1

MEETINGS AND ACTION
WITHOUT MEETINGS

504.701 Annual and regular meetings.

1. Except in the case of a corporation with members that holds meetings only of delegates and not of the members, a corporation with members shall hold a membership meeting annually at a time stated in or fixed in accordance with the bylaws. The articles of incorporation or bylaws of a corporation with members that holds meetings only of delegates and not of members may provide for meetings of delegates to be held less frequently than annually but at least once every six years.

2. A corporation with members may hold regular membership meetings at the times stated in or fixed in accordance with the bylaws.

3. Annual or regular membership meetings may be held in or out of this state at the place stated in or fixed in accordance with the bylaws. If a place is not stated in or fixed in accordance with the bylaws, annual and regular meetings shall be held at the corporation's principal office.

3A. The board may hold an annual or a regular membership meeting solely by means of remote communication in accordance with section 504.702A and in that case the notice shall describe how members may participate in the meeting.

4. At the annual meeting all of the following shall occur:

a. The president and chief financial officer shall report on the activities and financial condition of the corporation.

b. The members shall consider and act upon such other matters as may be raised consistent with the notice requirements of sections 504.705 and 504.713, subsection 4.

5. At regular meetings, the members shall consider and act upon such matters as may be raised consistent with the notice requirements of sections 504.705 and 504.713, subsection 4.

6. The failure to hold an annual or regular meeting at a time stated in or fixed in accordance with a corporation's bylaws does not affect the validity of any corporate action.

2004 Acts, ch 1049, §55, 192; 2012 Acts, ch 1049, §5; 2015 Acts, ch 45, §5; 2021 Acts, ch 165, §242, 243, 248

504.702 Special meeting.

1. A corporation with members shall hold a special meeting of members when either of the following occurs:

a. At the call of its board or the person or persons authorized to do so by the corporation's articles or bylaws.

b. Except as provided in the articles or bylaws of a corporation, if the holders of at least five percent of the voting power of any corporation sign, date, and deliver to any corporate officer one or more written demands for the meeting describing the purpose for which it is to be held. Unless otherwise provided in the articles of incorporation, a written demand for a special meeting may be revoked by a writing to that effect received by the corporation prior to the receipt by the corporation of demands sufficient in number to require the holding of a special meeting.

2. The close of business on the thirtieth day before delivery of the demand for a special meeting to any corporate officer is the record date for the purpose of determining whether the five percent requirement of subsection 1, paragraph "*b*", has been met.

3. If a notice for a special meeting demanded under subsection 1, paragraph "*b*", is not given pursuant to section 504.705 within thirty days after the date the written demand or

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demands are delivered to a corporate officer, regardless of the requirements of subsection 4, a person signing the demand may set the time and place of the meeting and give notice pursuant to section 504.705.

4. Special meetings of members may be held in or out of this state at a place stated in or fixed in accordance with the bylaws. If a place is not stated or fixed in accordance with the bylaws, special meetings shall be held at the corporation's principal office.

4A. The board may hold a special meeting for members solely by means of remote communication in accordance with section 504.702A and in that case the notice shall describe how members may participate in the meeting.

5. Only those matters that are within the purpose described in the meeting notice required by section 504.705 may be considered at a special meeting of members.

2004 Acts, ch 1049, §56, 192; 2006 Acts, ch 1089, §48; 2012 Acts, ch 1049, §6; 2021 Acts, ch 165, §244, 245, 248
Referred to in §504.703

504.702A Remote participation in meetings of members.

1. Members of any class, unit, or grouping may participate in any meeting of members by means of remote communication to the extent the board of directors authorizes such participation for such class, unit, or grouping. Participation as a member by means of remote communication shall be subject to such guidelines and procedures as the board adopts, and shall be in conformity with subsection 2.

2. Members participating in a meeting of members by means of remote communication shall be deemed present and may vote at such a meeting if the corporation has implemented reasonable measures to do all of the following:

a. Verify that each person participating remotely as a member is a member.

b. Provide such members a reasonable opportunity to participate in the meeting and to vote on matters submitted to the members, including an opportunity to communicate, and to read or hear the proceedings of the meeting, substantially concurrently with such proceedings.

3. Unless the bylaws require the meeting of members to be held at a place, the board may determine that any meeting of members shall not be held at any place and shall instead be held solely by means of remote communication, but only if the corporation implements the measures specified in subsection 2.

2021 Acts, ch 165, §246, 248
Referred to in §504.701, 504.702, 504.705

504.703 Court-ordered meeting.

1. The district court of the county where a corporation's principal office is located or, if none is located in this state, where its registered office is located, may summarily order a meeting to be held when any of the following occurs:

a. On application of any member or other person entitled to participate in an annual or regular meeting of the corporation, if an annual meeting was not held within the earlier of six months after the end of the corporation's fiscal year or fifteen months after its last annual meeting.

b. On application of any member or other person entitled to participate in a regular meeting of the corporation, if a regular meeting was not held within forty days after the date it was required to be held.

c. On application of a member who signed a demand for a special meeting valid under section 504.702, or a person entitled to call a special meeting, if any of the following applies:

(1) The notice of the special meeting was not given within thirty days after the date the demand was delivered to a corporate officer.

(2) The special meeting was not held in accordance with the notice.

2. The court may fix the time and place of the meeting, specify a record date for determining members entitled to notice of and to vote at the meeting, prescribe the form and content of the meeting notice, fix the quorum required for specific matters to be considered at the meeting or direct that the votes represented at the meeting constitute a quorum for

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action on those matters, and enter other orders necessary to accomplish the purpose of the meeting.

3. If the court orders a meeting, it may also order the corporation to pay the member's costs, including reasonable attorney fees, incurred to obtain the order.

2004 Acts, ch 1049, §57, 192
Referred to in §504.704

504.704 Action by written consent.

1. Unless limited or prohibited by the articles or bylaws of the corporation, action required or permitted by this chapter to be approved by the members of a corporation may be approved without a meeting of members if the action is approved by members holding at least eighty percent of the voting power. The action must be evidenced by one or more written consents describing the action taken, signed by those members representing at least eighty percent of the voting power, and delivered to the corporation for inclusion in the minutes or filing with the corporate records. A written consent may be revoked by a writing to that effect received by the corporation prior to the receipt by the corporation of unrevoked written consents sufficient in number to take corporation action.

2. If not otherwise determined under section 504.703 or 504.707, the record date for determining members entitled to take action without a meeting is the date the first member signs the consent under subsection 1.

3. A consent signed under this section has the effect of a meeting vote and may be described as such in any document filed with the secretary of state.

4. Written notice of member approval pursuant to this section shall be given to all members who have not signed the written consent. If written notice is required, member approval pursuant to this section shall be effective ten days after such written notice is given.

2004 Acts, ch 1049, §58, 192; 2005 Acts, ch 19, §86

504.705 Notice of meeting.

1. A corporation shall give notice consistent with its bylaws of meetings of members in a fair and reasonable manner.

2. Any notice which conforms to the requirements of subsection 3 is fair and reasonable, but other means of giving notice may also be fair and reasonable when all the circumstances are considered. However, notice of matters referred to in subsection 3, paragraph *"b"*, must be given as provided in subsection 3.

3. Notice is fair and reasonable if all of the following occur:

a. The corporation notifies its members of the place, date, and time of each annual, regular, and special meeting of members not more than sixty days and not less than ten days, or if notice is mailed by other than first class or registered mail, not less than thirty days, before the date of the meeting.

b. The notice of an annual or regular meeting includes a description of any matter or matters which must be considered for approval by the members under sections 504.833, 504.859, 504.1003, 504.1022, 504.1104, 504.1202, and 504.1402.

c. The notice of a special meeting includes a description of the purpose for which the meeting is called.

4. Unless the bylaws require otherwise, if an annual, regular, or special meeting of members is adjourned to a different date, time, or place, notice need not be given of the new date, time, or place, if the new date, time, or place is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or must be fixed under section 504.707, however, notice of the adjourned meeting must be given under this section to the members of record as of the new record date.

4A. The board may hold a meeting for members solely by means of remote communication in accordance with section 504.702A and in that case the notice shall describe how members may participate in the meeting.

5. When giving notice of an annual, regular, or special meeting of members, a corporation shall give notice of a matter a member intends to raise at the meeting if requested in writing to do so by a person entitled to call a special meeting and if the request is received by the

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secretary or president of the corporation at least ten days before the corporation gives notice of the meeting.

2004 Acts, ch 1049, §59, 192; 2005 Acts, ch 19, §87; 2021 Acts, ch 165, §247, 248
Referred to in §504.142, 504.701, 504.702, 504.1003, 504.1022, 504.1103, 504.1202, 504.1402

504.706 Waiver of notice.

1. A member may waive any notice required by this chapter, the articles, or bylaws before or after the date and time stated in the notice. The waiver must be in writing, be signed by the member entitled to the notice, and be delivered to the corporation for inclusion in the minutes or filing with the corporate records.

2. A member's attendance at a meeting does all of the following:

a. Waives objection to lack of notice or defective notice of the meeting, unless the member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting.

b. Waives objection to consideration of a particular matter at the meeting that is not within the purpose described in the meeting notice, unless the member objects to considering the matter when it is presented.

2004 Acts, ch 1049, §60, 192; 2005 Acts, ch 19, §88

504.707 Record date — determining members entitled to notice and vote.

1. The bylaws of a corporation may fix or provide the manner of fixing a date as the record date for determining the members entitled to notice of a members' meeting. If the bylaws do not fix or provide for fixing such a record date, the board may fix a future date as such a record date. If a record date is not fixed, members at the close of business on the business day preceding the day on which notice is given, or if notice is waived, at the close of business on the business day preceding the day on which the meeting is held, are entitled to notice of the meeting.

2. The bylaws of a corporation may fix or provide the manner of fixing a date as the record date for determining the members entitled to vote at a members' meeting. If the bylaws do not fix or provide for fixing such a record date, the board may fix a future date as such a record date. If a record date is not fixed, members on the date of the meeting who are otherwise eligible to vote are entitled to vote at the meeting.

3. The bylaws may fix or provide the manner for determining a date as the record date for the purpose of determining the members entitled to exercise any rights in respect of any other lawful action. If the bylaws do not fix or provide for fixing such a record date, the board may fix in advance such a record date. If a record date is not fixed, members at the close of business on the day on which the board adopts the resolution relating thereto, or the sixtieth day prior to the date of such other action, whichever is later, are entitled to exercise such rights.

4. A record date fixed under this section shall not be more than seventy days before the meeting or action requiring a determination of members occurs.

5. A determination of members entitled to notice of or to vote at a membership meeting is effective for any adjournment of the meeting unless the board fixes a new date for determining the right to notice or the right to vote, which it must do if the meeting is adjourned to a date more than seventy days after the record date for determining members entitled to notice of the original meeting.

6. If a court orders a meeting adjourned to a date more than one hundred twenty days after the date fixed for the original meeting, it may provide that the original record date for notice or voting continues in effect or it may fix a new record date for notice or voting.

2004 Acts, ch 1049, §61, 192
Referred to in §504.704, 504.705

504.708 Action by written ballot.

1. Unless prohibited or limited by the articles or bylaws, any action which may be taken at any annual, regular, or special meeting of members may be taken without a meeting if the corporation delivers a written ballot to every member entitled to vote on the matter.

2. A written ballot shall do both of the following:

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a. Set forth each proposed action.

b. Provide an opportunity to vote for or against each proposed action.

3. Approval by written ballot pursuant to this section shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

4. All solicitations for votes by written ballot shall do all of the following:

a. Indicate the number of responses needed to meet the quorum requirements.

b. State the percentage of approvals necessary to approve each matter other than election of directors.

c. Specify the time by which a ballot must be received by the corporation in order to be counted.

5. Except as otherwise provided in the articles or bylaws, a written ballot shall not be revoked.

6. Unless prohibited by the articles or bylaws, a written ballot may be delivered and a vote may be cast on that ballot by electronic transmission. An electronic transmission of a written ballot shall contain or be accompanied by information indicating that a member, a member's agent, or a member's attorney authorized the electronic transmission of the ballot.

2004 Acts, ch 1049, §62, 192

504.709 Conduct of meetings.

1. At each meeting of members, an individual shall preside as chair. The chair shall be appointed as follows:

a. As provided in the articles of incorporation or bylaws.

b. In the absence of a provision in the articles of incorporation or bylaws, by the board of directors.

c. In the absence of both a provision in the articles of incorporation or bylaws and an appointment of the chair by the board, by the members at the meeting.

2. Except as provided in the articles of incorporation or bylaws, the chair shall determine the order of business and shall have the authority to establish rules for the conduct of the meeting.

3. Any rules adopted for, and the conduct of, the meeting shall be fair to the members.

4. The chair of the meeting shall announce at the meeting when the polls close for each matter voted upon. If no announcement is made, the polls shall be deemed to have closed upon the final adjournment of the meeting. After the polls are closed, no ballots, proxies, or votes, or any otherwise permissible revocations or changes thereto may be accepted.

2012 Acts, ch 1049, §7

504.710 Reserved.

PART 2

VOTING

504.711 Members' list for meeting.

1. After fixing a record date for a notice of a meeting, a corporation shall prepare an alphabetical list of the names of all its members who are entitled to notice of the meeting. The list must show the address of each member and number of votes each member is entitled to cast at the meeting. The corporation shall prepare on a current basis through the time of the membership meeting a list of members, if any, who are entitled to vote at the meeting, but not entitled to notice of the meeting. This list shall be prepared on the same basis as and be part of the list of members.

2. Except as set forth in section 504.1602, subsection 6, the list of members must be available for inspection by any member for the purpose of communication with other

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members concerning the meeting, beginning two business days after notice is given of the meeting for which the list was prepared and continuing through the meeting, at the corporation's principal office or at a reasonable place identified in the meeting notice in the city where the meeting will be held. Except as set forth in section 504.1602, subsection 6, a member, a member's agent, or a member's attorney is entitled on written demand to inspect and, subject to the limitations of section 504.1602, subsection 3, and section 504.1605, to copy the list, at a reasonable time and at the member's expense, during the period it is available for inspection.

3. Except as set forth in section 504.1602, subsection 6, a corporation shall make the list of members available at the meeting, and any member, a member's agent, or a member's attorney is entitled to inspect the list at any time during the meeting or any adjournment.

4. Except as set forth in section 504.1602, subsection 6, if a corporation refuses to allow a member, a member's agent, or a member's attorney to inspect the list of members before or at the meeting or copy the list as permitted by subsection 2, the district court of the county where a corporation's principal office is located or, if none is located in this state, where its registered office is located, on application of the member, may summarily order the inspection or copying of the membership list at the corporation's expense, may postpone the meeting for which the list was prepared until the inspection or copying is complete, and may order the corporation to pay the member's costs, including reasonable attorney fees incurred to obtain the order.

5. Unless a written demand to inspect and copy a membership list has been made under subsection 2 prior to the membership meeting and a corporation improperly refuses to comply with the demand, refusal or failure to comply with this section does not affect the validity of action taken at the meeting.

6. The articles or bylaws of a religious corporation may limit or abolish the rights of a member under this section to inspect and copy any corporate record.

2004 Acts, ch 1049, §63, 192
Referred to in §504.1602

504.712 Voting entitlement generally.

1. Except as provided in the articles of incorporation or bylaws, each member shall be entitled to one vote on each matter submitted to a vote of members.

2. Unless the articles or bylaws provide otherwise, if a membership stands of record in the names of two or more persons, the persons' acts with respect to voting shall have the following effect:

a. If only one votes, such act binds all.

b. If more than one votes, the vote shall be divided on a pro rata basis.

2004 Acts, ch 1049, §64, 192; 2015 Acts, ch 45, §6

504.713 Quorum requirements.

1. Unless this chapter or the articles or bylaws of a corporation provide for a higher or lower quorum, ten percent of the votes entitled to be cast on a matter must be represented at a meeting of members to constitute a quorum on that matter.

2. A bylaw amendment to decrease the quorum for any member action may be approved by the members or, unless prohibited by the bylaws, by the board.

3. A bylaw amendment to increase the quorum required for any member action must be approved by the members.

4. Unless one-third or more of the voting power is present in person or by proxy, the only matters that may be voted upon at an annual or regular meeting of members are those matters that are described in the meeting notice.

2004 Acts, ch 1049, §65, 192; 2005 Acts, ch 19, §89
Referred to in §504.701

504.714 Voting requirements.

1. Unless this chapter or the articles or bylaws of a corporation require a greater vote or voting by class, if a quorum is present, the affirmative vote of the votes represented and

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voting, which affirmative votes also constitute a majority of the required quorum, is the act of the members.

2. A bylaw amendment to increase or decrease the vote required for any member action must be approved by the members.

2004 Acts, ch 1049, §66, 192; 2005 Acts, ch 19, §90

504.715 Proxies.

1. Unless the articles or bylaws of a corporation prohibit or limit proxy voting, a member or the member's agent or attorney in fact may appoint a proxy to vote or otherwise act for the member by signing an appointment form or by an electronic transmission. An electronic transmission must contain or be accompanied by information from which it can be determined that the member, the member's agent, or the member's attorney in fact authorized the electronic transmission.

2. An appointment of a proxy is effective when a signed appointment form or an electronic transmission of an appointment form is received by the secretary or other officer or agent authorized to tabulate votes. An appointment is valid for eleven months unless a different period is expressly provided for in the appointment. However, a proxy shall not be valid for more than three years from its date of execution.

3. An appointment of a proxy is revocable by the member.

4. The death or incapacity of the member appointing a proxy does not affect the right of the corporation to accept the proxy's authority unless notice of the death or incapacity is received by the secretary or other officer or agent authorized to tabulate votes before the proxy exercises authority under the appointment.

5. Appointment of a proxy is revoked by the person appointing the proxy if either of the following occurs:

a. The person appointing the proxy attends any meeting and votes in person.

b. The person appointing the proxy signs and delivers or sends through electronic transmission to the secretary or other officer or agent authorized to tabulate proxy votes either a writing or electronic transmission stating that the appointment of the proxy is revoked or a subsequent appointment form.

6. Subject to section 504.718 and any express limitation on the proxy's authority appearing on the face of the appointment form, a corporation is entitled to accept the proxy's vote or other action as that of the member making the appointment.

2004 Acts, ch 1049, §67, 192

504.716 Cumulative voting for directors.

1. If the articles or bylaws of a corporation provide for cumulative voting by members, members may so vote, by multiplying the number of votes the members are entitled to cast by the number of directors for whom they are entitled to vote, and casting the product for a single candidate or distributing the product among two or more candidates.

2. A director elected by cumulative voting may be removed by the members without cause if the requirements of section 504.808 are met unless the votes cast against removal, or not consenting in writing to such removal, would be sufficient to elect such director if voted cumulatively at an election at which the same total number of votes were cast or, if such action is taken by written ballot, all memberships entitled to vote were voted, and the entire number of directors authorized at the time of the director's most recent election were then being elected.

3. Members shall not cumulatively vote if the directors and members are identical.

2004 Acts, ch 1049, §68, 192

504.717 Other methods of electing directors.

A corporation may provide in its articles or bylaws for election of directors by members or delegates on the basis of chapter or other organizational unit, by region or other geographic unit, by preferential voting, or by any other reasonable method.

2004 Acts, ch 1049, §69, 192

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504.718 Corporation's acceptance of votes.

1. If the name signed on a vote, consent, waiver, or proxy appointment corresponds to the name of a member, the corporation if acting in good faith is entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the member.

2. If the name signed on a vote, consent, waiver, or proxy appointment does not correspond to the record name of a member, the corporation if acting in good faith is nevertheless entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the member if any of the following is applicable:

a. The member is an entity and the name signed purports to be that of an officer or agent of the entity.

b. The name signed purports to be that of an attorney in fact of the member, and if the corporation requests, evidence acceptable to the corporation of the signatory's authority to sign for the member has been presented with respect to the vote, consent, waiver, or proxy appointment.

c. Two or more persons hold the membership as cotenants or fiduciaries and the name signed purports to be the name of at least one of the coholders and the person signing appears to be acting on behalf of all the coholders.

d. In the case of a mutual benefit corporation:

(1) The name signed purports to be that of an administrator, executor, guardian, or conservator representing the member, and if the corporation requests, evidence of fiduciary status acceptable to the corporation has been presented with respect to the vote, consent, waiver, or proxy appointment.

(2) The name signed purports to be that of a receiver or trustee in bankruptcy of the member, and if the corporation requests, evidence of this status acceptable to the corporation has been presented with respect to the vote, consent, waiver, or proxy appointment.

3. The corporation is entitled to reject a vote, consent, waiver, or proxy appointment if the secretary or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the member.

4. The corporation and its officer or agent who accepts or rejects a vote, consent, waiver, or proxy appointment in good faith and in accordance with the standards of this section are not liable in damages to the member for the consequences of the acceptance or rejection.

5. Corporate action based on the acceptance or rejection of a vote, consent, waiver, or proxy appointment under this section is valid unless a court of competent jurisdiction determines otherwise.

2004 Acts, ch 1049, §70, 192
Referred to in §504.715

504.719 Inspectors of election.

1. A corporation with members may appoint one or more inspectors to act at a meeting of members and to make a report in the form of a record of the inspectors' determinations. Each inspector shall execute the duties of inspector impartially and according to the best of the inspector's ability.

2. The inspectors shall do all of the following:

a. Ascertain the number of members and their voting power.

b. Determine the members present at the meeting.

c. Determine the validity of proxies and ballots.

d. Count all votes.

e. Determine the result of the voting.

3. An inspector may, but is not required to, be a director, member, officer, or employee of the corporation. A person who is a candidate for an office to be filled at the meeting shall not be an inspector at that meeting.

2012 Acts, ch 1049, §8; 2012 Acts, ch 1138, §71

504.720 Reserved.

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PART 3

VOTING AGREEMENTS

504.721 Voting agreements.

1. Two or more members of a corporation may provide for the manner in which they will vote by signing an agreement for that purpose. For public benefit corporations, such agreements must have a reasonable purpose not inconsistent with the corporation's public or charitable purposes.

2. A voting agreement created under this section is specifically enforceable.

2004 Acts, ch 1049, §71, 192

504.722 through 504.800 Reserved.

SUBCHAPTER VIII

DIRECTORS AND OFFICERS

Referred to in §504.1405

PART 1

BOARD OF DIRECTORS

504.801 Requirement for and duties of board.

1. Each corporation must have a board of directors.

2. Except as otherwise provided in this chapter or subsection 3, all corporate powers shall be exercised by or under the authority of, and the affairs of the corporation managed under the direction of, and subject to the oversight of, its board of directors.

3. The articles of incorporation may authorize a person or persons to exercise some or all of the powers which would otherwise be exercised by a board. To the extent so authorized, any such person or persons shall have the duties and responsibilities of the directors, and the directors shall be relieved to that extent from such duties and responsibilities.

2004 Acts, ch 1049, §72, 192; 2007 Acts, ch 126, §88; 2012 Acts, ch 1049, §9

Referred to in §504.141, 504.826

504.802 Qualifications of directors.

All directors of a corporation must be individuals. The articles or bylaws may prescribe other qualifications for directors.

2004 Acts, ch 1049, §73, 192

504.803 Number of directors.

1. The board of directors of a corporation must consist of one or more individuals, with the number specified in or fixed in accordance with the articles or bylaws.

2. The number of directors may be increased or decreased from time to time by amendment to or in the manner prescribed in the articles or bylaws.

2004 Acts, ch 1049, §74, 192

504.804 Election, designation, and appointment of directors.

1. If the corporation has members, all the directors, except the initial directors, shall be elected at the first annual meeting of members, and at each annual meeting thereafter, unless the articles or bylaws provide some other time or method of election, or provide that some of the directors are appointed by some other person or designated.

2. If a corporation does not have members, all the directors, except the initial directors, shall be elected, appointed, or designated as provided in the articles or bylaws. If no method

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of designation or appointment is set forth in the articles or bylaws, the directors other than the initial directors shall be elected by the board.

2004 Acts, ch 1049, §75, 192

504.805 Terms of directors generally.

1. The articles or bylaws of a corporation may specify the terms of directors. If the term is not specified in the articles or bylaws, the term of a director is one year. Except for designated or appointed directors, and except as otherwise provided in the articles or bylaws, the terms of directors shall not exceed five years. Directors may be elected for successive terms.

2. A decrease in the number or term of directors does not shorten an incumbent director's term.

3. Except as provided in the articles or bylaws, both of the following apply:

a. The term of a director filling a vacancy in the office of a director elected by members expires at the next election of directors by members.

b. The term of a director filling any other vacancy expires at the end of the unexpired term which such director is filling.

4. Despite the expiration of a director's term, the director continues to serve until the director's successor is elected, designated, or appointed, and qualifies, or until there is a decrease in the number of directors.

2004 Acts, ch 1049, §76, 192; 2015 Acts, ch 45, §7

504.806 Staggered terms for directors.

The articles or bylaws of a corporation may provide for staggering the terms of directors by dividing the total number of directors into groups. The terms of the several groups need not be uniform.

2004 Acts, ch 1049, §77, 192

504.807 Resignation of directors.

1. A director of a corporation may resign at any time by delivering written notice to the board of directors, its presiding officer, or the president or secretary.

2. A resignation is effective when the notice is effective unless the notice specifies a later effective date. If a resignation is made effective at a later date, the board may fill the pending vacancy before the effective date if the board provides that the successor does not take office until the effective date.

2004 Acts, ch 1049, §78, 192

Referred to in §504.811

504.808 Removal of directors elected by members or directors.

1. The members of a corporation may remove one or more directors elected by the members without cause.

2. If a director is elected by a class, chapter, or other organizational unit or by region or other geographic grouping, the director may be removed only by the members of that class, chapter, unit, or grouping.

3. Except as provided in subsection 9, a director may be removed under subsection 1 or 2 only if the number of votes cast to remove the director would be sufficient to elect the director at a meeting to elect directors.

4. If cumulative voting is authorized, a director shall not be removed if the number of votes, or if the director was elected by a class, chapter, unit, or grouping of members, the number of votes of that class, chapter, unit, or grouping, sufficient to elect the director under cumulative voting is voted against the director's removal.

5. A director elected by members may be removed by the members only at a meeting called for the purpose of removing the director and the meeting notice must state that the purpose, or one of the purposes, of the meeting is the removal of the director.

6. For the purpose of computing whether a director is protected from removal under subsections 2 through 4, it should be assumed that the votes against removal are cast in

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an election for the number of directors of the group to which the director to be removed belonged on the date of that director's election.

7. An entire board of directors may be removed under subsections 1 through 5.

8. A director elected by the board may be removed without cause by the vote of two-thirds of the directors then in office or such greater number as is set forth in the articles or bylaws. However, a director elected by the board to fill the vacancy of a director elected by the members may be removed without cause by the members, but not by the board.

9. If at the beginning of a director's term on the board the articles or bylaws provide that a director may be removed for missing a specified number of board meetings, the board may remove the director for failing to attend the specified number of meetings. The director may be removed only if a majority of the directors then in office votes for the removal.

10. The articles or bylaws of a corporation may do both of the following:

a. Limit the application of this section.

b. Set forth the vote and procedures by which the board or any person may remove with or without cause a director elected by the members or the board.

2004 Acts, ch 1049, §79, 192; 2006 Acts, ch 1089, §49

Referred to in §504.716

504.809 Removal of designated or appointed directors.

1. A designated director of a corporation may be removed by an amendment to the articles or bylaws deleting or changing the designation.

2. *a.* Except as otherwise provided in the articles or bylaws, an appointed director may be removed without cause by the person appointing the director.

b. The person removing the appointed director shall do so by giving written notice of the removal to the director and either the presiding officer of the board or the corporation's president or secretary.

c. A removal of an appointed director is effective when the notice is effective unless the notice specifies a future effective date.

2004 Acts, ch 1049, §80, 192

504.810 Removal of directors by judicial proceeding.

1. The district court of the county where a corporation's principal office is located or if there is no principal office located in this state, where the registered office is located, may remove a director of the corporation from office in a proceeding commenced by or in the right of the corporation by a member or director if the court finds both of the following apply:

a. A director engaged in fraudulent conduct with respect to the corporation or its members, grossly abused the position of director, or intentionally inflicted harm on the corporation.

b. Upon consideration of the director's course of conduct and the inadequacy of other available remedies, the court determines that removal is in the best interest of the corporation.

2. A member or a director who proceeds by or in the right of a corporation pursuant to subsection 1 shall comply with all of the requirements of section 504.631 and sections 504.633 through 504.638.

3. The court, in addition to removing a director, may bar the director from serving on the board for a period of time prescribed by the court.

4. This section does not limit the equitable powers of the court to order other relief that the court determines is appropriate.

5. The articles or bylaws of a religious corporation may limit or prohibit the application of this section.

2004 Acts, ch 1049, §81, 192; 2005 Acts, ch 19, §122, 126

504.811 Vacancy on board.

1. Unless the articles or bylaws of a corporation provide otherwise, and except as provided in subsections 2 and 3, if a vacancy occurs on the board of directors, including a vacancy resulting from an increase in the number of directors, any of the following may occur:

a. The members, if any, may fill the vacancy. If the vacant office was held by a director

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elected by a class, chapter, or other organizational unit or by region or other geographic grouping, only members of the class, chapter, unit, or grouping are entitled to vote to fill the vacancy if it is filled by the members.

b. The board of directors may fill the vacancy.

c. If the directors remaining in office constitute fewer than a quorum of the board, they may fill the vacancy by the affirmative vote of a majority of all the directors remaining in office.

2. Unless the articles or bylaws provide otherwise, if a vacant office was held by an appointed director, only the person who appointed the director may fill the vacancy.

3. If a vacant office was held by a designated director, the vacancy shall be filled as provided in the articles or bylaws. In the absence of an applicable article or bylaw provision, the vacancy shall be filled by the board.

4. A vacancy that will occur at a specific later date by reason of a resignation effective at a later date under section 504.807, subsection 2, or otherwise, may be filled before the vacancy occurs, but the new director shall not take office until the vacancy occurs.

2004 Acts, ch 1049, §82, 192

504.812 Compensation of directors.

Unless the articles or bylaws of a corporation provide otherwise, a board of directors may fix the compensation of directors.

2004 Acts, ch 1049, §83, 192

504.813 through 504.820 Reserved.

PART 2

MEETINGS AND ACTION
OF THE BOARD

504.821 Regular and special meetings.

1. If the time and place of a directors' meeting is fixed by the bylaws or the board, the meeting is a regular meeting. All other meetings are special meetings.

2. A board of directors may hold regular or special meetings in or out of this state.

3. Unless the articles or bylaws provide otherwise, a board may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

2004 Acts, ch 1049, §84, 192

Referred to in §504.205, 504.826

504.822 Action without meeting.

1. Except to the extent the articles or bylaws of a corporation require that action by the board of directors be taken at a meeting, action required or permitted by this chapter to be taken by the board of directors may be taken without a meeting if each director signs a consent describing the action to be taken and delivers it to the corporation.

2. Action taken under this section is the act of the board of directors when one or more consents signed by all the directors are delivered to the corporation. The consent may specify the time at which the action taken is to be effective. A director's consent may be withdrawn by revocation signed by the director and delivered to the corporation prior to the delivery to the corporation of unrevoked written consents signed by all of the directors.

3. A consent signed under this section has the effect of action taken at a meeting of the board of directors and may be described as such in any document.

2004 Acts, ch 1049, §85, 192; 2005 Acts, ch 19, §91

Referred to in §504.826

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504.823 Call and notice of meetings.

1. Unless the articles or bylaws of a corporation, or subsection 3, provide otherwise, regular meetings of the board may be held without notice.

2. Unless the articles, bylaws, or subsection 3 provide otherwise, special meetings of the board must be preceded by at least two days' notice to each director of the date, time, and place, but not the purpose, of the meeting.

3. In corporations without members, any board action to remove a director or to approve a matter which would require approval by the members if the corporation had members shall not be valid unless each director is given at least seven days' written notice that the matter will be voted upon at a directors' meeting or unless notice is waived pursuant to section 504.824.

4. Unless the articles or bylaws provide otherwise, the presiding officer of the board, the president, or twenty percent of the directors then in office may call and give notice of a meeting of the board.

2004 Acts, ch 1049, §86, 192
Referred to in §504.826, 504.1002, 504.1021, 504.1103, 504.1202, 504.1401, 504.1402

504.824 Waiver of notice.

1. A director may at any time waive any notice required by this chapter, the articles, or bylaws. Except as provided in subsection 2, the waiver must be in writing, signed by the director entitled to the notice, and filed with the minutes or the corporate records.

2. A director's attendance at or participation in a meeting waives any required notice of the meeting unless the director, upon arriving at the meeting or prior to the vote on a matter not noticed in conformity with this chapter, the articles, or bylaws, objects to lack of notice and does not thereafter vote for or assent to the objected-to action.

2004 Acts, ch 1049, §87, 192; 2005 Acts, ch 19, §92
Referred to in §504.823, 504.826

504.825 Quorum and voting.

1. Except as otherwise provided in this chapter, or the articles or bylaws of a corporation, a quorum of a board of directors consists of a majority of the directors in office immediately before a meeting begins.

2. The articles or bylaws shall not authorize a quorum of fewer than one-third of the number of directors in office.

3. If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board unless a greater vote is required by this chapter, the articles of incorporation, or bylaws.

4. A director who is present at a meeting of the board of directors when corporate action is taken is considered to have assented to the action taken unless any of the following applies:

a. The director objects at the beginning of the meeting, or promptly upon arrival, to holding the meeting or transacting business at the meeting.

b. The director dissents or abstains from the action and any of the following applies:

(1) The dissent or abstention is entered in the minutes of the meeting.

(2) The director delivers notice in the form of a record of the director's dissent or abstention to the presiding officer of the meeting before the meeting's adjournment or to the corporation promptly after adjournment of the meeting.

5. The right of dissent or abstention is not available to a director who votes in favor of the action taken.

2004 Acts, ch 1049, §88, 192; 2005 Acts, ch 19, §93; 2015 Acts, ch 45, §8
Referred to in §504.826, 504.854

504.826 Committees of the board.

1. Unless prohibited or limited by the articles or bylaws of a corporation, the board of directors may create one or more committees of the board and appoint members of the board to serve on them. Each committee shall have two or more directors, who serve at the pleasure of the board.

2. The creation of a committee and appointment of members to it must be approved by the greater of either of the following:

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a. A majority of all the directors in office when the action is taken.

b. The number of directors required by the articles or bylaws to take action under section 504.825.

3. Sections 504.821 through 504.825, which govern meetings, action without meetings, notice and waiver of notice, and quorum and voting requirements of the board, apply to committees of the board and their members as well.

4. To the extent specified by the board of directors or in the articles or bylaws, each committee of the board may exercise the board's authority under section 504.801.

5. A committee of the board shall not, however, do any of the following:

a. Authorize distributions.

b. Approve or recommend to members dissolution, merger, or the sale, pledge, or transfer of all or substantially all of the corporation's assets.

c. Elect, appoint, or remove directors or fill vacancies on the board or on any of its committees.

d. Adopt, amend, or repeal the articles or bylaws.

6. The creation of, delegation of authority to, or action by a committee does not alone constitute compliance by a director with the standards of conduct described in section 504.831.

7. A corporation may create or authorize the creation of one or more advisory committees whose members are not required to be directors. An advisory committee is not a committee of the board of directors and shall not exercise any powers of the board.

2004 Acts, ch 1049, §89, 192; 2012 Acts, ch 1049, §10
Referred to in §504.1601

504.827 through 504.830 Reserved.

PART 3

STANDARDS OF CONDUCT

504.831 General standards for directors.

1. Each member of the board of directors of a corporation, when discharging the duties of a director, shall act in conformity with all of the following:

a. In good faith.

b. In a manner the director reasonably believes to be in the best interests of the corporation.

2. The members of the board of directors or a committee of the board, when becoming informed in connection with their decision-making functions or when devoting attention to their oversight functions, shall discharge their duties with the care that a person in a like position would reasonably believe appropriate under similar circumstances.

2A. In discharging board or committee duties, a director shall disclose, or cause to be disclosed, to the other board or committee members information which the director knows is not already known by them but is known by the director to be material to the discharge of their decision-making or oversight functions, except that disclosure is not required to the extent that the director reasonably believes that doing so would violate a duty imposed under law, a legally enforceable obligation of confidentiality, or a professional ethics rule.

3. In discharging board or committee duties, a director who does not have knowledge that makes reliance unwarranted is entitled to rely on the performance by any of the persons specified in subsection 5, paragraph "*a*", to whom the board may have delegated, formally or informally by course of conduct, the authority or duty to perform one or more of the board's functions that are delegable under applicable law.

4. In discharging board or committee duties, a director who does not have knowledge that makes reliance unwarranted is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by any of the persons specified in subsection 5.

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5. A director is entitled to rely, in accordance with subsection 3 or 4, on any of the following:

a. One or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the functions performed or the information, opinions, reports, or statements provided by the officer or employee.

b. Legal counsel, public accountants, or other persons as to matters involving skills or expertise the director reasonably believes are either of the following:

(1) Matters within the particular person's professional or expert competence.

(2) Matters as to which the particular person merits confidence.

c. A committee of the board or advisory committee of which the director is not a member, as to matters within the committee's or advisory committee's jurisdiction, if the director reasonably believes the committee or advisory committee merits confidence.

d. In the case of religious corporations, religious authorities and ministers, priests, rabbis, or other persons whose position or duties in the religious organization the director believes justify reliance and confidence and whom the director believes to be reliable and competent in the matters presented.

6. A director shall not be deemed to be a trustee with respect to the corporation or with respect to any property held or administered by the corporation, including without limit, property that may be subject to restrictions imposed by the donor or transferor of such property.

2004 Acts, ch 1049, §90, 192; 2007 Acts, ch 15, §1; 2012 Acts, ch 1049, §11; 2015 Acts, ch 45, §9

Referred to in §347.13, 504.826, 504.835

504.832 Standards of liability for directors.

1. A director shall not be liable to the corporation or its members for any decision to take or not to take action, or any failure to take any action, as director, unless the party asserting liability in a proceeding establishes both of the following:

a. That section 504.202, subsection 2, paragraph *"d"*, or section 504.901 or the protection afforded by section 504.833 or 504.836, if interposed as a bar to the proceeding by the director, does not preclude liability.

b. That the challenged conduct consisted or was the result of one of the following:

(1) Action not in good faith.

(2) A decision that satisfies one of the following:

(a) That the director did not reasonably believe to be in the best interests of the corporation.

(b) As to which the director was not informed to an extent the director reasonably believed appropriate in the circumstances.

(3) A lack of objectivity due to the director's familial, financial, or business relationship with, or lack of independence due to the director's domination or control by, another person having a material interest in the challenged conduct which also meets both of the following criteria:

(a) Which relationship or which domination or control could reasonably be expected to have affected the director's judgment respecting the challenged conduct in a manner adverse to the corporation.

(b) After a reasonable expectation to such effect has been established, the director shall not have established that the challenged conduct was reasonably believed by the director to be in the best interests of the corporation.

(4) A sustained failure of the director to devote attention to ongoing oversight of the business and affairs of the corporation, or a failure to devote timely attention, by making, or causing to be made, appropriate inquiry, when particular facts and circumstances of significant concern materialize that would alert a reasonably attentive director to the need therefor.

(5) Receipt of a financial benefit to which the director was not entitled or any other breach of the director's duties to deal fairly with the corporation and its members that is actionable under applicable law.

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2. *a.* A party seeking to hold a director liable for money damages shall also have the burden of establishing both of the following:

(1) That harm to the corporation or its members has been suffered.

(2) The harm suffered was proximately caused by the director's challenged conduct.

b. A party seeking to hold a director liable for other money payment under a legal remedy, such as compensation for the unauthorized use of corporate assets, shall also have whatever burden of persuasion that may be called for to establish that the payment sought is appropriate in the circumstances.

c. A party seeking to hold a director liable for other money payment under an equitable remedy, such as profit recovery by or disgorgement to the corporation, shall also have whatever burden of persuasion that may be called for to establish that the equitable remedy sought is appropriate in the circumstances.

3. This section shall not do any of the following:

a. In any instance where fairness is at issue, such as consideration of the fairness of a transaction to the corporation under section 504.833, alter the burden of proving the fact or lack of fairness otherwise applicable.

b. Alter the fact or lack of liability of a director under another section of this chapter, such as the provisions governing the consequences of a transactional interest under section 504.833 or an unlawful distribution under section 504.835.

c. Affect any rights to which the corporation or a member may be entitled under another statute of this state or the United States.

2004 Acts, ch 1049, §91, 192; 2005 Acts, ch 19, §94, 95; 2018 Acts, ch 1136, §6
Referred to in §504.843

504.833 Director conflict of interest.

1. A conflict of interest transaction is a transaction with the corporation in which a director of the corporation has a direct or indirect interest. A conflict of interest transaction is not voidable by the corporation on the basis of the director's interest in the transaction if the transaction was fair at the time it was entered into or is approved as provided in subsection 2.

2. A transaction in which a director of a corporation has a conflict of interest may be approved if either of the following occurs:

a. The material facts of the transaction and the director's interest were disclosed or known to the board of directors or a committee of the board and the board or committee of the board authorized, approved, or ratified the transaction.

b. The material facts of the transaction and the director's interest were disclosed or known to the members and they authorized, approved, or ratified the transaction.

3. For the purposes of this section, a director of the corporation has an indirect interest in a transaction under either of the following circumstances:

a. If another entity in which the director has a material interest or in which the director is a general partner is a party to the transaction.

b. If another entity of which the director is a director, officer, or trustee is a party to the transaction.

4. For purposes of subsection 2, a conflict of interest transaction is authorized, approved, or ratified if it receives the affirmative vote of a majority of the directors on the board or on a committee of the board who have no direct or indirect interest in the transaction, but a transaction shall not be authorized, approved, or ratified under this section by a single director. If a majority of the directors on the board who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction does not affect the validity of any action taken under subsection 2, paragraph "*a*", if the transaction is otherwise approved as provided in subsection 2.

5. For purposes of subsection 2, paragraph "*b*", a conflict of interest transaction is authorized, approved, or ratified by the members if it receives a majority of the votes entitled to be counted under this subsection. Votes cast by or voted under the control of a director who has a direct or indirect interest in the transaction, and votes cast by or voted under

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the control of an entity described in subsection 3, paragraph *"a"*, shall not be counted in a vote of members to determine whether to authorize, approve, or ratify a conflict of interest transaction under subsection 2, paragraph *"b"*. The vote of these members, however, is counted in determining whether the transaction is approved under other sections of this chapter. A majority of the voting power, whether or not present, that is entitled to be counted in a vote on the transaction under this subsection constitutes a quorum for the purpose of taking action under this section.

6. The articles, bylaws, or a resolution of the board may impose additional requirements on conflict of interest transactions.

2004 Acts, ch 1049, §92, 192; 2005 Acts, ch 19, §96, 97
Referred to in §504.302, 504.705, 504.832, 504.836

504.834 Loans to or guarantees for directors and officers.

1. A corporation shall not lend money to or guarantee the obligation of a director or officer of the corporation.

2. This section does not apply to the situation where the director or officer is a full-time employee of the corporation and involves any of the following:

a. An advance to pay reimbursable expenses reasonably expected to be incurred by a director or officer.

b. An advance to pay premiums on a policy of life insurance if the advance is secured by the policy's death benefit proceeds or cash surrender value, or both.

c. Advances pursuant to part 5 of this subchapter.

d. Loans or advances pursuant to employee benefit plans.

e. A loan secured by the principal residence of an officer.

f. A loan to pay relocation expenses of an officer.

3. The fact that a loan or guarantee is made in violation of this section does not affect the borrower's liability on the loan.

2004 Acts, ch 1049, §93, 192; 2015 Acts, ch 45, §10; 2016 Acts, ch 1073, §141

504.835 Liability for unlawful distributions.

1. Unless a director complies with the applicable standards of conduct described in section 504.831, a director who votes for or assents to a distribution made in violation of this chapter is personally liable to the corporation for the amount of the distribution that exceeds what could have been distributed without violating this chapter.

2. A director held liable for an unlawful distribution under subsection 1 is entitled to contribution from both of the following:

a. Every other director who voted for or assented to the distribution without complying with the applicable standards of conduct described in section 504.831.

b. Each person who received an unlawful distribution for the amount of the distribution whether or not the person receiving the distribution knew it was made in violation of this chapter.

2004 Acts, ch 1049, §94, 192; 2005 Acts, ch 19, §98, 99
Referred to in §504.202, 504.832, 504.901

504.836 Business opportunities.

1. A director's taking advantage, directly or indirectly, of a business opportunity shall not be the subject of equitable relief, or give rise to an award of damages or other sanctions against the director, in a proceeding by or in the right of a corporation on the ground that such opportunity should have first been offered to the corporation, if before becoming legally obligated respecting the business opportunity, the director brings the opportunity to the attention of the corporation and action is taken by the directors, a committee of the directors, or the members disclaiming the corporation's interest in the opportunity in compliance with the procedures set forth in section 504.833, as if the decision being made concerned a conflict of interest transaction.

2. In any proceeding seeking equitable relief or other remedy, based upon an alleged improper taking advantage of a business opportunity by a director, the fact that the director did not employ the procedure described in subsection 1 before taking advantage of the

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opportunity shall not create an inference that the opportunity should have first been presented to the corporation, or alter the burden of proof otherwise applicable to establish that the director breached a duty to the corporation under the circumstances.

2012 Acts, ch 1049, §12
Referred to in §504.832

504.837 through 504.840 Reserved.

PART 4

OFFICERS

504.841 Required officers.

1. Unless otherwise provided in the articles or bylaws of a corporation, a corporation shall have a president, a secretary, a treasurer, and such other officers as are appointed by the board. An officer may appoint one or more officers if authorized by the bylaws or the board of directors.

2. The bylaws or the board shall delegate to one of the officers responsibility for preparing minutes of the directors' and members' meetings and for authenticating records of the corporation.

3. The same individual may simultaneously hold more than one office in a corporation.

2004 Acts, ch 1049, §95, 192
Referred to in §504.141

504.842 Duties and authority of officers.

Each officer of a corporation has the authority and shall perform the duties set forth in the bylaws or, to the extent consistent with the bylaws, the duties and authority prescribed in a resolution of the board or by direction of an officer authorized by the board to prescribe the duties and authority of other officers.

2004 Acts, ch 1049, §96, 192

504.843 Standards of conduct for officers.

1. An officer, when performing in such capacity, shall act in conformity with all of the following:

a. In good faith.

b. With the care that a person in a like position would reasonably exercise under similar circumstances.

c. In a manner the officer reasonably believes to be in the best interests of the corporation and its members, if any.

2. In discharging the officer's duties, an officer who does not have knowledge that makes reliance unwarranted is entitled to rely on any of the following:

a. The performance of properly delegated responsibilities by one or more employees of the corporation whom the officer reasonably believes to be reliable and competent in performing the responsibilities delegated.

b. Information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by one or more officers or employees of the corporation whom the officer reasonably believes to be reliable and competent in the matters presented.

c. Legal counsel, public accountants, or other persons retained by the corporation as to matters involving the skills or expertise the officer reasonably believes are within the person's professional or expert competence, or as to which the particular person merits confidence.

d. In the case of religious corporations, religious authorities and ministers, priests, rabbis, or other persons whose position or duties in the religious organization the officer believes justify reliance and confidence and whom the officer believes to be reliable and competent in the matters presented.

3. An officer shall not be liable as an officer to the corporation or its members for any decision to take or not to take action, or any failure to take any action, if the duties of the

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officer are performed in compliance with this section. Whether an officer who does not comply with this section shall have liability will depend in such instance on applicable law, including those principles of sections 504.832 and 504.901 that have relevance.

2004 Acts, ch 1049, §97, 192

504.844 Resignation and removal of officers.

1. An officer of a corporation may resign at any time by delivering notice to the corporation. A resignation is effective when the notice is effective unless the notice specifies a future effective time. If a resignation is made effective at a future time and the board or appointing officer accepts the future effective time, its board or appointing officer may fill the pending vacancy before the effective time if the board or appointing officer provides that the successor does not take office until the effective time.

2. An officer may be removed at any time with or without cause by any of the following:

a. The board of directors.

b. The officer who appointed such officer, unless the bylaws or the board of directors provide otherwise.

c. Any other officer if authorized by the bylaws or the board of directors.

d. In this section, *"appointing officer"* means the officer, including any successor to that officer, who appointed the officer resigning or being removed.

2004 Acts, ch 1049, §98, 192

504.845 Contract rights of officers.

1. The appointment of an officer of a corporation does not itself create contract rights.

2. An officer's removal does not affect the officer's contract rights, if any, with the corporation. An officer's resignation does not affect the corporation's contract rights, if any, with the officer.

2004 Acts, ch 1049, §99, 192

504.846 Officers' authority to execute documents.

1. A contract or other instrument in writing executed or entered into between a corporation and any other person is not invalidated as to the corporation by any lack of authority of the signing officers in the absence of actual knowledge on the part of the other person that the signing officers had no authority to execute the contract or other instrument if it is signed by any two officers in category 1 or by one officer in category 1 and one officer in category 2 as set out in subsection 2.

2. *a.* Category 1 officers include the presiding officer of the board and the president.

b. Category 2 officers include a vice president and the secretary, treasurer, and executive director.

2004 Acts, ch 1049, §100, 192

504.847 through 504.850 Reserved.

PART 5

INDEMNIFICATION

Referred to in §504.834

504.851 Definitions.

As used in this part, unless the context otherwise requires:

1. *"Corporation"* includes any domestic or foreign predecessor entity of a corporation in a merger.

2. *"Director"* or *"officer"* means an individual who is or was a director or officer of a corporation or an individual who, while a director or officer of a corporation, is or was serving at the corporation's request as a director, officer, partner, trustee, employee, or agent of another foreign or domestic business or nonprofit corporation, partnership, joint venture,

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trust, employee benefit plan, or other entity. A *"director"* or *"officer"* is considered to be serving an employee benefit plan at the corporation's request if the director's or officer's duties to the corporation also impose duties on, or otherwise involve services by, the director or officer to the plan or to participants in or beneficiaries of the plan. *"Director"* or *"officer"* includes, unless the context otherwise requires, the estate or personal representative of a director or officer.

3. *"Disinterested director"* means a director who at the time of a vote referred to in section 504.854, subsection 3, or a vote or selection referred to in section 504.856, subsection 2 or 3, is not either of the following:

a. A party to the proceeding.

b. An individual having a familial, financial, professional, or employment relationship with the director whose indemnification or advance for expenses is the subject of the decision being made, which relationship would, in the circumstances, reasonably be expected to exert an influence on the director's judgment when voting on the decision being made.

4. *"Expenses"* includes attorney fees.

5. *"Liability"* means the obligation to pay a judgment, settlement, penalty, or fine including an excise tax assessed with respect to an employee benefit plan, or reasonable expenses actually incurred with respect to a proceeding.

6. *"Official capacity"* means either of the following:

a. When used with respect to a director, the office of director in a corporation.

b. When used with respect to an officer, as contemplated in section 504.857, the office in a corporation held by the officer. *"Official capacity"* does not include service for any other foreign or domestic business or nonprofit corporation or any partnership, joint venture, trust, employee benefit plan, or other entity.

7. *"Party"* means an individual who was, is, or is threatened to be made a defendant or respondent in a proceeding.

8. *"Proceeding"* means any threatened, pending, or completed action, suit, or proceeding whether civil, criminal, administrative, or investigative and whether formal or informal.

2004 Acts, ch 1049, §101, 192; 2005 Acts, ch 19, §123, 126
Referred to in §504.202

504.852 Permissible indemnification.

1. Except as otherwise provided in this section, a corporation may indemnify an individual who is a party to a proceeding because the individual is a director against liability incurred in the proceeding if all of the following apply:

a. The individual acted in good faith.

b. The individual reasonably believed either of the following:

(1) In the case of conduct in the individual's official capacity, that the individual's conduct was in the best interests of the corporation.

(2) In all other cases, that the individual's conduct was at least not opposed to the best interests of the corporation.

c. In the case of any criminal proceeding, the individual had no reasonable cause to believe the individual's conduct was unlawful.

d. The individual engaged in conduct for which broader indemnification has been made permissible or obligatory under a provision of the articles of incorporation as authorized by section 504.202, subsection 2, paragraph *"e"*.

2. A director's conduct with respect to an employee benefit plan for a purpose the director reasonably believed to be in the interests of the participants in and beneficiaries of the plan is conduct that satisfies the requirements of subsection 1, paragraph *"b"*, subparagraph (2).

3. The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the director did not meet the relevant standard of conduct described in this section.

4. Unless ordered by a court under section 504.855, subsection 1, paragraph *"b"*, a corporation shall not indemnify a director under this section under either of the following circumstances:

a. In connection with a proceeding by or in the right of the corporation, except for

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reasonable expenses incurred in connection with the proceeding if it is determined that the director has met the relevant standard of conduct under subsection 1.

b. In connection with any proceeding with respect to conduct for which the director was adjudged liable on the basis that the director received a financial benefit to which the director was not entitled, whether or not involving action in the director's official capacity.

2004 Acts, ch 1049, §102, 192; 2005 Acts, ch 19, §100
Referred to in §504.854, 504.855, 504.856, 504.859, 504.1612

504.853 Mandatory indemnification.

A corporation shall indemnify a director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the director was a party because the director is or was a director of the corporation against reasonable expenses actually incurred by the director in connection with the proceeding.

2004 Acts, ch 1049, §103, 192
Referred to in §504.854, 504.855, 504.857, 504.1612

504.854 Advance for expenses.

1. A corporation may, before final disposition of a proceeding, advance funds to pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding because the person is a director if the person delivers all of the following to the corporation:

a. A written affirmation of the director's good faith belief that the director has met the relevant standard of conduct described in section 504.852 or that the proceeding involved conduct for which liability has been eliminated under a provision of the articles of incorporation as authorized by section 504.202, subsection 2, paragraph *"d"*.

b. The director's written undertaking to repay any funds advanced if the director is not entitled to mandatory indemnification under section 504.853 and it is ultimately determined under section 504.855 or 504.856 that the director has not met the relevant standard of conduct described in section 504.852.

2. The undertaking required by subsection 1, paragraph *"b"*, must be an unlimited general obligation of the director but need not be secured and may be accepted without reference to the financial ability of the director to make repayment.

3. Authorizations under this section shall be made according to one of the following:

a. By the board of directors as follows:

(1) If there are two or more disinterested directors, by a majority vote of all the disinterested directors, a majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a committee of two or more disinterested directors appointed by such vote.

(2) If there are fewer than two disinterested directors, by the vote necessary for action by the board in accordance with section 504.825, subsection 3, in which authorization directors who do not qualify as disinterested directors may participate.

b. By the members, but the director, who at the time does not qualify as a disinterested director, shall not vote as a member or on behalf of a member.

2004 Acts, ch 1049, §104, 192; 2004 Acts, ch 1175, §385; 2015 Acts, ch 45, §11
Referred to in §504.851, 504.855, 504.859, 504.1612

504.855 Court-ordered indemnification.

1. A director who is a party to a proceeding because the person is a director may apply for indemnification or an advance for expenses to the court conducting the proceeding or to another court of competent jurisdiction. After receipt of an application, and after giving any notice the court considers necessary, the court shall do one of the following:

a. Order indemnification if the court determines that the director is entitled to mandatory indemnification under section 504.853.

b. Order indemnification or advance for expenses if the court determines that the director is entitled to indemnification or advance for expenses pursuant to a provision authorized by section 504.859, subsection 1.

c. Order indemnification or advance for expenses if the court determines, in view of all the relevant circumstances, that it is fair and reasonable to do one of the following:

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(1) To indemnify the director.

(2) To indemnify or advance expenses to the director, even if the director has not met the relevant standard of conduct set forth in section 504.852, subsection 1, failed to comply with section 504.854, or was adjudged liable in a proceeding referred to in section 504.852, subsection 4, paragraph *"a"* or *"b"*, but if the director was adjudged so liable the director's indemnification shall be limited to reasonable expenses incurred in connection with the proceeding.

2. If the court determines that the director is entitled to indemnification under subsection 1, paragraph *"a"*, or to indemnification or advance for expenses under subsection 1, paragraph *"b"*, it shall also order the corporation to pay the director's reasonable expenses incurred in connection with obtaining court-ordered indemnification or advance for expenses. If the court determines that the director is entitled to indemnification or advance for expenses under subsection 1, paragraph *"c"*, it may also order the corporation to pay the director's reasonable expenses to obtain court-ordered indemnification or advance for expenses.

2004 Acts, ch 1049, §105, 192
Referred to in §504.852, 504.854, 504.857, 504.1612

504.856 Determination and authorization of indemnification.

1. A corporation shall not indemnify a director under section 504.852 unless authorized for a specific proceeding after a determination has been made that indemnification of the director is permissible because the director has met the standard of conduct set forth in section 504.852.

2. The determination shall be made by any of the following:

a. If there are two or more disinterested directors, by the board of directors by a majority vote of all the disinterested directors, a majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a committee of two or more disinterested directors appointed by such vote.

b. By special legal counsel under one of the following circumstances:

(1) Selected in the manner prescribed in paragraph *"a"*.

(2) If there are fewer than two disinterested directors, selected by the board in which selection directors who do not qualify as disinterested directors may participate.

c. By the members of a corporation, but directors who are at the time parties to the proceeding shall not vote on the determination.

3. Authorization of indemnification shall be made in the same manner as the determination that indemnification is permissible, except that if there are fewer than two disinterested directors or if the determination is made by special legal counsel, authorization of indemnification shall be made by those entitled under subsection 2, paragraph *"b"*, to select special legal counsel.

2004 Acts, ch 1049, §106, 192; 2005 Acts, ch 19, §101
Referred to in §504.851, 504.854, 504.859

504.857 Indemnification of officers.

1. A corporation may indemnify and advance expenses under this part to an officer of the corporation who is a party to a proceeding because the person is an officer, according to all of the following:

a. To the same extent as to a director.

b. If the person is an officer but not a director, to such further extent as may be provided by the articles of incorporation, the bylaws, a resolution of the board of directors, or contract, except for either of the following:

(1) Liability in connection with a proceeding by or in the right of the corporation other than for reasonable expenses incurred in connection with the proceeding.

(2) Liability arising out of conduct that constitutes any of the following:

(a) Receipt by the officer of a financial benefit to which the officer is not entitled.

(b) An intentional infliction of harm on the corporation or the members.

(c) An intentional violation of criminal law.

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2. The provisions of subsection 1, paragraph *"b"*, shall apply to an officer who is also a director if the basis on which the officer is made a party to a proceeding is an act or omission solely as an officer.

3. An officer of a corporation who is not a director is entitled to mandatory indemnification under section 504.853, and may apply to a court under section 504.855 for indemnification or an advance for expenses, in each case to the same extent to which a director may be entitled to indemnification or advance for expenses under those provisions.

2004 Acts, ch 1049, §107, 192; 2005 Acts, ch 19, §102
Referred to in §504.851

504.858 Insurance.

A corporation may purchase and maintain insurance on behalf of an individual who is a director or officer of the corporation, or who, while a director or officer of the corporation, serves at the request of the corporation as a director, officer, partner, trustee, employee, or agent of another domestic business or nonprofit corporation, partnership, joint venture, trust, employee benefit plan, or other entity, against liability asserted against or incurred by the individual in that capacity or arising from the individual's status as a director or officer, whether or not the corporation would have power to indemnify or advance expenses to that individual against the same liability under this part.

2004 Acts, ch 1049, §108, 192

504.859 Application of part.

1. A corporation may, by a provision in its articles of incorporation or bylaws or in a resolution adopted or a contract approved by its board of directors or members, obligate itself in advance of the act or omission giving rise to a proceeding to provide indemnification in accordance with section 504.852 or advance funds to pay for or reimburse expenses in accordance with section 504.854. Any such obligatory provision shall be deemed to satisfy the requirements for authorization referred to in section 504.854, subsection 3, and in section 504.856, subsection 2 or 3. Any such provision that obligates the corporation to provide indemnification to the fullest extent permitted by law shall be deemed to obligate the corporation to advance funds to pay for or reimburse expenses in accordance with section 504.854 to the fullest extent permitted by law, unless the provision specifically provides otherwise.

2. Any provision pursuant to subsection 1 shall not obligate the corporation to indemnify or advance expenses to a director of a predecessor of the corporation, pertaining to conduct with respect to the predecessor, unless otherwise specifically provided. Any provision for indemnification or advance for expenses in the articles of incorporation, bylaws, or a resolution of the board of directors or members of a predecessor of the corporation in a merger or in a contract to which the predecessor is a party, existing at the time the merger takes effect, shall be governed by section 504.1104.

3. A corporation may, by a provision in its articles of incorporation, limit any of the rights to indemnification or advance for expenses created by or pursuant to this part.

4. This part does not limit a corporation's power to pay or reimburse expenses incurred by a director or an officer in connection with the director's or officer's appearance as a witness in a proceeding at a time when the director or officer is not a party.

5. This part does not limit a corporation's power to indemnify, advance expenses to, or provide or maintain insurance on behalf of an employee or agent.

2004 Acts, ch 1049, §109, 192
Referred to in §504.705, 504.855

504.860 Exclusivity of part.

A corporation may provide indemnification or advance expenses to a director or an officer only as permitted by this part.

2004 Acts, ch 1049, §110, 192

504.861 through 504.900 Reserved.

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SUBCHAPTER IX

PERSONAL LIABILITY

504.901 Personal liability.

1. Except as otherwise provided in this chapter, a director, officer, employee, or member of a corporation is not liable for the corporation's debts or obligations and a director, officer, member, or other volunteer is not personally liable in that capacity to any person for any action taken or failure to take any action in the discharge of the person's duties except liability for any of the following:

a. The amount of any financial benefit to which the person is not entitled.

b. An intentional infliction of harm on the corporation or the members.

c. A violation of section 504.835.

d. An intentional violation of criminal law.

2. A provision set forth in the articles of incorporation eliminating or limiting the liability of a director to the corporation or its members for money damages for any action taken, or any failure to take any action, pursuant to section 504.202, subsection 2, paragraph "*d*", shall not affect the applicability of this section.

2004 Acts, ch 1049, §111, 192; 2005 Acts, ch 19, §103; 2006 Acts, ch 1089, §50

Referred to in §504.202, 504.832, 504.843

504.902 through 504.1000 Reserved.

SUBCHAPTER X

AMENDMENT OF ARTICLES OF INCORPORATION AND BYLAWS

PART 1

ARTICLES OF INCORPORATION

504.1001 Authority to amend.

A corporation may amend its articles of incorporation at any time to add or change a provision that is required or permitted in the articles as of the effective date of the amendment or to delete a provision that is not required to be contained in the articles of incorporation.

2004 Acts, ch 1049, §112, 192; 2006 Acts, ch 1089, §51

504.1002 Amendment by directors.

1. Unless the articles of incorporation provide otherwise, a corporation's board of directors may adopt amendments to the corporation's articles of incorporation without member approval for any of the following purposes:

a. To extend the duration of the corporation if it was incorporated at a time when limited duration was required by law.

b. To delete the names and addresses of the initial directors.

c. To delete the name and address of the initial registered agent or registered office, if a statement of change is on file with the secretary of state.

d. To change the corporate name by substituting the word "corporation", "incorporated", "company", "limited", or the abbreviation "corp.", "inc.", "co.", or "ltd.", for a similar word or abbreviation in the name, or by adding, deleting, or changing a geographical attribution to the name.

e. To make any other change expressly permitted by this subchapter to be made by director action.

2. If a corporation has no members, its incorporators, until directors have been chosen,

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and thereafter its board of directors, may adopt one or more amendments to the corporation's articles subject to any approval required pursuant to section 504.1031. The corporation shall provide notice of any meeting at which an amendment is to be voted upon. The notice shall be in accordance with section 504.823, subsection 3. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider a proposed amendment to the articles and contain or be accompanied by a copy or summary of the amendment or state the general nature of the amendment. The amendment must be approved by a majority of the directors in office at the time the amendment is adopted.

2004 Acts, ch 1049, §113, 192; 2006 Acts, ch 1089, §52
Referred to in §504.1003

504.1003 Amendment by directors and members.

1. Unless this chapter, the articles or bylaws of a corporation, the members acting pursuant to subsection 2, or the board of directors acting pursuant to subsection 3 require a greater vote or voting by class, or unless the articles or bylaws impose other requirements, an amendment to the corporation's articles must be approved by all of the following to be adopted:

a. The board if the corporation is a public benefit or religious corporation and the amendment does not relate to the number of directors, the composition of the board, the term of office of directors, or the method or way in which directors are elected or selected.

b. Except as provided in section 504.1002, subsection 1, by the members by two-thirds of the votes cast by the members or a majority of the members' voting power that could be cast, whichever is less.

c. In writing by any person or persons whose approval is required by a provision of the articles authorized by section 504.1031.

2. The members may condition the adoption of an amendment on receipt of a higher percentage of affirmative votes or on any other basis.

3. If the board initiates an amendment to the articles or board approval is required by subsection 1 to adopt an amendment to the articles, the board may condition the amendment's adoption on receipt of a higher percentage of affirmative votes or any other basis.

4. If the board or the members seek to have the amendment approved by the members at a membership meeting, the corporation shall give notice to its members of the proposed membership meeting in writing in accordance with section 504.705. The notice must state that the purpose, or one of the purposes, of the meeting is to consider the proposed amendment and contain or be accompanied by a copy or summary of the amendment.

5. If the board or the members seek to have the amendment approved by the members by written consent or written ballot, the material soliciting the approval shall contain or be accompanied by a copy or summary of the amendment.

2004 Acts, ch 1049, §114, 192
Referred to in §504.705, 504.1006

504.1004 Class voting by members on amendments.

1. Unless the articles or bylaws of the corporation provide otherwise, the members of a class in a public benefit corporation are entitled to vote as a class on a proposed amendment to the articles if the amendment would change the rights of that class as to voting in a manner different than such amendment affects another class or members of another class.

2. Unless the articles or bylaws of the corporation provide otherwise, the members of a class in a mutual benefit corporation are entitled to vote as a class on a proposed amendment to the articles if the amendment would do any of the following:

a. Affect the rights, privileges, preferences, restrictions, or conditions of that class as to voting, dissolution, redemption, or transfer of memberships in a manner different than such amendment would affect another class.

b. Change the rights, privileges, preferences, restrictions, or conditions of that class as to voting, dissolution, redemption, or transfer by changing the rights, privileges, preferences, restrictions, or conditions of another class.

c. Increase or decrease the number of memberships authorized for that class.

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d. Increase the number of memberships authorized for another class.

e. Effect an exchange, reclassification, or termination of the memberships of that class.

f. Authorize a new class of memberships.

3. The members of a class of a religious corporation are entitled to vote as a class on a proposed amendment to the articles only if a class vote is provided for in the articles or bylaws.

4. Unless the articles or bylaws of the corporation provide otherwise, if a class is to be divided into two or more classes as a result of an amendment to the articles of a public benefit or mutual benefit corporation, the amendment must be approved by the members of each class that would be created by the amendment.

5. Except as provided in the articles or bylaws of a religious corporation, if a class vote is required to approve an amendment to the articles of the corporation, the amendment must be approved by the members of the class by two-thirds of the votes cast by the class or a majority of the voting power of the class, whichever is less.

2004 Acts, ch 1049, §115, 192

Referred to in §504.1103

504.1005 Articles of amendment.

After an amendment to the articles of incorporation has been adopted and approved in the manner required by this chapter and by the articles of incorporation or bylaws, the corporation amending its articles shall deliver to the secretary of state, for filing, articles of amendment setting forth:

1. The name of the corporation.
2. The text of each amendment adopted.
3. The date of each amendment's adoption.
4. If approval by members was not required, a statement that the amendment was duly approved by the incorporators or by the board of directors, as the case may be, and that member approval was not required.
5. If approval by members was required, a statement that the amendment was duly approved by the members in the manner required by this chapter, the articles of incorporation, and bylaws.
6. If approval of the amendment by some person or persons other than the members, the board, or the incorporators is required pursuant to section 504.1031, a statement that the approval was obtained.

2004 Acts, ch 1049, §116, 192; 2006 Acts, ch 1089, §53, 54

Referred to in §504.1006

504.1006 Restated articles of incorporation.

1. A corporation's board of directors may restate the corporation's articles of incorporation at any time with or without approval by members or any other person, to consolidate all amendments into a single document.
2. If the restated articles include one or more new amendments that require approval by the members or any other person, the amendments must be adopted as provided in section 504.1003.
3. If the restatement includes an amendment requiring approval pursuant to section 504.1031, the board must submit the restatement for such approval.
4. A corporation that restates its articles of incorporation shall deliver to the secretary of state for filing articles of restatement setting forth the name of the corporation and the text of the restated articles of incorporation together with a certificate stating that the restated articles consolidate all amendments into a single document. If a new amendment is included in the restated articles, the corporation shall include the statement required in section 504.1005.
5. Duly adopted restated articles of incorporation supersede the original articles of incorporation and all amendments to the original articles of incorporation.
6. The secretary of state may certify restated articles of incorporation as the articles of

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incorporation currently in effect without including the certificate information required by subsection 4.

2004 Acts, ch 1049, §117, 192; 2006 Acts, ch 1089, §55

504.1007 Amendment pursuant to judicial reorganization.

1. A corporation's articles may be amended without board approval or approval by the members or approval required pursuant to section 504.1031 to carry out a plan of reorganization ordered or decreed by a court of competent jurisdiction under the authority of law of the United States.

2. An individual or individuals designated by the court shall deliver to the secretary of state articles of amendment setting forth all of the following:

a. The name of the corporation.

b. The text of each amendment approved by the court.

c. The date of the court's order or decree approving the articles of amendment.

d. The title of the reorganization proceeding in which the order or decree was entered.

e. A statement that the court had jurisdiction of the proceeding under federal statute.

3. This section does not apply after entry of a final decree in the reorganization proceeding even though the court retains jurisdiction of the proceeding for limited purposes unrelated to consummation of the reorganization plan.

2004 Acts, ch 1049, §118, 192; 2006 Acts, ch 1089, §56

504.1008 Effect of amendment and restatement.

An amendment to the articles of incorporation does not affect a cause of action existing against or in favor of the corporation, a proceeding to which the corporation is a party, any requirement or limitation imposed upon the corporation, or any property held by it by virtue of any trust upon which such property is held by the corporation, or the existing rights of persons other than members of the corporation. An amendment changing a corporation's name does not abate a proceeding brought by or against the corporation in its former name.

2004 Acts, ch 1049, §119, 192; 2005 Acts, ch 19, §104; 2006 Acts, ch 1089, §57

504.1009 through 504.1020 Reserved.

PART 2

BYLAWS

504.1021 Amendment by directors.

If a corporation has no members, its incorporators, until directors have been chosen, and thereafter its board of directors, may adopt one or more amendments to the corporation's bylaws subject to any approval required pursuant to section 504.1031. The corporation shall provide notice of any meeting of directors at which an amendment is to be approved. The notice must be given in accordance with section 504.823, subsection 3. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider a proposed amendment to the bylaws and contain or be accompanied by a copy or summary of the amendment or state the general nature of the amendment. The amendment must be approved by a majority of the directors in office at the time the amendment is adopted.

2004 Acts, ch 1049, §120, 192

504.1022 Amendment by directors and members.

1. Unless this chapter, the articles, bylaws, the members acting pursuant to subsection 2, or the board of directors acting pursuant to subsection 3, require a greater vote or voting by class, or the articles or bylaws provide otherwise, an amendment to a corporation's bylaws must be approved by all of the following to be adopted:

a. By the board if the corporation is a public benefit or religious corporation and the

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amendment does not relate to the number of directors, the composition of the board, the term of office of directors, or the method or way in which directors are elected or selected.

b. By the members by two-thirds of the votes cast or a majority of the voting power, whichever is less.

c. In writing by any person or persons whose approval is required by a provision of the articles authorized by section 504.1031.

2. The members may condition the amendment's adoption on its receipt of a higher percentage of affirmative votes or on any other basis.

3. If the board initiates an amendment to the bylaws or board approval is required by subsection 1 to adopt an amendment to the bylaws, the board may condition the amendment's adoption on receipt of a higher percentage of affirmative votes or on any other basis.

4. If the board or the members seek to have the amendment approved by the members at a membership meeting, the corporation shall give notice to its members of the proposed membership meeting in writing in accordance with section 504.705. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the proposed amendment and contain or be accompanied by a copy or summary of the amendment.

5. If the board or the members seek to have the amendment approved by the members by written consent or written ballot, the material soliciting the approval shall contain or be accompanied by a copy or summary of the amendment.

2004 Acts, ch 1049, §121, 192
Referred to in §504.705

504.1023 Class voting by members on amendments.

1. Unless the articles or bylaws of the corporation provide otherwise, the members of a class in a public benefit corporation are entitled to vote as a class on a proposed amendment to the bylaws if the amendment would change the rights of that class as to voting in a manner different than such amendment affects another class or members of another class.

2. Unless the articles or bylaws of the corporation provide otherwise, members of a class in a mutual benefit corporation are entitled to vote as a class on a proposed amendment to the bylaws if the amendment would do any of the following:

a. Affect the rights, privileges, preferences, restrictions, or conditions of that class as to voting, dissolution, redemption, or transfer of memberships in a manner different than such amendment would affect another class.

b. Change the rights, privileges, preferences, restrictions, or conditions of that class as to voting, dissolution, redemption, or transfer by changing the rights, privileges, preferences, restrictions, or conditions of another class.

c. Increase or decrease the number of memberships authorized for that class.

d. Increase the number of memberships authorized for another class.

e. Effect an exchange, reclassification, or termination of all or part of the memberships of that class.

f. Authorize a new class of memberships.

3. The members of a class of a religious corporation are entitled to vote as a class on a proposed amendment to the bylaws only if a class vote is provided for in the articles or bylaws.

4. Unless the articles or bylaws of the corporation provide otherwise, if a class is to be divided into two or more classes as a result of an amendment to the bylaws, the amendment must be approved by the members of each class that would be created by the amendment.

5. Unless the articles or bylaws of the corporation provide otherwise, if a class vote is required to approve an amendment to the bylaws, the amendment must be approved by the members of the class by two-thirds of the votes cast by the class or a majority of the voting power of the class, whichever is less.

2004 Acts, ch 1049, §122, 192
Referred to in §504.1103

504.1024 through 504.1030 Reserved.

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PART 3

ARTICLES OF INCORPORATION
AND BYLAWS

504.1031 Approval by third persons.

The articles of a corporation may require that an amendment to the articles or bylaws be approved in writing by a specified person or persons other than the board. Such a provision in the articles may only be amended with the approval in writing of the person or persons specified in the provision.

2004 Acts, ch 1049, §123, 192

Referred to in §504.1002, 504.1003, 504.1005, 504.1006, 504.1007, 504.1021, 504.1022, 504.1103, 504.1202, 504.1402

504.1032 Amendment terminating members or redeeming or canceling memberships.

1. Unless the articles or bylaws provide otherwise, an amendment to the articles or bylaws of a public benefit or mutual benefit corporation which would terminate all members or any class of members or redeem or cancel all memberships or any class of memberships must meet the requirements of this chapter and this section.

2. Before adopting a resolution proposing such an amendment, the board of a mutual benefit corporation shall give notice of the general nature of the amendment to the members.

3. After adopting a resolution proposing such an amendment, the notice to members proposing such amendment shall include one statement of up to five hundred words opposing the proposed amendment, if such statement is submitted by any five members or members having three percent or more of the voting power, whichever is less, not later than twenty days after the board has voted to submit such amendment to the members for their approval. In public benefit corporations, the production and mailing costs of the statement opposing the proposed amendment shall be paid by the requesting members. In mutual benefit corporations, the production and mailing costs of the statement opposing the proposed amendment shall be paid by the corporation.

4. Any such amendment shall be approved by the members by two-thirds of the votes cast by each class.

5. The provisions of section 504.622 shall not apply to any amendment meeting the requirements of this chapter and this section.

2004 Acts, ch 1049, §124, 192

504.1033 through 504.1100 Reserved.

SUBCHAPTER XI

MERGER

504.1101 Approval of plan of merger.

1. Subject to the limitations set forth in section 504.1102, one or more nonprofit corporations may merge with or into any one or more business corporations or nonprofit corporations or unincorporated entities, if the plan of merger is approved as provided in section 504.1103.

2. The plan of merger shall set forth all of the following:

a. The name of each corporation or unincorporated entity planning to merge and the name of the surviving corporation or unincorporated entity into which each plans to merge.

b. The terms and conditions of the planned merger.

c. The manner and basis, if any, of converting the memberships of each public benefit or religious corporation into memberships of the surviving corporation or unincorporated entity.

d. If the merger involves a mutual benefit corporation, the manner and basis, if any, of converting memberships of each merging corporation into memberships, obligations, or securities of the surviving or any other corporation or unincorporated entity or into cash or other property in whole or in part.

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3. The plan of merger may set forth any of the following:

a. Any amendments to the articles of incorporation or bylaws of the surviving corporation or organic record of the surviving unincorporated entity to be effected by the planned merger.

b. Other provisions relating to the planned merger.

2004 Acts, ch 1049, §125, 192; 2005 Acts, ch 19, §105; 2012 Acts, ch 1049, §13 – 15; 2013 Acts, ch 90, §149

Referred to in §504.1106

504.1102 Limitations on mergers by public benefit or religious corporations.

1. Without the prior approval of the district court, a public benefit or religious corporation may merge only with one of the following:

a. A public benefit or religious corporation.

b. A foreign corporation which would qualify under this chapter as a public benefit or religious corporation.

c. A wholly owned foreign or domestic business or mutual benefit corporation, provided the public benefit or religious corporation is the surviving corporation and continues to be a public benefit or religious corporation after the merger.

d. A business or mutual benefit corporation or an unincorporated entity, provided that all of the following apply where the public benefit or religious corporation is not the surviving entity in the merger:

(1) On or prior to the effective date of the merger, assets with a value equal to the greater of the fair market value of the net tangible and intangible assets, including goodwill, of the public benefit or religious corporation or the fair market value of the public benefit or religious corporation if it were to be operated as a business concern are transferred or conveyed to one or more persons who would have received its assets under section 504.1405, subsection 1, paragraphs *"e"* and *"f"*, had it dissolved.

(2) The business or mutual benefit corporation or unincorporated entity shall return, transfer, or convey any assets held by it upon condition requiring return, transfer, or conveyance, which condition occurs by reason of the merger, in accordance with such condition.

(3) The merger is approved by a majority of directors of the public benefit or religious corporation who are not and will not become members or shareholders in or officers, employees, agents, or consultants of the surviving entity.

2. Without the prior approval of the district court in a proceeding in which a guardian ad litem has been appointed to represent the interests of the corporation, a member of a public benefit or religious corporation shall not receive or keep anything as a result of a merger other than a membership in the surviving public benefit or religious corporation. The court shall approve the transaction if it is in the public interest.

2004 Acts, ch 1049, §126, 192; 2005 Acts, ch 19, §106; 2012 Acts, ch 1049, §16, 17

Referred to in §504.1101, 504.1106

504.1103 Action on plan by board, members, and third persons.

1. Unless this chapter, the articles, bylaws, or the board of directors or members acting pursuant to subsection 3 require a greater vote or voting by class, or the articles or bylaws impose other requirements, a plan of merger for a corporation must be approved by all of the following to be adopted:

a. The board.

b. The members, if any, by two-thirds of the votes cast or a majority of the voting power, whichever is less.

c. In writing by any person or persons whose approval is required by a provision of the articles authorized by section 504.1031 for an amendment to the articles or bylaws.

2. If the corporation does not have members, the merger must be approved by a majority of the directors in office at the time the merger is approved. In addition, the corporation shall provide notice of any directors' meeting at which such approval is to be obtained in accordance with section 504.823, subsection 3. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the proposed merger.

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3. The board may condition its submission of the proposed merger, and the members may condition their approval of the merger, on receipt of a higher percentage of affirmative votes or on any other basis.

4. If the board seeks to have the plan approved by the members at a membership meeting, the corporation shall give notice to its members of the proposed membership meeting in accordance with section 504.705. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the plan of merger and contain or be accompanied by a copy or summary of the plan. The copy or summary of the plan for members of the surviving corporation shall include any provision that, if contained in a proposed amendment to the articles of incorporation or bylaws, would entitle members to vote on the provision. The copy or summary of the plan for members of the disappearing corporation shall include a copy or summary of the articles and bylaws which will be in effect immediately after the merger takes effect.

5. If the board seeks to have the plan approved by the members by written consent or written ballot, the material soliciting the approval shall contain or be accompanied by a copy or summary of the plan. The copy or summary of the plan for members of the surviving corporation shall include any provision that, if contained in a proposed amendment to the articles of incorporation or bylaws, would entitle members to vote on the provision. The copy or summary of the plan for members of the disappearing corporation shall include a copy or summary of the articles and bylaws which will be in effect immediately after the merger takes effect.

6. Voting by a class of members is required on a plan of merger if the plan contains a provision that, if contained in a proposed amendment to articles of incorporation or bylaws, would entitle the class of members to vote as a class on the proposed amendment under section 504.1004 or 504.1023. The plan must be approved by a class of members by two-thirds of the votes cast by the class or a majority of the voting power of the class, whichever is less.

7. After a merger is adopted, and at any time before articles of merger are filed, the planned merger may be abandoned subject to any contractual rights without further action by members or other persons who approved the plan in accordance with the procedure set forth in the plan of merger or, if none is set forth, in the manner determined by the board of directors.

2004 Acts, ch 1049, §127, 192
Referred to in §504.1101, 504.1104, 504.1106

504.1104 Articles of merger.

1. After a plan of merger has been adopted and approved as required by this chapter, articles of merger shall be signed on behalf of each party to the merger by an officer or other duly authorized representative. The articles shall set forth all of the following:

a. The names of the parties to the merger.

b. If the articles of incorporation of the survivor of a merger are amended, or if a new corporation is created as a result of the merger, the amendments to the articles of incorporation of the survivor or the articles of incorporation of the new corporation.

c. If the plan of merger required approval by the members of a domestic nonprofit corporation that was a party to the merger, a statement that the plan was duly approved by the members and, if voting by any separate voting group was required, by each such separate voting group, in the manner required by this chapter and the articles of incorporation or bylaws.

d. If the plan of merger did not require approval by the members of the domestic nonprofit corporation that was a party to the merger, a statement to that effect.

e. If approval of the plan by some person or persons other than the members of the board is required pursuant to section 504.1103, subsection 1, paragraph "*c*", a statement that the approval was obtained.

f. As to each foreign nonprofit corporation or eligible entity that was a party to the merger, a statement that the participation of the foreign corporation or eligible entity was duly authorized as required by the organic law of the corporation or eligible entity.

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2. Terms of the articles of merger may be dependent on facts objectively ascertainable outside the articles in accordance with section 504.111, subsection 12.

3. Articles of merger must be delivered to the secretary of state for filing by the survivor of the merger and shall take effect at the effective time provided in section 504.114. Articles of merger filed under this section may be combined with any filing required under the organic law of any domestic eligible entity involved in the transaction if the combined filing satisfies the requirements of both this section and the other organic law.

2004 Acts, ch 1049, §128, 192; 2015 Acts, ch 45, §12
Referred to in §504.705, 504.859, 504.1106

504.1105 Effect of merger.

When a merger takes effect, all of the following occur:

1. Every other corporation party to the merger merges into the surviving corporation and the separate existence of every corporation except the surviving corporation ceases.

2. The title to all real estate and other property owned by each corporation party to the merger is vested in the surviving corporation without reversion or impairment subject to any and all conditions to which the property was subject prior to the merger.

3. The surviving corporation has all the liabilities and obligations of each corporation party to the merger.

4. A proceeding pending against any corporation party to the merger may be continued as if the merger did not occur or the surviving corporation may be substituted in the proceeding for the corporation whose existence ceased.

5. The articles of incorporation and bylaws of the surviving corporation are amended to the extent provided in the plan of merger.

2004 Acts, ch 1049, §129, 192

504.1106 Merger with foreign corporation or foreign unincorporated entity.

1. Except as provided in section 504.1102, one or more foreign business or nonprofit corporations or foreign unincorporated entities may merge with one or more domestic nonprofit corporations if all of the following conditions are met:

a. The merger is permitted by the law of the state or country under whose law each foreign corporation is incorporated or foreign unincorporated entity is organized and each foreign corporation or foreign unincorporated entity complies with that law in effecting the merger.

b. The foreign corporation or foreign unincorporated entity complies with section 504.1104 if it is the surviving corporation of the merger.

c. Each domestic nonprofit corporation complies with the applicable provisions of sections 504.1101 through 504.1103 and, if it is the surviving corporation of the merger, with section 504.1104.

2. Upon the merger taking effect, the surviving foreign business or nonprofit corporation, or foreign unincorporated entity, is deemed to have irrevocably appointed the secretary of state as its agent for service of process in any proceeding brought against it.

2004 Acts, ch 1049, §130, 192; 2012 Acts, ch 1049, §18, 19

504.1107 Bequests, devises, and gifts.

Any bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance, that is made to a constituent corporation and which takes effect or remains payable after the merger, inures to the surviving corporation unless the will or other instrument otherwise specifically provides.

2004 Acts, ch 1049, §131, 192

504.1108 Conversion.

A corporation organized under this chapter that is an insurance company may voluntarily elect to be organized as a mutual insurance company under chapter 490 or 491 pursuant to the procedures set forth in section 514.23.

2004 Acts, ch 1049, §132, 192

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504.1109 through 504.1200 Reserved.

SUBCHAPTER XII

SALE OF ASSETS

504.1201 Sale of assets in regular course of activities and mortgage of assets.

1. A corporation may, on the terms and conditions and for the consideration determined by the board of directors, do either of the following:

a. Sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property in the usual and regular course of its activities.

b. Mortgage, pledge, dedicate to the repayment of indebtedness, whether with or without recourse, or otherwise encumber any or all of its property, whether or not in the usual and regular course of its activities.

2. Unless the articles require it, approval of the members or any other persons of a transaction described in subsection 1 is not required.

2004 Acts, ch 1049, §133, 192

504.1202 Sale of assets other than in regular course of activities.

1. A corporation may sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property, with or without the goodwill, other than in the usual and regular course of its activities on the terms and conditions and for the consideration determined by the corporation's board if the proposed transaction is authorized by subsection 2.

2. Unless this chapter, the articles, bylaws, or the board of directors or members acting pursuant to subsection 4 require a greater vote or voting by a class or the articles or bylaws impose other requirements, the proposed transaction to be authorized must be approved by all of the following:

a. The board.

b. The members by two-thirds of the votes cast or a majority of the voting power, whichever is less.

c. In writing by any person or persons whose approval is required by a provision of the articles authorized by section 504.1031 for an amendment to the articles or bylaws.

3. If the corporation does not have members, the transaction must be approved by a vote of a majority of the directors in office at the time the transaction is approved. In addition, the corporation shall provide notice of any directors' meeting at which such approval is to be obtained in accordance with section 504.823, subsection 3. The notice shall also state that the purpose, or one of the purposes, of the meeting is to consider the sale, lease, exchange, or other disposition of all, or substantially all, of the property or assets of the corporation and contain or be accompanied by a copy or summary of a description of the transaction.

4. The board may condition its submission of the proposed transaction, and the members may condition their approval of the transaction, on receipt of a higher percentage of affirmative votes or on any other basis.

5. If the corporation seeks to have the transaction approved by the members at a membership meeting, the corporation shall give notice to its members of the proposed membership meeting in accordance with section 504.705. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the sale, lease, exchange, or other disposition of all, or substantially all, of the property or assets of the corporation and contain or be accompanied by a copy or summary of a description of the transaction.

6. If the board is required to have the transaction approved by the members by written consent or written ballot, the material soliciting the approval shall contain or be accompanied by a copy or summary of a description of the transaction.

7. After a sale, lease, exchange, or other disposition of property is authorized, the transaction may be abandoned, subject to any contractual rights, without further action by the members or any other person who approved the transaction in accordance with the

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procedure set forth in the resolution proposing the transaction or, if none is set forth, in the manner determined by the board of directors.

2004 Acts, ch 1049, §134, 192
Referred to in §504.705

504.1203 through 504.1300 Reserved.

SUBCHAPTER XIII

DISTRIBUTIONS

Referred to in §504.623

504.1301 Prohibited distributions.

Except as authorized by section 504.1302, a corporation shall not make any distributions.

2004 Acts, ch 1049, §135, 192

504.1302 Authorized distributions.

1. A mutual benefit corporation may purchase its memberships if, after the purchase is completed, both of the following apply:

a. The corporation will be able to pay its debts as they become due in the usual course of its activities.

b. The corporation's total assets will at least equal the sum of its total liabilities.

2. Corporations may make distributions upon dissolution in conformity with subchapter XIV.

2004 Acts, ch 1049, §136, 192
Referred to in §504.1301

504.1303 through 504.1400 Reserved.

SUBCHAPTER XIV

DISSOLUTION

Referred to in §504.1302

PART 1

VOLUNTARY DISSOLUTION

504.1401 Dissolution by incorporators or directors and third persons.

1. A majority of the incorporators of a corporation that has no directors and no members or a majority of the directors of a corporation that has no members may, subject to any approval required by the articles or bylaws, dissolve the corporation by delivering articles of dissolution to the secretary of state.

2. The corporation shall give notice of any meeting at which dissolution will be approved. The notice must be in accordance with section 504.823, subsection 3. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider dissolution of the corporation.

3. The incorporators or directors in approving dissolution shall adopt a plan of dissolution indicating to whom the assets owned or held by the corporation will be distributed after all creditors have been paid.

2004 Acts, ch 1049, §137, 192

504.1402 Dissolution by directors, members, and third persons.

1. Unless this chapter, the articles, bylaws, or the board of directors or members acting

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pursuant to subsection 3 require a greater vote or voting by class or the articles or bylaws impose other requirements, dissolution is authorized if it is approved by all of the following:

a. The board.

b. The members, if any, by two-thirds of the votes cast or a majority of the voting power, whichever is less.

c. In writing by any person or persons whose approval is required by a provision of the articles authorized by section 504.1031 for an amendment to the articles or bylaws.

2. If the corporation does not have members, dissolution must be approved by a vote of a majority of the directors in office at the time the transaction is approved. In addition, the corporation shall provide notice of any directors' meeting at which such approval is to be obtained in accordance with section 504.823, subsection 3. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider dissolution of the corporation and contain or be accompanied by a copy or summary of the plan of dissolution.

3. The board may condition its submission of the proposed dissolution, and the members may condition their approval of the dissolution, on receipt of a higher percentage of affirmative votes or on any other basis.

4. If the board seeks to have dissolution approved by the members at a membership meeting, the corporation shall give notice to its members of the proposed membership meeting in accordance with section 504.705. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider dissolving the corporation and must contain or be accompanied by a copy or summary of the plan of dissolution.

5. If the board seeks to have the dissolution approved by the members by written consent or written ballot, the material soliciting the approval shall contain or be accompanied by a copy or summary of the plan of dissolution.

6. The plan of dissolution shall indicate to whom the assets owned or held by the corporation will be distributed after all creditors have been paid.

2004 Acts, ch 1049, §138, 192
Referred to in §504.705, 504.1403

504.1403 Articles of dissolution.

1. At any time after dissolution is authorized, a corporation may dissolve by delivering articles of dissolution to the secretary of state setting forth all of the following:

a. The name of the corporation.

b. The date dissolution was authorized.

c. A statement that dissolution was approved by a sufficient vote of the board.

d. If approval of members was not required, a statement to that effect and a statement that dissolution was approved by a sufficient vote of the board of directors or incorporators.

e. If approval by members was required, both of the following:

(1) The designation, number of memberships outstanding, number of votes entitled to be cast by each class entitled to vote separately on dissolution, and number of votes of each class indisputably voting on dissolution.

(2) Either the total number of votes cast for and against dissolution by each class entitled to vote separately on dissolution or the total number of undisputed votes cast for dissolution by each class and a statement that the number cast for dissolution by each class was sufficient for approval by that class.

f. If approval of dissolution by some person or persons other than the members, the board, or the incorporators is required pursuant to section 504.1402, subsection 1, paragraph "*c*", a statement that the approval was obtained.

2. A corporation is dissolved upon the effective date of its articles of dissolution.

2004 Acts, ch 1049, §139, 192
Referred to in §504.1404

504.1404 Revocation of dissolution.

1. A corporation may revoke its dissolution within one hundred twenty days of its effective date.

2. Revocation of dissolution must be authorized in the same manner as the dissolution was

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authorized unless that authorization permitted revocation by action of the board of directors alone, in which event the board of directors may revoke the dissolution without action by the members or any other person.

3. After the revocation of dissolution is authorized, the corporation may revoke the dissolution by delivering to the secretary of state for filing, articles of revocation of dissolution, together with a copy of its articles of dissolution, that set forth all of the following:

a. The name of the corporation.

b. The effective date of the dissolution that was revoked.

c. The date that the revocation of dissolution was authorized.

d. If the corporation's board of directors or incorporators revoked the dissolution, a statement to that effect.

e. If the corporation's board of directors revoked a dissolution authorized by the members alone or in conjunction with another person or persons, a statement that revocation was permitted by action of the board of directors alone pursuant to that authorization.

f. If member or third-person action was required to revoke the dissolution, the information required by section 504.1403, subsection 1, paragraphs "*e*" and "*f*".

4. Revocation of dissolution is effective upon the effective date of the articles of revocation of dissolution.

5. When the revocation of dissolution is effective, it relates back to and takes effect as of the effective date of the dissolution and the corporation resumes carrying on its activities as if dissolution had never occurred.

2004 Acts, ch 1049, §140, 192

504.1405 Effect of dissolution.

1. A dissolved corporation continues its corporate existence but shall not carry on any activities except those appropriate to wind up and liquidate its affairs, including all of the following:

a. Preserving and protecting its assets and minimizing its liabilities.

b. Discharging or making provision for discharging its liabilities and obligations.

c. Disposing of its properties that will not be distributed in kind.

d. Returning, transferring, or conveying assets held by the corporation upon a condition requiring return, transfer, or conveyance, which condition occurs by reason of the dissolution, in accordance with such condition.

e. Transferring, subject to any contractual or legal requirements, its assets as provided in or authorized by its articles of incorporation or bylaws.

f. If the corporation is a public benefit or religious corporation, and a provision has not been made in its articles or bylaws for distribution of assets on dissolution, transferring, subject to any contractual or legal requirement, its assets to one or more persons described in section 501(c)(3) of the Internal Revenue Code, or if the dissolved corporation is not described in section 501(c)(3) of the Internal Revenue Code, to one or more public benefit or religious corporations.

g. If the corporation is a mutual benefit corporation and a provision has not been made in its articles or bylaws for distribution of assets on dissolution, transferring its assets to its members or, if it has no members, those persons whom the corporation holds itself out as benefiting or serving.

h. Doing every other act necessary to wind up and liquidate its assets and affairs.

2. Dissolution of a corporation does not do any of the following:

a. Transfer title to the corporation's property.

b. Subject its directors or officers to standards of conduct different from those prescribed in subchapter VIII.

c. Change quorum or voting requirements for its board or members; change provisions for selection, resignation, or removal of its directors or officers or both; or change provisions for amending its bylaws.

d. Prevent commencement of a proceeding by or against the corporation in its corporate name.

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e. Abate or suspend a proceeding pending by or against the corporation on the effective date of dissolution.

f. Terminate the authority of the registered agent.

2004 Acts, ch 1049, §141, 192
Referred to in §504.1102, 504.1422, 504.1434

504.1406 Known claims against dissolved corporation.

1. A dissolved corporation may dispose of the known claims against it by following the procedure described in this section.

2. The dissolved corporation shall notify its known claimants in writing of the dissolution at any time after the effective date of the dissolution. The written notice must do all of the following:

a. Describe information that must be included in a claim.

b. Provide a mailing address where a claim may be sent.

c. State the deadline, which shall not be fewer than one hundred twenty days from the effective date of the written notice, by which the dissolved corporation must receive the claim.

d. State that the claim will be barred if not received by the deadline.

3. A claim against the dissolved corporation is barred if either of the following occurs:

a. A claimant who was given written notice under subsection 2 does not deliver the claim to the dissolved corporation by the deadline.

b. A claimant whose claim was rejected by the dissolved corporation does not commence a proceeding to enforce the claim within ninety days from the effective date of the rejection notice.

4. For purposes of this section, *"claim"* does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

2004 Acts, ch 1049, §142, 192
Referred to in §504.1407, 504.1422, 504.1434

504.1407 Unknown claims against dissolved corporation.

1. A dissolved corporation may also publish notice of its dissolution and request that persons with claims against the corporation present them in accordance with the notice.

2. The notice must do all of the following:

a. Be published one time in a newspaper of general circulation in the county where the dissolved corporation's principal office is located or, if none is located in this state, where its registered office is or was last located.

b. Describe the information that must be included in a claim and provide a mailing address where the claim may be sent.

c. State that a claim against the corporation will be barred unless a proceeding to enforce the claim is commenced within five years after publication of the notice.

3. If the dissolved corporation publishes a newspaper notice in accordance with subsection 2, the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within five years after the publication date of the newspaper notice:

a. A claimant who did not receive written notice under section 504.1406.

b. A claimant whose claim was timely sent to the dissolved corporation but not acted on.

c. A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

4. A claim may be enforced under this section to the following extent, as applicable:

a. Against the dissolved corporation, to the extent of its undistributed assets.

b. If the assets have been distributed in liquidation, against any person, other than a creditor of the corporation, to whom the corporation distributed its property to the extent of the distributee's pro rata share of the claim or the corporate assets distributed to such person in liquidation, whichever is less, but the distributee's total liability for all claims under this section shall not exceed the total amount of assets distributed to the distributee.

2004 Acts, ch 1049, §143, 192
Referred to in §504.1422, 504.1434

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504.1408 through 504.1420 Reserved.

PART 2

ADMINISTRATIVE DISSOLUTION

504.1421 Grounds for administrative dissolution.

The secretary of state may commence a proceeding under section 504.1422 to administratively dissolve a corporation if any of the following occurs:

1. The corporation does not deliver its biennial report to the secretary of state, in a form that meets the requirements of section 504.1613, within sixty days after the report is due.
2. The corporation is without a registered agent or registered office in this state for sixty days or more.
3. The corporation does not notify the secretary of state within sixty days that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued.
4. The corporation's period of duration, if any, stated in its articles of incorporation expires.
5. The corporation concedes that the corporation has violated a provision or provisions of this chapter that are the subjects of the interrogatories served on the corporation pursuant to section 504.1621B.

2004 Acts, ch 1049, §144, 192; 2026 Acts, ch 1145, §45
Referred to in §504.1422
NEW subsection 5

504.1422 Procedure for and effect of administrative dissolution.

1. Upon determining that one or more grounds exist under section 504.1421, subsections 1 through 4, for dissolving a corporation, the secretary of state shall serve the corporation with written notice of that determination under section 504.504.
2. Except as specified in subsection 6, the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within at least sixty days after service of notice is perfected under section 504.504, the secretary of state may administratively dissolve the corporation by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The secretary of state shall file the original of the certificate of dissolution and serve a copy on the corporation under section 504.504.
3. A corporation that is administratively dissolved continues its corporate existence but shall not carry on any activities except those necessary to wind up and liquidate its affairs pursuant to section 504.1405 and notify its claimants pursuant to sections 504.1406 and 504.1407.
4. The administrative dissolution of a corporation does not terminate the authority of its registered agent.
5. The secretary of state's administrative dissolution of a corporation pursuant to this section appoints the secretary of state as the corporation's agent for service of process in any proceeding based on a cause of action which arose during the time the corporation was authorized to transact business in this state. Service of process on the secretary of state under this subsection is service on the corporation. Upon receipt of process, the secretary of state shall serve a copy of the process on the corporation as provided in section 504.504. This subsection does not preclude service on the corporation's registered agent, if any.
6. If the corporation concedes that the corporation has violated a provision or provisions of this chapter that are the subjects of the interrogatories served on the corporation pursuant to section 504.1621B, the secretary of state may immediately administratively dissolve the corporation by signing a certificate of dissolution that recites the ground or grounds for

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dissolution and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the corporation under section 504.504.

2004 Acts, ch 1049, §145, 192; 2004 Acts, ch 1175, §386; 2026 Acts, ch 1145, §46, 47
Referred to in §504.1421, 504.1423
Subsections 1 and 2 amended
NEW subsection 6

504.1423 Reinstatement following administrative dissolution.

1. A corporation administratively dissolved under section 504.1422 may apply to the secretary of state for reinstatement at any time after the effective date of dissolution. The application must state all of the following:

a. The name of the corporation and the effective date of its administrative dissolution.

b. That the ground or grounds for dissolution either did not exist or have been eliminated.

c. If the application is received more than five years after the effective date of dissolution, state the corporation's name satisfies the requirements of section 504.401.

2. *a.* If the secretary of state determines that the application contains the information required by subsection 1, and that the information is correct, the secretary of state shall cancel the certificate of dissolution and prepare a certificate of reinstatement reciting that determination and the effective date of reinstatement, file the document, and deliver a copy to the corporation under section 504.504.

b. If the corporate name in subsection 1, paragraph *"c"*, is different from the corporate name in subsection 1, paragraph *"a"*, the certificate of reinstatement shall constitute an amendment to the articles of incorporation insofar as it pertains to the corporate name. A corporation shall not relinquish the right to retain its corporate name if the reinstatement is effective within five years of the effective date of the corporation's dissolution.

3. When reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the corporation shall resume carrying on its activities as if the administrative dissolution had never occurred.

2004 Acts, ch 1049, §146, 192; 2006 Acts, ch 1089, §58 – 60; 2010 Acts, ch 1040, §5; 2020 Acts, ch 1118, §27; 2024 Acts, ch 1048, §4
Referred to in §488.108, 490.401, 504.401, 504.403

504.1424 Appeal from denial of reinstatement.

1. The secretary of state, upon denying a corporation's application for reinstatement following administrative dissolution, shall serve the corporation under section 504.504 with a written notice that explains the reason or reasons for denial.

2. The corporation may appeal the denial of reinstatement to the district court within ninety days after service of the notice of denial is perfected by petitioning to set aside the dissolution and attaching to the petition copies of the secretary of state's certificate of dissolution, the corporation's application for reinstatement, and the secretary of state's notice of denial of reinstatement.

3. The court may summarily order the secretary of state to reinstate the dissolved corporation or may take other action the court considers appropriate.

4. The court's final decision may be appealed as in other civil proceedings.

2004 Acts, ch 1049, §147, 192

504.1425 through 504.1430 Reserved.

PART 3

JUDICIAL DISSOLUTION

504.1431 Grounds for judicial dissolution.

1. The district court may dissolve a corporation in any of the following ways:

a. In a proceeding brought by the attorney general, if any of the following is established:

(1) The corporation obtained its articles of incorporation through fraud.

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(2) The corporation has continued to exceed or abuse the authority conferred upon it by law.

b. Except as provided in the articles or bylaws of a religious corporation, in a proceeding brought by fifty members or members holding five percent of the voting power, whichever is less, or by a director or any person specified in the articles, if any of the following is established:

(1) The directors are deadlocked in the management of the corporate affairs, and the members, if any, are unable to break the deadlock.

(2) The directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent.

(3) The members are deadlocked in voting power and have failed, for a period that includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have, or would otherwise have, expired.

(4) The corporate assets are being misapplied or wasted.

c. In a proceeding brought by a creditor, if either of the following is established:

(1) The creditor's claim has been reduced to judgment, the execution on the judgment is returned unsatisfied, and the corporation is insolvent.

(2) The corporation has admitted in writing that the creditor's claim is due and owing and the corporation is insolvent.

d. In a proceeding brought by the corporation to have its voluntary dissolution continued under court supervision.

2. Prior to dissolving a corporation, the court shall consider whether:

a. There are reasonable alternatives to dissolution.

b. Dissolution is in the public interest, if the corporation is a public benefit corporation.

c. Dissolution is the best way of protecting the interests of members, if the corporation is a mutual benefit corporation.

2004 Acts, ch 1049, §148, 192

Referred to in §504.1432, 504.1434

504.1432 Procedure for judicial dissolution.

1. Venue for a proceeding brought by the attorney general to dissolve a corporation lies in Polk county. Venue for a proceeding brought by any other party named in section 504.1431 lies in the county where a corporation's principal office is located or, if none is located in this state, where its registered office is or was last located.

2. It is not necessary to make directors or members parties to a proceeding to dissolve a corporation unless relief is sought against them individually.

3. A court in a proceeding brought to dissolve a corporation may issue injunctions, appoint a receiver or custodian pendente lite with all powers and duties the court directs, take other action required to preserve the corporate assets wherever located, or carry on the activities of the corporation until a full hearing can be held.

2004 Acts, ch 1049, §149, 192

504.1433 Receivership or custodianship.

1. A court in a judicial proceeding brought to dissolve a public benefit or mutual benefit corporation may appoint one or more receivers to wind up and liquidate, or one or more custodians to manage, the affairs of the corporation. The court shall hold a hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a receiver or custodian. The court appointing a receiver or custodian has exclusive jurisdiction over the corporation and all of its property wherever located.

2. The court may appoint an individual, or a domestic or foreign business or nonprofit corporation authorized to transact business in this state, as a receiver or custodian. The court may require the receiver or custodian to post bond, with or without sureties, in an amount the court directs.

3. The court shall describe the powers and duties of the receiver or custodian in its appointing order, which may be amended, including the following:

a. The receiver or custodian may dispose of all or any part of the assets of the corporation

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wherever located, at a public or private sale, if authorized by the court. However, the receiver's or custodian's power to dispose of the assets of the corporation is subject to any trust and other restrictions that would be applicable to the corporation. The receiver or custodian may sue and defend in the receiver's or custodian's name as receiver or custodian of the corporation, as applicable, in all courts of this state.

b. The custodian may exercise all of the powers of the corporation, through or in place of its board of directors or officers, to the extent necessary to manage the affairs of the corporation in the best interests of its members and creditors.

4. The court during a receivership may redesignate the receiver a custodian, and during a custodianship may redesignate the custodian a receiver, if doing so is in the best interests of the corporation, its members, and creditors.

5. The court during the receivership or custodianship may order compensation paid and expense disbursements or reimbursements made to the receiver or custodian and to the receiver's or custodian's attorney from the assets of the corporation or proceeds from the sale of the assets.

2004 Acts, ch 1049, §150, 192

504.1434 Decree of dissolution.

1. If after a hearing the court determines that one or more grounds for judicial dissolution described in section 504.1431 exist, the court may enter a decree dissolving the corporation and specifying the effective date of the dissolution, and the clerk of the court shall deliver a certified copy of the decree to the secretary of state, who shall file it.

2. After entering the decree of dissolution, the court shall direct the winding up of the corporation's affairs and liquidation of the corporation in accordance with section 504.1405 and the notification of its claimants in accordance with sections 504.1406 and 504.1407.

2004 Acts, ch 1049, §151, 192
Referred to in §602.8102(70)

504.1435 through 504.1440 Reserved.

PART 4

MISCELLANEOUS

504.1441 Deposit with state treasurer.

Assets of a dissolved corporation which should be transferred to a creditor, claimant, or member of the corporation who cannot be found or who is not competent to receive them shall be reduced to cash subject to known trust restrictions and deposited with the treasurer of state for safekeeping. However, in the treasurer of state's discretion, property may be received and held in kind. When the creditor, claimant, or member furnishes satisfactory proof of entitlement to the amount deposited or property held in kind, the treasurer of state shall deliver to the creditor, member, or other person or to the representative of the creditor, member, or other person that amount or property.

2004 Acts, ch 1049, §152, 192

504.1442 through 504.1500 Reserved.

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SUBCHAPTER XV

FOREIGN CORPORATIONS

Referred to in §504.111

PART 1

CERTIFICATE OF AUTHORITY

504.1501 Authority to transact business required.

1. A foreign corporation shall not transact business in this state until it obtains a certificate of authority from the secretary of state.

2. The following activities, among others, do not constitute transacting business within the meaning of subsection 1:

a. Maintaining, defending, or settling any proceeding.

b. Holding meetings of the board of directors or members or carrying on other activities concerning internal corporate affairs.

c. Maintaining bank accounts.

d. Maintaining offices or agencies for the transfer, exchange, or registration of memberships or securities or maintaining trustees or depositaries with respect to those securities.

e. Selling through independent contractors.

f. Soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts.

g. Creating or acquiring indebtedness, mortgages, or security interests in real or personal property.

h. Securing or collecting debts or enforcing mortgages or security interests in property securing the debts.

i. Owning, without more, real or personal property.

j. Conducting an isolated transaction that is completed within thirty days and that is not one in the course of repeated transactions of a like nature.

k. Transacting business in interstate commerce.

2004 Acts, ch 1049, §153, 192

504.1502 Consequences of transacting business without authority.

1. A foreign corporation transacting business in this state without a certificate of authority shall not maintain a proceeding in any court in this state until it obtains a certificate of authority.

2. The successor to a foreign corporation that transacted business in this state without a certificate of authority and the assignee of a cause of action arising out of that business shall not maintain a proceeding on that cause of action in any court in this state until the foreign corporation or its successor obtains a certificate of authority.

3. A court may stay a proceeding commenced by a foreign corporation, its successor, or assignee until the court determines whether the foreign corporation or its successor requires a certificate of authority. If it so determines, the court may further stay the proceeding until the foreign corporation or its successor obtains the certificate.

4. A foreign corporation is liable for a civil penalty of an amount not to exceed a total of one thousand dollars if it transacts business in this state without a certificate of authority. The attorney general may collect all penalties due under this subsection.

5. Notwithstanding subsections 1 and 2, the failure of a foreign corporation to obtain a certificate of authority does not impair the validity of its corporate acts or prevent it from defending any proceeding in this state.

2004 Acts, ch 1049, §154, 192

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504.1503 Application for certificate of authority.

1. A foreign corporation may apply for a certificate of authority to transact business in this state by delivering an application to the secretary of state. The application must set forth all of the following:

a. The name of the foreign corporation or, if its name is unavailable for use in this state, a corporate name that satisfies the requirements of section 504.1506.

b. The name of the state or country under whose law it is incorporated.

c. The date of incorporation and period of duration.

d. The address of its principal office.

e. The address of its registered office in this state and the name of its registered agent at that office.

f. The names and usual business or home addresses of its current directors and officers.

g. Whether the foreign corporation has members.

2. The foreign corporation shall deliver the completed application to the secretary of state, and shall also deliver to the secretary of state a certificate of existence or a document of similar import duly authenticated by the secretary of state or other official having custody of corporate records in the state or country under whose law it is incorporated which is dated no earlier than ninety days prior to the date the application is filed with the secretary of state.

2004 Acts, ch 1049, §155, 192

Referred to in §504.1504

504.1504 Amended certificate of authority.

1. A foreign corporation authorized to transact business in this state shall obtain an amended certificate of authority from the secretary of state if it changes any of the following:

a. Its corporate name.

b. The period of its duration.

c. The state or country of its incorporation.

2. The requirements of section 504.1503 for obtaining an original certificate of authority apply to obtaining an amended certificate under this section.

2004 Acts, ch 1049, §156, 192

Referred to in §504.1506

504.1505 Effect of certificate of authority.

1. A certificate of authority authorizes the foreign corporation to which it is issued to transact business in this state subject, however, to the right of the state to revoke the certificate as provided in this chapter.

2. A foreign corporation with a valid certificate of authority has the same rights and has the same privileges as and, except as otherwise provided by this chapter, is subject to the same duties, restrictions, penalties, and liabilities now or later imposed on a domestic corporation of like character.

3. This chapter does not authorize this state to regulate the organization or internal affairs of a foreign corporation authorized to transact business in this state.

2004 Acts, ch 1049, §157, 192

504.1506 Corporate name of foreign corporation.

1. If the corporate name of a foreign corporation does not satisfy the requirements of section 504.401, the foreign corporation, to obtain or maintain a certificate of authority to transact business in this state, may use a fictitious name to transact business in this state if the corporation's real name is unavailable and it delivers to the secretary of state for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.

2. Except as authorized by subsections 3 and 4, the corporate name of a foreign corporation, including a fictitious name, must be distinguishable upon the records of the secretary of state from all of the following:

a. The corporate name of a nonprofit or business corporation incorporated or authorized to transact business in this state.

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b. A corporate name reserved, registered, or protected as provided in section 490.402 or 490.403 or section 504.402 or 504.403.

c. The fictitious name of another foreign business or nonprofit corporation authorized to transact business in this state.

3. A foreign corporation may apply to the secretary of state for authorization to use in this state the name of another corporation incorporated or authorized to transact business in this state that is not distinguishable upon the records of the secretary of state from the name applied for. The secretary of state shall authorize use of the name applied for if either of the following applies:

a. The other corporation consents to the use in writing and submits an undertaking in a form satisfactory to the secretary of state to change its name to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation.

b. The applicant delivers to the secretary of state a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

4. A foreign corporation may use in this state the name, including the fictitious name, of another domestic or foreign business or nonprofit corporation that is used in this state if the other corporation is incorporated or authorized to transact business in this state and the foreign corporation has filed documentation satisfactory to the secretary of state of the occurrence of any of the following:

a. The foreign corporation has merged with the other corporation.

b. The foreign corporation has been formed by reorganization of the other corporation.

c. The foreign corporation has acquired all or substantially all of the assets, including the corporate name, of the other corporation.

5. If a foreign corporation authorized to transact business in this state changes its corporate name to one that does not satisfy the requirements of section 504.401, it shall not transact business in this state under the changed name until it adopts a name satisfying the requirements of section 504.401 and obtains an amended certificate of authority under section 504.1504.

2004 Acts, ch 1049, §158, 192; 2006 Acts, ch 1089, §61
Referred to in §504.403, 504.1503

504.1507 Registered office and registered agent of foreign corporation.

Each foreign corporation authorized to transact business in this state shall continuously maintain in this state both of the following:

1. A registered office with the same address as that of its registered agent.

2. A registered agent, who may be any of the following:

a. An individual who resides in this state and whose office is identical to the registered office.

b. A domestic business or nonprofit corporation whose office is identical to the registered office.

c. A foreign business or nonprofit corporation authorized to transact business in this state whose office is identical to the registered office.

2004 Acts, ch 1049, §159, 192

504.1508 Change of registered office or registered agent of foreign corporation.

1. A foreign corporation authorized to transact business in this state may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth all of the following that apply:

a. The name of its registered office or registered agent.

b. If the current registered office is to be changed, the address of its new registered office.

c. If the current registered agent is to be changed, the name of its new registered agent and the new agent's written consent to the appointment, either on the statement or attached to it.

d. That after the change or changes are made, the addresses of its registered office and the office of its registered agent will be identical.

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2. If a registered agent changes the address of its business office, the agent may change the address of the registered office of any foreign corporation for which the agent is the registered agent by notifying the corporation in writing of the change and signing either manually or in facsimile and delivering to the secretary of state for filing a statement of change that complies with the requirements of subsection 1 and recites that the corporation has been notified of the change.

3. If a registered agent changes the registered agent's business address to another place, the registered agent may change the address of the registered office of any corporation for which the registered agent is the registered agent by filing a statement as required in subsection 2 for each corporation, or by filing a single statement for all corporations named in the notice, except that it must be signed either manually or in facsimile only by the registered agent and must recite that a copy of the statement has been mailed to each corporation named in the notice.

4. A corporation may also change its registered office or registered agent in its biennial report as provided in section 504.1613.

2004 Acts, ch 1049, §160, 192
Referred to in §9.11, 504.1531

504.1509 Resignation of registered agent of foreign corporation.

1. *a.* The registered agent of a foreign corporation may resign as agent by signing and delivering to the secretary of state for filing the original statement of resignation. The statement of resignation may include a statement that the registered office is also discontinued.

b. The registered agent shall send a copy of the statement of resignation by certified mail to the corporation at its principal office and to the registered office, if not discontinued. The registered agent shall certify to the secretary of state that the copies have been sent to the corporation, including the date the copies were sent.

2. A statement of resignation takes effect on the earlier of the following:

a. 12:01 a.m. on the thirty-first day after the day on which it is filed with the secretary of state.

b. The designation of a new registered agent for the foreign corporation.

2004 Acts, ch 1049, §161, 192; 2012 Acts, ch 1023, §157; 2020 Acts, ch 1058, §11
Referred to in §504.111, 504.1531

504.1510 Service on foreign corporation.

1. The registered agent of a foreign corporation authorized to transact business in this state is the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the foreign corporation.

2. A foreign corporation may be served by registered or certified mail, return receipt requested, addressed to the secretary of the foreign corporation at its principal office shown in its application for a certificate of authority or in its most recent biennial report filed under section 504.1613 if any of the following conditions apply:

a. The foreign corporation has no registered agent or its registered agent cannot with reasonable diligence be served.

b. The foreign corporation has withdrawn from transacting business in this state under section 504.1521.

c. The foreign corporation has had its certificate of authority revoked under section 504.1532.

3. Service is perfected under subsection 2 at the earliest of any of the following:

a. The date the foreign corporation receives the mail.

b. The date shown on the return receipt, if signed on behalf of the foreign corporation.

c. Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

4. This section does not prescribe the only means, or necessarily the required means, of

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serving a foreign corporation. A foreign corporation may also be served in any other manner permitted by law.

2004 Acts, ch 1049, §162, 192
Referred to in §504.116, 504.1532, 504.1533

504.1511 through 504.1520 Reserved.

PART 2

WITHDRAWAL

504.1521 Withdrawal of foreign corporation.

1. A foreign corporation authorized to transact business in this state shall not withdraw from this state until it obtains a certificate of withdrawal from the secretary of state.

2. A foreign corporation authorized to transact business in this state may apply for a certificate of withdrawal by delivering an application to the secretary of state for filing. The application shall set forth all of the following:

a. The name of the foreign corporation and the name of the state or country under whose law it is incorporated.

b. That it is not transacting business in this state and that it surrenders its authority to transact business in this state.

c. That it revokes the authority of its registered agent to accept service on its behalf and appoints the secretary of state as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to do business in this state.

d. A mailing address to which the secretary of state may mail a copy of any process served on the secretary of state under paragraph "*c*".

3. After the withdrawal of the corporation is effective, service of process on the secretary of state under this section is service on the foreign corporation. Upon receipt of process, the secretary of state shall mail a copy of the process to the foreign corporation at the mailing address set forth in its application for withdrawal.

2004 Acts, ch 1049, §163, 192
Referred to in §9.11, 504.1510

504.1522 through 504.1530 Reserved.

PART 3

REVOCATION OF CERTIFICATE
OF AUTHORITY

504.1531 Grounds for revocation.

1. The secretary of state may commence a proceeding under section 504.1532 to revoke the certificate of authority of a foreign corporation authorized to transact business in this state if any of the following applies:

a. The foreign corporation does not deliver the biennial report to the secretary of state in a form that meets the requirements of section 504.1613 within sixty days after it is due.

b. The foreign corporation is without a registered agent or registered office in this state for sixty days or more.

c. The foreign corporation does not inform the secretary of state under section 504.1508 or 504.1509 that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued within ninety days of the change, resignation, or discontinuance.

d. An incorporator, director, officer, or agent of the foreign corporation signed a document that such person knew was false in any material respect with intent that the document be delivered to the secretary of state for filing.

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e. The secretary of state receives a duly authenticated certificate from the secretary of state or other official having custody of corporate records in the state or country under whose law the foreign corporation is incorporated, stating that it has been dissolved or disappeared as the result of a merger.

2. The attorney general may commence a proceeding under section 504.1532 to revoke the certificate of authority of a foreign corporation authorized to transact business in this state if the corporation has continued to exceed or abuse the authority conferred upon it by law.

2004 Acts, ch 1049, §164, 192
Referred to in §504.1532

504.1532 Procedure for and effect of revocation.

1. The secretary of state, upon determining that one or more grounds exist under section 504.1531 for revocation of a certificate of authority, shall serve the foreign corporation with written notice of that determination under section 504.1510.

2. The attorney general, upon determining that one or more grounds exist under section 504.1531, subsection 2, for revocation of a certificate of authority, shall request the secretary of state to serve, and the secretary of state shall serve, the foreign corporation with written notice of that determination under section 504.1510.

3. If the foreign corporation does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the secretary of state or attorney general that each ground for revocation determined by the secretary of state or attorney general does not exist within sixty days after service of the notice is perfected under section 504.1510, the secretary of state may revoke the foreign corporation's certificate of authority by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the foreign corporation under section 504.1510.

4. The authority of a foreign corporation to transact business in this state ceases on the date shown on the certificate revoking its certificate of authority.

5. The secretary of state's revocation of a foreign corporation's certificate of authority appoints the secretary of state the foreign corporation's agent for service of process in any proceeding based on a cause of action that arose during the time the foreign corporation was authorized to transact business in this state. Service of process on the secretary of state under this subsection is service on the foreign corporation. Upon receipt of process, the secretary of state shall mail a copy of the process to the secretary of the foreign corporation at its principal office shown in its most recent biennial report or in any subsequent communications received from the corporation stating the current mailing address of its principal office or, if none are on file, in its application for a certificate of authority.

6. Revocation of a foreign corporation's certificate of authority does not terminate the authority of the registered agent of the corporation.

2004 Acts, ch 1049, §165, 192
Referred to in §504.1510, 504.1531

504.1533 Appeal from revocation.

1. A foreign corporation may appeal the secretary of state's revocation of its certificate of authority to the district court within thirty days after the service of the certificate of revocation is perfected under section 504.1510 by petitioning to set aside the revocation and attaching to the petition copies of its certificate of authority and the secretary of state's certificate of revocation.

2. The court may summarily order the secretary of state to reinstate the certificate of authority or may take any other action the court considers appropriate.

3. The court's final decision may be appealed as in other civil proceedings.

2004 Acts, ch 1049, §166, 192

504.1534 through 504.1600 Reserved.

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SUBCHAPTER XVI

RECORDS AND REPORTS

PART 1

RECORDS

504.1601 Corporate records.

1. A corporation shall keep as permanent records minutes of all meetings of its members and board of directors, a record of all actions taken by the members or directors without a meeting, and a record of all actions taken by committees of the board of directors as authorized by section 504.826, subsection 4.

2. A corporation shall maintain appropriate accounting records.

3. A corporation or its agent shall maintain a record of its members in a form that permits preparation of a list of the names and addresses of all members, in alphabetical order by class, showing the number of votes each member is entitled to vote.

4. A corporation shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

5. A corporation shall keep a copy of all of the following records:

a. Its articles or restated articles of incorporation and all amendments to them currently in effect.

b. Its bylaws or restated bylaws and all amendments to them currently in effect.

c. Resolutions adopted by its board of directors relating to the characteristics, qualifications, rights, limitations, and obligations of members or any class or category of members.

d. The minutes of all meetings of members and records of all actions approved by the members for the past three years.

e. All written communications to members generally within the past three years, including the financial statements furnished for the past three years under section 504.1611.

f. A list of the names and business or home addresses of its current directors and officers.

g. Its most recent biennial report delivered to the secretary of state under section 504.1613.

2004 Acts, ch 1049, §167, 192

Referred to in §504.1602

504.1602 Inspection of records by members.

1. Subject to subsection 5, a member is entitled to inspect and copy, at a reasonable time and location specified by the corporation, any of the records of the corporation described in section 504.1601, subsection 5, if the member gives the corporation written notice or a written demand at least five business days before the date on which the member wishes to inspect and copy.

2. Subject to subsections 5 and 6, a member is entitled to inspect and copy, at a reasonable time and reasonable location specified by the corporation, any of the following records of the corporation if the member meets the requirements of subsection 3 and gives the corporation written notice at least ten business days before the date on which the member wishes to inspect and copy:

a. Excerpts from any records required to be maintained under section 504.1601, subsection 1, to the extent not subject to inspection under subsection 1 of this section.

b. Accounting records of the corporation.

c. The membership list.

3. A member may inspect and copy the records identified in subsection 2 only if all of the following apply:

a. The member's demand is made in good faith and for a proper purpose.

b. The member describes with reasonable particularity the purpose of the demand and the records the member desires to inspect.

c. The records are directly connected to the purpose described.

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d. The board consents, if consent is required by section 504.1605.

4. This section does not affect either of the following:

a. The right of a member to inspect records under section 504.711 or, if the member is in litigation with the corporation, to the same extent as any other litigant.

b. The power of a court, independently of this chapter, to compel the production of corporate records for examination.

5. The articles or bylaws of a religious corporation may limit or abolish the right of a member under this section to inspect and copy any corporate record.

6. A corporation may, within ten business days after receiving a demand for inspection of a membership list under section 504.711 or subsection 2 of this section, respond to the demand with a written proposal offering a reasonable alternative to the demand for inspection that will achieve the purpose of the demand without providing access to or a copy of the membership list. A proposal offering an alternative that reasonably and in a timely manner accomplishes a proper purpose identified in a demand for inspection shall be considered to offer a reasonable alternative. A proposal for a reasonable alternative that has been accepted by the person making the demand for inspection shall cease to be considered a reasonable alternative if the terms of the proposal are not carried out by the corporation within a reasonable time after acceptance of the proposal. For the purposes of this subsection, a reasonable alternative may include, but is not limited to, a communication prepared by a member and mailed by the corporation at the expense of the member.

2004 Acts, ch 1049, §168, 192

Referred to in §504.711, 504.1603, 504.1604

504.1603 Scope of inspection right.

1. A member's agent or attorney has the same inspection and copying rights as the member the agent or attorney represents.

2. The right to copy records under section 504.1602 includes, if reasonable, the right to receive copies made by photographic, xerographic, or other means.

3. The corporation may impose a reasonable charge, covering the costs of labor and material, for copies of any documents provided to the member. The charge shall not exceed the estimated cost of production or reproduction of the records.

4. The corporation may comply with a member's demand to inspect the record of members under section 504.1602, subsection 2, paragraph "*c*", by providing the member with a list of its members that was compiled no earlier than the date of the member's demand.

2004 Acts, ch 1049, §169, 192

504.1604 Court-ordered inspection.

1. If a corporation does not allow a member who complies with section 504.1602, subsection 1, to inspect and copy any records required by that subsection to be available for inspection, the district court in the county where the corporation's principal office is located or, if none is located in this state, where its registered office is located, may summarily order inspection and copying of the records demanded at the corporation's expense upon application of the member.

2. If a corporation does not within a reasonable time allow a member to inspect and copy any other records, or propose a reasonable alternative to such inspection and copying, the member who complies with section 504.1602, subsections 2 and 3, may apply to the district court in the county where the corporation's principal office is located or, if none is located in this state, where its registered office is located, for an order to permit inspection and copying of the records demanded. The court shall dispose of an application under this subsection on an expedited basis.

3. If the court orders inspection and copying of the records demanded or other relief deemed appropriate by the court, it shall also order the corporation to pay the member's costs, including reasonable attorney fees incurred, to obtain the order unless the corporation proves that it refused inspection in good faith because it had a reasonable basis for doubt about the right of the member to inspect the records demanded.

4. If the court orders inspection and copying of the records demanded or other relief

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deemed appropriate by the court, it may impose reasonable restrictions on the use or distribution of the records by the demanding member.

5. If the court orders inspection of records containing personal information as defined in section 22A.1, such inspection shall be made under seal from public disclosure. A person who violates this subsection is subject to civil penalties under section 22A.3. A person who knowingly violates this subsection is subject to criminal penalties under section 22A.4.

2004 Acts, ch 1049, §170, 192; 2021 Acts, ch 120, §7
Referred to in §22A.3, 22A.4

504.1605 Limitations on use of corporate records.

Without consent of the board, no corporate record may be obtained or used by any person for any purpose unrelated to a member's interest as a member. Without limiting the generality of the foregoing, without the consent of the board, corporate records, including without limitation a membership list or any part thereof, shall not be used for any of the following:

1. To solicit money or property unless such money or property will be used solely to solicit the votes of the members in an election to be held by the corporation.
2. For any commercial purpose.
3. For sale to or purchase by any person.
4. For any purpose that is detrimental to the interests of the corporation.
5. To obtain personal information as defined in section 22A.1. A person who violates this subsection is subject to civil penalties under section 22A.3. A person who knowingly violates this subsection is subject to criminal penalties under section 22A.4.

2004 Acts, ch 1049, §171, 192; 2021 Acts, ch 120, §8
Referred to in §22A.3, 22A.4, 504.711, 504.1602

504.1606 Inspection of records by directors.

1. A director of a corporation is entitled to inspect and copy the books, records, and documents of the corporation at any reasonable time to the extent reasonably related to the performance of the director's duties as a director, including duties as a member of a committee, but not for any other purpose or in any manner that would violate any duty to the corporation.
2. The district court of the county where the corporation's principal office, or if none in this state, its registered office, is located may order inspection and copying of the books, records, and documents at the corporation's expense, upon application of a director who has been refused such inspection rights, unless the corporation establishes that the director is not entitled to such inspection rights. The court shall dispose of an application under this subsection on an expedited basis.
3. If an order is issued, the court may include provisions protecting the corporation from undue burden or expense and prohibiting the director from using information obtained upon exercise of the inspection rights in a manner that would violate a duty to the corporation, and may also order the corporation to reimburse the director for the director's costs, including reasonable counsel fees, incurred in connection with the application.

2004 Acts, ch 1049, §172, 192

504.1607 Exception to notice requirement.

1. Whenever notice is required to be given under any provision of this chapter to any member, such notice shall not be required to be given if notice of two consecutive annual meetings, and all notices of meetings during the period between such two consecutive annual meetings, have been sent to the member at the member's address as shown on the records of the corporation and have been returned as undeliverable.
2. If the member delivers to the corporation a written notice setting forth the member's then-current address, the requirement that notice be given to the member shall be reinstated.

2006 Acts, ch 1089, §62

504.1608 through 504.1610 Reserved.

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PART 2

REPORTS

504.1611 Financial statements for members.

1. Except as provided in the articles or bylaws of a religious corporation, a corporation upon written demand from a member shall furnish that member the corporation's latest annual financial statements, which may be consolidated or combined statements of the corporation and one or more of its subsidiaries or affiliates, as appropriate, that include a balance sheet as of the end of the fiscal year and a statement of operations for that year.

2. If annual financial statements are reported upon by a public accountant, the accountant's report must accompany them.

2004 Acts, ch 1049, §173, 192

Referred to in §504.1601

504.1612 Report of indemnification to members.

If a corporation indemnifies or advances expenses to a director under section 504.852, 504.853, 504.854, or 504.855 in connection with a proceeding by or in the right of the corporation, the corporation shall report the indemnification or advance in writing to the members with or before the notice of the next meeting of members.

2004 Acts, ch 1049, §174, 192

504.1613 Biennial report for secretary of state.

1. Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall deliver to the secretary of state for filing a biennial report on a form prescribed and furnished by the secretary of state that sets forth all of the following:

a. The name of the corporation and the state or country under whose law it is incorporated.

b. The address of the corporation's registered office and the name of the corporation's registered agent at that office in this state, together with the consent of any new registered agent.

c. The address of the corporation's principal office.

d. The names and addresses of the president, secretary, treasurer, and one member of the board of directors.

e. Whether or not the corporation has members.

2. The information in the biennial report must be current on the date the biennial report is executed on behalf of the corporation.

3. The first biennial report shall be delivered to the secretary of state between January 1 and April 1 of the first odd-numbered year following the calendar year in which a domestic corporation was incorporated or a foreign corporation was authorized to transact business. Subsequent biennial reports must be delivered to the secretary of state between January 1 and April 1 of the following odd-numbered calendar years.

4. *a.* If a biennial report does not contain the information required by this section, the secretary of state shall promptly notify the reporting domestic or foreign corporation in writing and return the report to the corporation for correction.

b. A filing fee for the biennial report shall be determined by the secretary of state.

c. For purposes of this section, each biennial report shall contain information related to the two-year period immediately preceding the calendar year in which the report is filed.

5. The secretary of state may provide for the change of registered office or registered agent on the form prescribed by the secretary of state for the biennial report, provided that the form contains the information required in section 504.502 or 504.503. If the secretary of state determines that a biennial report does not contain the information required by this section but otherwise meets the requirements of section 504.502 or 504.503 for the purpose of changing the registered office or registered agent, the secretary of state shall file the statement of change of registered office or registered agent, effective as provided in section 504.114, before returning the biennial report to the corporation as provided in this section. A statement of

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change of registered office or agent pursuant to this subsection shall be executed by a person authorized to execute the biennial report.

2004 Acts, ch 1049, §175, 192
Referred to in §497.22, 498.24, 499.49, 504.111, 504.116, 504.119, 504.141, 504.504, 504.1421, 504.1508, 504.1510, 504.1531, 504.1601

504.1614 through 504.1620 Reserved.

PART 3

STATEMENTS OF REMOVAL AND INTERROGATORIES

504.1621 Reserved.

504.1621A Statement of removal — removal of information not authorized to be provided.

1. *a.* A person whose name, street address, mailing address, or email address has, without that person's authorization, been provided to the secretary of state as that of the registered agent or of the principal office in a domestic or foreign corporation filing may deliver to the secretary of state a notarized, sworn affidavit of unauthorized use that does all of the following:

(1) Identifies the domestic or foreign corporation registration by name and business number.

(2) Indicates the affiant's mailing address.

(3) States that neither the affiant nor any agent of the affiant has authorized the filing identifying the affiant as the registered agent, providing the affiant's street address or mailing address as an address of the registered agent or principal office, or providing the affiant's email address as that of the registered agent.

b. The affiant shall specify in the affidavit of unauthorized use the information that was not authorized to be provided.

c. The secretary of state may reject an affidavit of unauthorized use that is incomplete or that the secretary of state believes was delivered to the secretary of state with the intent to harass or defraud the domestic or foreign corporation or the individual named as affiant.

d. The office of the secretary of state shall adopt an affidavit of unauthorized use form in accordance with this section.

2. The secretary of state shall conduct an administrative review to determine whether the filing was authorized to identify the stated information as applicable.

3. If the secretary of state concludes that the filing was not authorized to provide the information identified in the affidavit, the secretary of state shall promptly file a statement of removal with respect to the identified information, and shall promptly cause the identified information to cease to be listed as identified for the domestic or foreign corporation.

4. The secretary of state shall not charge a fee for the filing of an affidavit of unauthorized use under subsection 1 or a statement of removal under subsection 3. The filing office shall not return any fee paid for filing the domestic or foreign corporation filing identified in the affidavit.

5. Upon filing a statement of removal, the secretary of state shall send to the principal office address or registered agent's mailing address on record for the domestic or foreign corporation, if any, a notice stating that the statement of removal has been filed and is effective immediately. The notice shall also state that the corporation is without a registered agent or registered agent address, as applicable.

6. The secretary of state shall adopt rules pursuant to chapter 17A necessary or desirable to administer this section.

2026 Acts, ch 1145, §48
Referred to in §504.116, 504.1621B
NEW section

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504.1621B Interrogatories.

1. *a.* The secretary of state may serve one or more written interrogatories regarding any matter that pertains to a domestic or foreign corporation and that is within the purview of the secretary of state if the secretary of state receives credible information that a corporation is being used to accomplish a fraudulent, criminal, or unlawful purpose.

b. As used in paragraph *"a"*, *"credible information"* means any of the following:

(1) An affidavit of unauthorized use as provided in section 504.1621A.

(2) Information provided to the secretary of state by another government agency.

(3) Information collected by the secretary of state from a credible third-party data set.

2. The secretary of state shall serve such interrogatories on the domestic or foreign corporation that is the subject of the interrogatories by mail at the address of the registered agent that appears on the secretary of state's records at the time the information required by subsection 1 is received, or if the corporation has no registered agent, at the corporation's principal office address shown on the corporation's most recent biennial report filed with the secretary of state.

3. The interrogatories must be answered by a person with the authority to answer on behalf of the domestic or foreign corporation that is the subject of the interrogatories. Each interrogatory must be answered in writing separately and in a manner that is responsive to the interrogatories. The declaration on the completed interrogatories form must be signed by a person with the authority to sign on behalf of the corporation.

4. To be considered responsive, the completed and signed interrogatories form must be received by the secretary of state by mail or in-person delivery within twenty-one calendar days after the form was mailed.

5. A response to any interrogatory that indicates to the secretary of state that the domestic or foreign corporation violated any provision of this chapter constitutes the corporation's concession to such violation.

6. A failure to respond to any interrogatory within the allotted time constitutes the domestic or foreign corporation's concession that the corporation violated a provision or provisions of this chapter that are the subjects of the interrogatories.

7. If the secretary of state receives a response to each interrogatory that indicates to the secretary of state that the domestic or foreign corporation has not violated any provision of this chapter, the secretary of state shall take no action.

8. The secretary of state shall adopt rules pursuant to chapter 17A necessary or desirable to administer this section.

2026 Acts, ch 1145, §49
Referred to in §504.1421, 504.1422
NEW section

504.1622 through 504.1700 Reserved.

SUBCHAPTER XVII

TRANSITION PROVISIONS

504.1701 Application to existing domestic corporations.

1. A domestic corporation that is incorporated under chapter 504A, Code 2005, is subject to this chapter beginning on July 1, 2005.

2. A corporation formed on or after January 1, 2005, is subject to the provisions of this chapter.

2004 Acts, ch 1049, §176, 192; 2005 Acts, ch 3, §80 – 82; 2022 Acts, ch 1021, §148

504.1702 Application to qualified foreign corporations.

A foreign corporation authorized to transact business in this state prior to January 1, 2005, is subject to this chapter beginning on July 1, 2005, but is not required to obtain a new certificate of authority to transact business under this chapter.

2004 Acts, ch 1049, §177, 192

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504.1703 Savings provisions.

1. Except as provided in subsection 2, the repeal of a statute by 2004 Iowa Acts, ch. 1049, does not affect any of the following:

a. The operation of the statute or any action taken under it before its repeal.

b. Any ratification, right, remedy, privilege, obligation, or liability acquired, accrued, or incurred under the statute before its repeal.

c. Any violation of the statute or any penalty, forfeiture, or punishment incurred because of the violation, before its repeal.

d. Any proceeding, reorganization, or dissolution commenced under the statute before its repeal, and the proceeding, reorganization, or dissolution may be completed in accordance with the statute as if it had not been repealed.

2. If a penalty or punishment imposed for violation of a statute repealed by 2004 Iowa Acts, ch. 1049, is reduced by this chapter, the penalty or punishment, if not already imposed, shall be imposed in accordance with this chapter.

2004 Acts, ch 1049, §178, 192; 2014 Acts, ch 1026, §143; 2022 Acts, ch 1032, §85

504.1704 Severability.

If any provision of this chapter or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions or applications of the chapter that can be given effect without the invalid provision or application, and to this end the provisions of the chapter are severable.

2004 Acts, ch 1049, §179, 192

504.1705 Public benefit, mutual benefit, and religious corporations.

For the purposes of this chapter, each domestic corporation shall be deemed a public benefit, mutual benefit, or religious corporation as follows:

1. A corporation designated by statute as a public benefit corporation, a mutual benefit corporation, or a religious corporation is deemed to be the type of corporation designated by that statute.

2. A corporation that does not come within subsection 1 but is organized primarily or exclusively for religious purposes is a religious corporation.

3. A corporation that does not come within subsection 1 or 2 but which is recognized as exempt under section 501(c)(3) of the Internal Revenue Code, or any successor section, is a public benefit corporation.

4. A corporation that does not come within subsection 1, 2, or 3, but which is organized for a public or charitable purpose and which upon dissolution must distribute its assets to a public benefit corporation, the United States, a state, or a person recognized as exempt under section 501(c)(3) of the Internal Revenue Code, or any successor section, is a public benefit corporation.

5. A corporation that does not come within subsection 1, 2, 3, or 4 is a mutual benefit corporation.

2004 Acts, ch 1049, §180, 192

Referred to in §504.141

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CHAPTER 504A

IOWA NONPROFIT CORPORATION ACT

Repealed by 2004 Acts, ch 1049, §190; see chapter 504

CHAPTER 504B

NONPROFIT CORPORATIONS AND FEDERAL TAX LIABILITY

Referred to in §669.14

504B.1	Corporations applicable.	504B.4	Construction.
504B.2	Articles of incorporation — contents.	504B.5	Internal Revenue Code references.
504B.3	Avoiding tax liability.	504B.6	Certain powers not limited.

504B.1 Corporations applicable.

This chapter shall apply to every corporation organized under chapter 504, Code 1989, or current chapter 504, which corporation is deemed to be a private foundation as defined in section 509 of the Internal Revenue Code, which is incorporated in the state of Iowa after December 31, 1969, and as to any such corporation organized in this state before January 1, 1970, it shall apply only for its federal taxable years beginning on or after January 1, 1972.

[C73, 75, 77, 79, 81, §504B.1]

2003 Acts, ch 108, §94; 2004 Acts, ch 1049, §191; 2004 Acts, ch 1175, §394

504B.2 Articles of incorporation — contents.

The articles of incorporation of every such corporation shall be deemed to contain provisions forbidding the corporation to:

1. Engage in any act of self-dealing, as defined in section 4941(d) of the Internal Revenue Code, which would give rise to any liability for the tax imposed by section 4941(a) of the Internal Revenue Code;
2. Retain any excess business holdings, as defined in section 4943(c) of the Internal Revenue Code, which would give rise to any liability for the tax imposed by section 4943(a) of the Internal Revenue Code;
3. Make any investment which would jeopardize the carrying out of any of its exempt purposes, within the meaning of section 4944 of the Internal Revenue Code, so as to give rise to any liability for the tax imposed by section 4944(a) of the Internal Revenue Code; and
4. Make any taxable expenditures, as defined in section 4945(d) of the Internal Revenue Code, which would give rise to any liability for the tax imposed by section 4945(a) of the Internal Revenue Code.

[C73, 75, 77, 79, 81, §504B.2]

Referred to in §504B.6

504B.3 Avoiding tax liability.

The articles of incorporation of every such corporation shall be deemed to contain a provision requiring such corporation to distribute, for the purposes specified in its articles of incorporation, for each taxable year, amounts at least sufficient to avoid liability for the tax imposed by section 4942(a) of the Internal Revenue Code.

[C73, 75, 77, 79, 81, §504B.3]

Referred to in §504B.6

504B.4 Construction.

Nothing in this chapter shall impair the rights and powers of the courts or the attorney general of this state with respect to any corporation.

[C73, 75, 77, 79, 81, §504B.4]

504B.5 Internal Revenue Code references.

All references to sections of the Internal Revenue Code shall mean the Code as defined in section 422.3.

[C73, 75, 77, 79, 81, §504B.5]

2006 Acts, ch 1140, §8, 10, 11

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504B.6 Certain powers not limited.

Nothing in this chapter shall limit the power of any nonprofit corporation organized under chapter 504, Code 1989, or organized under current chapter 504:

1. To at any time amend its articles of incorporation or other instrument governing such corporation by any amendment process allowable under the laws of this state to provide that some or all provisions of sections 504B.2 and 504B.3 shall have no application to such corporation, or

2. In the case of any such corporation formed after July 1, 1971, to include any specific provisions in its original articles of incorporation, which provide that some or all provisions of sections 504B.2 and 504B.3 shall have no application to such corporation.

[C73, 75, 77, 79, 81, §504B.6]

2003 Acts, ch 108, §95; 2004 Acts, ch 1049, §191; 2004 Acts, ch 1175, §394

CHAPTER 504C

NONPROFIT CORPORATIONS — HOUSING FOR PERSONS WITH DISABILITIES

Referred to in §335.32, 414.30, 669.14

504C.1 Housing — persons with disabilities.

504C.1 Housing — persons with disabilities.

1. For the purposes of this chapter, "*disability*" means a physical impairment that results in significant functional limitations in one or more areas of major life activity and in the need for specialized care, treatment, or training services of extended duration.

2. Individuals with disabilities may form nonprofit corporations pursuant to chapter 504 for the sole purpose of establishing homes for persons with disabilities which are intended to serve two to five residents who are members of the nonprofit corporation.

3. A nonprofit corporation formed under this section may do any of the following:

a. Design, modify, or construct a specific housing facility to provide appropriate services and support to the residents of the specific housing facility. Local requirements shall not be more restrictive than the rules adopted for a family home, as defined in section 335.25 or 414.22, and the state building code requirements for single-family or multiple-family housing, as adopted pursuant to section 103A.7.

b. Contract for or employ staff for personal attendant needs and for the management and operation of the housing facility.

c. Purchase, modify, maintain, and operate transportation services for the use of the housing facility residents.

4. Residents of housing facilities established under this chapter shall be eligible to apply for or continue to receive funding provided through federal, state, and county funding sources, and assets of the members of the nonprofit corporation used in the establishment, management, and operation of the housing facility, including but not limited to provision of services to the residents of the facility, shall not be considered in determining a resident's eligibility for funding provided through sources otherwise available to the resident.

93 Acts, ch 90, §1; 2004 Acts, ch 1049, §191; 2004 Acts, ch 1086, §85; 2004 Acts, ch 1175, §393; 2010 Acts, ch 1079, §18

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TITLE XIII

COMMERCE

Referred to in §8F.2, 29A.105, 714H.4

SUBTITLE 1

INSURANCE AND RELATED REGULATION

Referred to in §144E.4, 144E.8, 216.10, 491.39, 502.201, 505B.3, 508.15A, 513A.5, 514F.1, 514F.2, 515.144, 515K.3, 515K.5, 515K.6, 515K.7, 515K.9, 521J.2, 524.802, 524.1808, 546.8, 547A.1, 714.16B, 715A.8

CHAPTER 505

INSURANCE DIVISION

Referred to in §87.4, 235F.1, 296.7, 331.301, 364.4, 514F.8E, 535A.2, 669.14, 670.7

505.1 Insurance division created.
505.2 Appointment and term of commissioner.
505.3 Vacancies.
505.4 Deputy — assistants — bond.
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505.1 Insurance division created.

An insurance division is created within the department of insurance and financial services to regulate and supervise the conducting of the business of insurance in the state. The

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commissioner of insurance is the chief executive officer of the division. As used in this subtitle and chapter 502, *"division"* means the insurance division.

[S13, §1683-r, -r1; C24, 27, 31, 35, 39, §**8604;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §505.1]

86 Acts, ch 1245, §745; 93 Acts, ch 60, §6; 94 Acts, ch 1023, §113; 2023 Acts, ch 19, §2726

505.2 Appointment and term of commissioner.

1. The governor shall appoint subject to confirmation by the senate, a commissioner of insurance, who shall be selected solely with regard to qualifications and fitness to discharge the duties of this position, devote the entire time to such duties, and serve for four years beginning and ending as provided by section 69.19. The governor may remove the commissioner for malfeasance in office, or for any cause that renders the commissioner ineligible, incapable, or unfit to discharge the duties of the office.

2. A vacancy in the office of the commissioner shall be filled for the unexpired portion of the regular term.

3. The commissioner of insurance shall also serve as the director of the department of insurance and financial services pursuant to section 546.2.

[S13, §1683-r; C24, 27, 31, 35, 39, §**8605;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §505.2]

86 Acts, ch 1245, §1989; 2023 Acts, ch 19, §2727

Referred to in §522A.2, 546.2, 546.8

Confirmation, see §2.32

505.3 Vacancies.

Vacancies shall be filled as regular appointments are made for the unexpired portion of the regular term.

[S13, §1683-r; C24, 27, 31, 35, 39, §**8607;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §505.3]

505.4 Deputy — assistants — bond.

1. The commissioner of insurance shall appoint a first and second deputy commissioner and such other clerks and assistants as shall be needed to assist the commissioner in the performance of the commissioner's duty, all of whom shall serve during the pleasure of the commissioner. Before entering upon the duties of their respective offices, deputy commissioners shall give a bond in the penal sum of ten thousand dollars.

2. The commissioner may appoint a deputy commissioner for supervision whom the commissioner may appoint as supervisory or special deputy pursuant to chapter 507C and who shall perform such other duties as may be assigned by the commissioner. The deputy commissioner for supervision shall receive a salary to be fixed by the commissioner. The deputy commissioner for supervision shall be exempt from the merit system provisions of chapter 8A, subchapter IV, under section 8A.412, subsection 16.

[S13, §1683-r2; C24, 27, 31, 35, 39, §**8608;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §505.4]

91 Acts, ch 26, §31; 2003 Acts, ch 145, §269

505.5 Expenses.

The commissioner shall be entitled to reimbursement of actual necessary expenses in attending meetings of insurance commissioners of other states, and in the performance of the duties of the office.

[S13, §1683-r2; C24, 27, 31, 35, 39, §**8610;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §505.5]

2023 Acts, ch 19, §2728

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505.6 Documents and records.

All books, records, files, documents, reports, and securities, and all papers of every kind and character relating to the business of insurance shall be delivered to, and filed or deposited with, the said commissioner of insurance.

[S13, §1683-r4; C24, 27, 31, 35, 39, §**8611;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §505.6]

505.7 Fees — expenses of division — assessments.

1. All fees and charges which are required by law to be paid by insurance companies, associations, and other regulated entities shall be payable to the commissioner of the insurance division of the department of insurance and financial services or department of revenue, as provided by law, whose duty it shall be to account for and pay over the same to the treasurer of state at the time and in the manner provided by law for deposit in the commerce revolving fund created in section 546.12.

2. The commissioner shall account for receipts and disbursements according to the separate inspection and examination duties imposed upon the commissioner by the laws of this state and each separate inspection and examination duty shall be fiscally self-sustaining.

3. Nonexamination revenues payable to the division of insurance or the department of revenue in connection with the regulation of insurance companies or other entities subject to the regulatory jurisdiction of the division shall be deposited in the commerce revolving fund created in section 546.12 and shall be subject to annual appropriation to the division for its operations and is also subject to expenditure under subsection 6. Unobligated nonexamination revenues payable to the division of insurance or the department of revenue may be deposited in the general fund of the state.

4. Except as otherwise provided in subsection 6, the insurance division may expend additional funds if those additional expenditures are actual expenses which exceed the funds budgeted for statutory duties of the division and directly result from the statutory duties of the division. The amounts necessary to fund the excess division expenses shall be collected from additional fees and other moneys collected by the division. The division shall notify in writing the legislative services agency and the department of management when hiring additional personnel. The written notification shall include documentation that any additional expenditure related to such hiring will be totally reimbursed to the general fund, and shall also include the division's justification for hiring such personnel. The division must obtain the approval of the department of management only if the number of additional personnel to be hired exceeds the number of full-time equivalent positions authorized by the general assembly.

5. The insurance division may transfer moneys between budgeted line items of its appropriation, but such transfers may not reduce moneys budgeted for examinations or professional services, including but not limited to actuarial and legal services.

6. *a.* The insurance division may expend additional funds, including funds for additional personnel if those additional expenditures are actual expenses which exceed the funds budgeted for insurance solvency oversight under the following conditions:

(1) The division may exceed the line item budgets for examinations and professional services, including but not limited to legal and actuarial services, provided that the division funds the increased expenditures through assessments or increased nonexamination revenues payable to the division under subsection 1 or otherwise. The amounts necessary to fund the excess expenses may be collected from those regulated entities or classes of entities which either cause or benefit from the expenditure or encumbrance.

(2) Before the division expends or encumbers an amount in excess of the funds budgeted for line items other than examinations and professional services, the director of the department of management shall approve the expenditure or encumbrance. Before approval is given, the director of the department of management shall determine that the expenses can be paid from nonexamination revenues payable to the division under subsection 1 or otherwise. Upon the approval of the director of the department of management the division may expend and encumber funds for the excess expenses. The amounts necessary to fund

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the excess expenses may be collected from those regulated entities or classes of entities which either cause or benefit from the expenditure or encumbrance.

b. The annual salaries of the deputy commissioner for supervision and the chief examiner appointed pursuant to section 507.5 shall be expenses of examination of insurance companies and shall be charged to insurance companies examined on a proportionate basis as provided by rule adopted by the commissioner. Insurance companies examined shall pay the proportion of the salaries of the deputy commissioner for supervision and the chief examiner charged to them as part of the costs of examination as provided in section 507.8.

7. The insurance division shall, by January 15 of each year, prepare estimates of projected receipts, refunds, and reimbursements to be generated by the examinations function of the division during the calendar year in which the report is due, and such receipts, refunds, and reimbursements shall be treated in the same manner as appropriated receipts, as defined in section 8.2, and shall be available to the division to pay the expenses of the division's examination function.

8. The commissioner may assess the costs of an audit or examination to a health insurance purchasing cooperative, in the same manner as provided for insurance companies under sections 507.7 through 507.9, and may establish by rule reasonable filing fees to fund the cost of regulatory oversight.

9. The commissioner may retain funds collected during the fiscal year beginning July 1, 2003, pursuant to any settlement, enforcement action, or other legal action authorized under federal or state law for the purpose of reimbursing costs and expenses of the division.

10. *a.* The commissioner shall assess the costs of carrying out the insurance division's duties pursuant to section 505.8, subsection 18, section 505.17, subsection 2, and sections 505.18 and 505.19 that are directly attributable to the performance of the division's duties involving specific health insurance carriers licensed to do business in this state. Such expenses shall be charged to and paid by the specific health insurance carrier to whom the expenses are attributable and upon failure or refusal of any such carrier to pay such expenses, the same may be recovered in an action brought in the name of the state. In addition, the commissioner may revoke the certificate of authority of a health insurance carrier licensed to do business in this state that fails to pay such expenses attributable to that carrier.

b. The commissioner shall assess the costs of carrying out the insurance division's duties generally pursuant to section 505.8, subsection 18, section 505.17, subsection 2, and sections 505.18 and 505.19, and for implementation and maintenance of health insurance information for consumers on the insurance division's internet site, that are not attributable to a specific health insurance carrier, to all health insurance carriers that are licensed to do business in this state on a proportionate basis as provided by rules adopted by the commissioner.

[S13, §1683-r5; C24, 27, 31, 35, 39, §**8612;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §505.7]

86 Acts, ch 1246, §615; 87 Acts, ch 234, §433; 90 Acts, ch 1247, §12, 13; 91 Acts, ch 26, §32; 91 Acts, ch 260, §1239; 93 Acts, ch 88, §3; 94 Acts, ch 1176, §1, 2; 2002 Acts, 2nd Ex, ch 1003, §32, 35; 2003 Acts, ch 35, §45, 49; 2003 Acts, ch 145, §286; 2003 Acts, ch 179, §135; 2009 Acts, ch 181, §62, 63; 2010 Acts, ch 1121, §4, 33; 2023 Acts, ch 19, §2729; 2024 Acts, ch 1185, §181; 2026 Acts, ch 1190, §34

Referred to in §87.11E, 502.302, 502.304A, 502.305, 502.321G, 502.410, 507.9, 507B.7, 508.13, 508.14, 508.15, 508E.3, 508E.16, 512B.25, 514.9A, 514B.3B, 514B.12, 514G.113, 515.42, 515.115, 515.146, 515.147, 515A.17, 515F.19, 518.15, 518A.18, 518A.40, 520.10, 520.12, 521A.10, 521H.7, 522.9, 522A.5, 522B.5, 522C.14, 522E.4, 522F.21, 523A.204, 523A.501, 523A.502, 523A.807, 523A.812, 523C.13, 523C.24, 523D.2A, 523I.205, 523I.813

Deposit of fees, §12.10

Subsection 3 amended

505.7A Civil penalties.

Unless specifically provided for in this subtitle, penalties imposed under this subtitle by order of the commissioner of insurance after hearing shall not exceed one thousand dollars for each act or violation of this subtitle, up to an aggregate of ten thousand dollars, unless the person knew or reasonably should have known the person was in violation of this subtitle, in

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which case the penalty shall not exceed five thousand dollars for each act or violation, up to an aggregate of fifty thousand dollars in any one six-month period.

2004 Acts, ch 1110, §5
Referred to in §505.8, 507.16, 507F.14

505.8 Commissioner's general powers and duties — consumer advocate bureau established.

1. The commissioner of insurance shall be the head of the division, and shall have general control, supervision, and direction over all insurance business transacted in the state, and shall enforce all the laws of the state relating to federal and state insurance business transacted in the state.

2. The commissioner shall, subject to chapter 17A, establish, publish, and enforce rules not inconsistent with law for the enforcement of this subtitle and for the enforcement of the laws, the administration and supervision of which are imposed on the division, including rules to establish fees sufficient to administer the laws, where appropriate fees are not otherwise provided for in rule or statute.

3. The commissioner shall supervise all transactions relating to the organization, reorganization, liquidation, and dissolution of domestic insurance corporations, and all transactions leading up to the organization of such corporations.

4. The commissioner shall also supervise the sale in the state of all stock, certificates, or other evidences of interest, either by domestic or foreign insurance companies or organizations proposing to engage in any insurance business.

5. The commissioner shall supervise all health insurance purchasing cooperatives providing services or operating within the state and the organization of domestic cooperatives. The commissioner may admit nondomestic health insurance purchasing cooperatives under the same standards as domestic cooperatives.

6. The commissioner shall provide assistance to the public and to consumers of insurance products and services in this state.

a. The commissioner shall accept inquiries and complaints from the public regarding the business of insurance. The commissioner or the commissioner's designee may respond to inquiries and complaints, and may examine or investigate such inquiries and complaints to determine whether laws in this subtitle and rules adopted pursuant to such laws have been violated.

b. The commissioner shall establish a bureau, to be known as the "consumer advocate bureau", which shall be responsible for ensuring fair treatment of consumers and for preventing unfair or deceptive trade practices in the marketplace and by persons under the jurisdiction of the commissioner.

(1) The commissioner, with the advice of the governor, shall appoint a consumer advocate who shall be knowledgeable in the area of insurance and particularly in the area of consumer protection. The consumer advocate shall be the chief administrator of the consumer advocate bureau.

(2) The consumer advocate bureau may receive and may investigate consumer complaints and inquiries from the public, and may conduct investigations to determine whether any person has violated any provision of the insurance code, including chapters 507B and 522B, and any provisions related to the establishment of insurance rates.

(3) The consumer advocate bureau shall perform other functions as may be assigned to it by the commissioner related to consumer advocacy.

(4) The consumer advocate bureau shall work in conjunction with other areas of the insurance division on matters of mutual interest. The insurance division shall cooperate with the consumer advocate in fulfilling the duties of the consumer advocate bureau. The consumer advocate may also seek assistance from other federal or state agencies or private entities for the purpose of assisting consumers.

(5) When necessary or appropriate to protect the public interest or consumers, the consumer advocate may request that the commissioner conduct rate filing reviews as provided in section 505.15 or administrative hearings as provided in section 505.29.

(6) The commissioner, in cooperation with the consumer advocate, shall prepare and

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deliver a report to the general assembly by January 15 of each year that contains findings and recommendations regarding the activities of the consumer advocate bureau including but not limited to all of the following:

(a) An overview of the functions of the bureau.

(b) The structure of the bureau including the number and type of staff positions.

(c) Statistics showing the number of complaints handled by the bureau, the nature of the complaints including the line of business involved and their disposition, and the disposition of similar issues in other states.

(d) Actions commenced by the consumer advocate.

(e) Studies performed by the consumer advocate.

(f) Educational and outreach efforts of the consumer advocate bureau.

(g) Recommendations from the commissioner and the consumer advocate about additional consumer protection functions that would be appropriate and useful for the bureau or the insurance division to fulfill based on observations and analysis of trends in complaints and information derived from national or other sources.

(h) Recommendations from the commissioner and the consumer advocate about any needs for additional funding, staffing, legislation, or administrative rules.

c. When necessary or appropriate to protect the public interest or consumers, the commissioner may conduct, or the commissioner's designee may request that the commissioner conduct, administrative hearings as provided in this subtitle.

d. The commissioner may adopt rules for the administration of this subsection.

7. The commissioner shall have regulatory authority over health benefit plans and adopt rules under chapter 17A as necessary, to promote the uniformity, cost efficiency, transparency, and fairness of such plans for physicians and osteopathic physicians licensed under chapter 148 and hospitals licensed under chapter 135B, for the purpose of maximizing administrative efficiencies and minimizing administrative costs of health care providers and health insurers.

8. *a.* Notwithstanding chapter 22, the commissioner shall keep confidential the information submitted to the insurance division or obtained by the insurance division in the course of an investigation or inquiry pursuant to subsection 6, including all notes, work papers, or other documents related to the investigation. Information obtained by the commissioner in the course of investigating a complaint or inquiry may, in the discretion of the commissioner, be provided to the insurance company or insurance producer that is the subject of the complaint or inquiry, to the consumer who filed the complaint or inquiry, and to the individual insured who is the subject of the complaint or inquiry, without waiving the confidentiality afforded to the commissioner or to other persons by this subsection. The commissioner may disclose or release information that is otherwise confidential under this subsection, in the course of an administrative or judicial proceeding.

b. Notwithstanding chapter 22, the commissioner shall keep confidential both information obtained by or submitted to the insurance division pursuant to chapters 514J and 515D.

c. The commissioner shall adopt rules protecting the privacy of information held by an insurer or an agent consistent with the federal Gramm-Leach-Bliley Act, Pub. L. No. 106-102.

d. Notwithstanding paragraphs *"a"*, *"b"*, and *"c"*, if the commissioner determines that it is necessary or appropriate in the public interest or for the protection of the public, the commissioner may share information with other regulatory authorities or governmental agencies or may publish information concerning a violation of this chapter or a rule or order under this chapter. Such information may be redacted so that personally identifiable information is not made available.

e. The commissioner may adopt rules protecting the privacy of information submitted to the insurance division consistent with this section.

9. Notwithstanding chapter 22, the commissioner may keep confidential any social security number, residence address, and residence telephone number that is contained in a record filed as part of a licensing, registration, or filing process if disclosure is not required in the performance of any duty or is not otherwise required under law.

10. The commissioner may, after a hearing conducted pursuant to chapter 17A, assess fines or penalties; assess costs of an examination, investigation, or proceeding; order restitution; or take other corrective action as the commissioner deems necessary and

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appropriate to accomplish compliance with the laws of the state relating to all insurance business transacted in the state.

11. The commissioner may do any of the following:

a. Conduct public or private investigations within or outside of this state which the commissioner deems necessary or appropriate to determine whether a person has violated, is violating, or is about to violate a provision of any chapter of this subtitle or a rule adopted or order issued under any chapter of this subtitle, or to aid in the enforcement of any chapter of this subtitle or in the adoption of rules and forms under any chapter of this subtitle.

b. Require or permit a person to testify, file a statement, or produce a record under oath or otherwise as the commissioner determines, concerning facts and circumstances relating to a matter being investigated or about which an action or proceeding will be instituted.

c. Notwithstanding subsection 8, publish a record concerning an action, proceeding, or investigation under, or a violation of, any chapter of this subtitle or a rule adopted or order issued under any chapter of this subtitle, if the commissioner determines that such publication is in the public interest and is necessary and appropriate for the protection of the public.

12. For the purpose of an investigation made under any chapter of this subtitle, the commissioner or the commissioner's designee may administer oaths and affirmations, subpoena witnesses, seek compulsory attendance, take evidence, require the filing of statements, and require the production of any records that the commissioner considers relevant or material to the investigation, pursuant to rules adopted under chapter 17A. The confidentiality provisions of subsection 8 shall apply to information and material obtained pursuant to this subsection.

13. If a person does not appear or refuses to testify, or does not file a statement or produce records, or otherwise does not obey a subpoena or order issued by the commissioner under any chapter of this subtitle, the commissioner may, in addition to assessing the penalties contained in sections 505.7A, 507B.6A, 507B.7, 522B.11, and 522B.17, make application to a district court of this state or another state to enforce compliance with the subpoena or order. A court to whom application is made to enforce compliance with a subpoena or order pursuant to this subtitle may do any of the following:

a. Hold the person in contempt.

b. Order the person to appear before the commissioner.

c. Order the person to testify about the matter under investigation.

d. Order the production of records.

e. Grant injunctive relief, including restricting or prohibiting the offer or sale of insurance or insurance advice.

f. Impose a civil penalty as set forth in section 505.7A.

g. Grant any other necessary or appropriate relief.

14. This section shall not be construed to prohibit a person from applying to a district court of this state or another state for relief from a subpoena or order issued by the commissioner under any chapter of this subtitle.

15. An individual shall not be relieved of an order to appear, testify, file a statement, produce a record or other evidence, or obey a subpoena or other order of the commissioner made under any chapter of this subtitle on the grounds that fulfillment of the requirement may, directly or indirectly, tend to incriminate the individual or subject the individual to a criminal fine, penalty, or forfeiture. If an individual refuses to obey a subpoena or order by asserting that individual's privilege against self-incrimination, the commissioner may apply to the district court to compel the individual to obey the subpoena or order of the commissioner. Testimony, records, or other evidence that is compelled by a court enforcing an order of the commissioner shall not be used, directly or indirectly, against that individual in a criminal case, except in a prosecution for perjury or contempt or for otherwise failing to comply with the order.

16. Upon request of the insurance regulator of another state or foreign jurisdiction, the commissioner may provide assistance in conducting an investigation to determine whether a person has violated, is violating, or is about to violate an insurance law or rule of the other state or foreign jurisdiction administered or enforced by that insurance regulator. The commissioner may provide such assistance pursuant to the powers conferred

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under this section as the commissioner determines is necessary or appropriate under the circumstances. Such assistance may be provided regardless of whether the conduct being investigated would constitute a violation of this subtitle or any other law of this state if the conduct occurred in this state. In determining whether to provide such assistance the commissioner may consider whether the insurance regulator requesting the assistance is permitted to and has agreed to reciprocate in providing assistance to the commissioner upon request, whether compliance with the request would violate or prejudice the public policy of this state, and the availability of division commissioner resources and employees to provide such assistance.

17. The commissioner shall utilize the senior health insurance information program to assist in the dissemination of objective and noncommercial educational material and to raise awareness of prudent consumer choices in considering the purchase of various insurance products designed for the health care needs of older Iowans.

18. The commissioner shall annually convene a work group composed of the consumer advocate, health insurance carriers, health care providers, small employers that purchase health insurance under chapter 513B, and individual consumers in the state for the purpose of considering ways to reduce the cost of providing health insurance coverage and health care services, including but not limited to utilization of uniform billing codes, improvements to provider credentialing procedures, reducing out-of-state care expenses, annually assessing the impact of federal health care reform legislation on health care costs in the state and determining whether such legislation has reduced the cost of health insurance in the state, and the electronic delivery of explanation of benefits statements. The recommendations made by the work group shall be included in the annual report filed with the general assembly pursuant to section 505.18.

19. The commissioner may propose and promulgate administrative rules to effectuate the insurance provisions of the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, and any amendments thereto, or other applicable federal law.

[S13, §1683-r3; C24, 27, 31, 35, 39, §**8613;** C46, 50, 54, §505.8; C58, 62, §505.8, 522.3; C66, 71, 73, §505.8, 515.150, 522.3; C75, 77, 79, 81, §505.8]

83 Acts, ch 27, §10; 88 Acts, ch 1159, §2; 90 Acts, ch 1234, §2; 94 Acts, ch 1176, §3; 97 Acts, ch 23, §61; 98 Acts, ch 1119, §3; 99 Acts, ch 114, §41; 2000 Acts, ch 1023, §4, 5; 2002 Acts, ch 1111, §6; 2003 Acts, ch 91, §2; 2007 Acts, ch 137, §6; 2007 Acts, ch 215, §117; 2008 Acts, ch 1123, §7 – 9; 2008 Acts, ch 1175, §1; 2008 Acts, ch 1188, §21; 2009 Acts, ch 133, §168; 2009 Acts, ch 145, §3; 2010 Acts, ch 1121, §5, 33; 2011 Acts, ch 70, §2, 3; 2013 Acts, ch 124, §7

Referred to in §505.7, 505.18, 508.36, 508E.10, 514G.110, 515.137A, 515D.10, 522C.2
Cemetery and funeral services powers and duties, see §523A.801 and 523I.201

505.9 Ex officio receiver.

The commissioner of insurance henceforth shall be the receiver and liquidating officer for any insurance company, association, or insurance carrier, and shall serve without compensation other than the stated compensation as commissioner of insurance, but the commissioner shall be allowed clerical and other expenses necessary for the conduct of such receivership.

[C31, 35, §8613-c1; C39, §**8613.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §505.9]

Referred to in §521A.11

505.10 Expenses attending liquidation.

All expenses of supervision and liquidation shall be fixed by the commissioner of insurance, subject to approval by the court or a judge thereof, and shall, upon the commissioner's order, be paid out of the funds of such company, association, or insurance carrier in the commissioner's hands.

[C31, 35, §8613-c2; C39, §**8613.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §505.10]

505.11 Refunds.

Whenever it appears to the satisfaction of the commissioner of insurance that, because of error, mistake, or erroneous interpretation of statute, a foreign or domestic insurance

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corporation has paid to the state of Iowa taxes, fines, penalties, or license fees in excess of the amount legally chargeable against it, the commissioner of insurance shall have power to refund to such corporation any such excess by applying the amount of the excess payment toward the payment of taxes, fines, penalties, or license fees already due or which may become due, until such excess payments have been fully refunded.

[C31, 35, §8613-c3; C39, §**8613.3;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §505.11]

2001 Acts, ch 69, §2; 2002 Acts, ch 1050, §44

505.12 Life insurance — annual report.

Before the first day of September the commissioner of insurance shall make an annual report to the governor of the general conduct and condition of the life insurance companies doing business in the state, and include therein an aggregate of the estimated value of all outstanding policies in each of the companies; and in connection therewith prepare a separate abstract thereof as to each company, and of all the returns and statements made to the commissioner by them.

[C73, §1176; C97, §1781; C24, 27, 31, 35, 39, §**8614;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §505.12]

88 Acts, ch 1112, §101

505.13 Other insurance — annual report by the division.

The commissioner shall annually cause the preparation and printing of a report to be delivered to the governor. The report shall contain information from the statements required of insurance companies, other than life insurance companies, organized or doing business in the state. The reports shall be delivered on or before the first day of September each year.

[C73, §1158; C97, §1720; S13, §1720-a; C24, 27, 31, 35, 39, §**8615;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §505.13]

87 Acts, ch 132, §1; 88 Acts, ch 1112, §102; 98 Acts, ch 1119, §4

505.14 Foreign insurers — reciprocal provisions.

When by the laws of any other state a premium or income or other taxes, or fees, fines, penalties, licenses, deposit requirements or other obligations, prohibitions or restrictions are imposed upon Iowa insurance companies actually doing business in the other state, or upon the agents of the Iowa companies, which in the aggregate are in excess of the aggregate of the taxes, fees, fines, penalties, licenses, deposit requirements or other obligations, prohibitions or restrictions directly imposed upon insurance companies of the other state under the statutes of this state, the same obligations, prohibitions or restrictions of whatever kind are in the same manner and for the same purpose imposed upon insurance companies of the other state doing business in Iowa. Insurance premium taxes paid which were not paid under protest shall not be refunded if the refund claim is based upon an alleged error or mistake of law or erroneous interpretation of statute regarding the validity or legality of this section under the laws or constitutions of the United States or this state. For the purpose of this section, an alien insurer is deemed domiciled in a state designated by it wherein it has established its principal office or agency in the United States, or maintains the largest amount of its assets held in trust or on deposit for the security of its policyholders or policyholders and creditors in the United States, or in which it was admitted to do business in the United States. This section does not apply to ad valorem taxes on real or personal property or to personal income taxes.

[C46, 50, 54, §432.2; C58, 62, 66, 71, 73, 75, 77, 79, 81, §505.14; 81 Acts, ch 164, §1]

Referred to in §508E.7, 511.40

505.15 Actuarial, professional, and specialist staff.

1. The commissioner may appoint a staff of actuaries as necessary to carry out the duties of the division. The actuarial staff shall do all of the following:

a. Perform analyses of rate filings.

b. Perform audits of submitted loss data.

c. Conduct rate hearings and serve as expert witnesses.

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d. Prepare, review, and dispense data on the insurance business.

e. Assist in public education concerning the insurance business.

f. Identify any impending problem areas in the insurance business.

g. Assist in examinations of insurance companies.

2. The commissioner may retain, or the commissioner's designee may request that the commissioner retain, attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals or specialists to assist the division or the consumer advocate bureau in carrying out its duties in regard to rate filing reviews. The reasonable cost of retaining such professionals and specialists shall be borne by the insurer which is the subject of the rate filing review.

87 Acts, ch 132, §2; 2008 Acts, ch 1123, §10; 2009 Acts, ch 145, §4
Referred to in §505.8

505.16 Applications for insurance — human immunodeficiency virus tests — restrictions.

1. A person engaged in the business of insurance shall not require a test of an individual in connection with an application for insurance for the presence of an antibody to the human immunodeficiency virus unless the individual provides a written release on a form approved by the insurance commissioner. The form shall include information regarding the purpose, content, use, and meaning of the test, disclosure of test results including information explaining the effect of releasing the information to a person engaged in the business of insurance, the purpose for which the test results may be used, and other information approved by the insurance commissioner. The form shall also authorize the person performing the test to provide the results of the test to the insurance company subject to rules of confidentiality, consistent with section 141A.9, approved by the insurance commissioner. As used in this section, *"a person engaged in the business of insurance"* includes hospital service corporations organized under chapter 514 and health maintenance organizations subject to chapter 514B.

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 department of health and human services.

88 Acts, ch 1234, §7; 99 Acts, ch 181, §17; 2006 Acts, ch 1117, §15; 2023 Acts, ch 19, §1182
Referred to in §141A.7

505.17 Confidential information.

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

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

2. Notwithstanding subsection 1, an application for a rate increase filed by a health insurance carrier and all information, records, and documents accompanying such an application or utilized for the purpose of, or in the course of consideration of the application

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by the commissioner, shall constitute a public record under chapter 22 except as provided in this subsection.

a. The commissioner shall consider the written request of a health insurance carrier to keep confidential certain details of an application or accompanying information, records, and documents. If the request includes a sufficient explanation as to why public disclosure of such details would give an unfair advantage to competitors, the commissioner shall keep such details confidential. If the commissioner elects to keep certain details confidential, the commissioner shall release only the nonconfidential details in response to a request for records made pursuant to chapter 22. If confidential details are withheld from a request for records made pursuant to chapter 22, the commissioner shall release an explanation of why the information was deemed confidential and a summary of the nature of the information withheld and the reasons for withholding the information.

b. In considering requests for confidential treatment, the commissioner shall narrowly construe the provisions of this subsection in order to appropriately balance an applicant's need for confidentiality against the public's right to information about the application.

94 Acts, ch 1176, §4; 99 Acts, ch 165, §1; 2010 Acts, ch 1121, §6, 33; 2024 Acts, ch 1031, §1
Referred to in §505.7

505.18 Health care insurance quality and costs — annual report.

1. Consumers deserve to know the quality and cost of their health care insurance. Health care insurance transparency provides consumers with the information necessary, and the incentive, to choose health plans based on cost and quality. Reliable cost and quality information about health care insurance empowers consumer choice and consumer choice creates incentives at all levels, and motivates the entire health care delivery system to provide better health care and health care benefits at a lower cost. It is the purpose of this section to make information regarding the costs of health care insurance readily available to consumers through the consumer advocate bureau of the insurance division.

2. The commissioner in collaboration with the consumer advocate shall prepare and deliver a report to the governor and to the general assembly no later than November 15 of each year that provides findings regarding health spending costs for health insurance carriers in the state for the previous calendar year. The commissioner may contract with outside vendors or entities to assist in providing the information contained in the annual report. The report shall provide, at a minimum, the following information:

a. Aggregate health insurance data concerning loss ratios of health insurance carriers licensed to do business in the state.

b. Rate increase data.

c. Health care expenditures in the state and the effect of such expenditures on health insurance premium rates.

d. A ranking and quantification of those factors that result in higher costs and those factors that result in lower costs for each health insurance carrier in the state.

e. The current capital and surplus and reserve amounts held in reserve by each health insurance carrier licensed to do business in the state.

f. A listing of any apparent medical trends affecting health insurance costs in the state.

g. Any additional data or analysis deemed appropriate by the commissioner to provide the general assembly with pertinent health insurance cost information.

h. Recommendations made by the work group convened pursuant to section 505.8, subsection 18.

2010 Acts, ch 1121, §7, 33; 2011 Acts, ch 70, §4, 5
Referred to in §505.7, 505.8

505.18A State innovation waivers.

1. The commissioner of insurance may develop by rule a state innovation waiver pursuant to section 1332 of the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148.

2. The commissioner of insurance may submit an application on behalf of the state to the United States secretary of health and human services and the United States secretary of the treasury for the state innovation waiver developed pursuant to subsection 1.

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3. If a state innovation waiver submitted pursuant to subsection 2 is approved by the United States secretary of health and human services and the United States secretary of the treasury, the commissioner of insurance may implement the state innovation waiver in a manner consistent with applicable state and federal law.

4. The commissioner of insurance may adopt emergency rules under section 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph *"b"*, to implement the provisions of this section and the rules shall be effective immediately upon filing unless a later date is specified in the rules. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.

2021 Acts, ch 181, §51

505.19 Health insurance rate increase applications — public hearing and comment.

1. All health insurance carriers licensed to do business in the state shall immediately notify policyholders of any application for a rate increase exceeding the average annual health spending growth rate stated in the most recent national health expenditure projection published by the centers for Medicare and Medicaid services of the United States department of health and human services, that is filed with the insurance division. Such notice shall specify the rate increase proposed that is applicable to each policyholder and shall include the ranking and quantification of those factors that are responsible for the amount of the rate increase proposed. The notice shall include information about how the policyholder can contact the consumer advocate for assistance.

2. The commissioner shall hold a public hearing at the time a carrier files for proposed health insurance rate increases exceeding the average annual health spending growth rate as provided in subsection 1, prior to approval or disapproval of the proposed rate increases for that carrier by the commissioner.

3. The consumer advocate shall solicit public comments on each proposed health insurance rate increase application if the increase exceeds the average annual health spending growth rate as provided in subsection 1, and shall post without delay during the normal business hours of the division, all comments received on the insurance division's internet site prior to approval, disapproval, or modification of the proposed rate increase by the commissioner.

4. The consumer advocate shall present the public testimony, if any, and public comments received for consideration by the commissioner in determining whether to approve, disapprove, or modify such health insurance rate increase proposals.

5. *a.* For the purposes of this section, *"health insurance"* does not include any of the following:

(1) Coverage for accident-only, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Liability insurance, including general liability insurance and automobile liability insurance.

(4) Workers' compensation or similar insurance.

(5) Automobile medical-payment insurance.

(6) Credit-only insurance.

(7) Coverage for on-site medical clinic care.

(8) Other similar insurance coverage, specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance coverage or benefits.

b. For the purposes of this section, *"health insurance"* does not include benefits provided under a separate policy as follows:

(1) Limited scope dental or vision benefits.

(2) Benefits for long-term care, nursing home care, home health care, or community-based care.

(3) Any other similar limited benefits as provided by rule of the commissioner.

c. For the purposes of this section, *"health insurance"* does not include benefits offered as independent noncoordinated benefits as follows:

(1) Coverage only for a specified disease or illness.

(2) A hospital indemnity or other fixed indemnity insurance.

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d. For the purposes of this section, *"health insurance"* does not include Medicare supplemental health insurance as defined under section 1882(g)(1) of the federal Social Security Act, coverage supplemental to the coverage provided under 10 U.S.C. ch. 55, and similar supplemental coverage provided to coverage under group health insurance coverage.

6. The commissioner shall adopt rules pursuant to chapter 17A to implement the provisions of this section.

2010 Acts, ch 1121, §8, 33; 2011 Acts, ch 70, §6
Referred to in §505.7

505.20 Certain agricultural organizations exempt from regulation.

1. A health benefit plan, sponsored by a nonprofit agricultural organization domiciled in this state and created primarily to promote programs for the development of rural communities and the economic stability and sustainability of farmers in the state which meets the requirements set forth in subsection 2, shall be deemed to not be insurance and shall not be subject to the provisions of this subtitle, to the extent such plan, after January 1, 2018, provides health benefits under a self-funded arrangement that is administered by a domestic entity that is registered as a third-party administrator pursuant to chapter 510 and that has continuously provided, either directly or through an affiliate, health care administrative services to the nonprofit agricultural organization or its affiliates for a period in excess of ten years.

2. A nonprofit agricultural organization providing a health benefit plan to its members under this section must meet all of the following requirements:

a. Have been in existence for twenty-five continuous years prior to the issuance of health benefits to members of the organization.

b. Provide membership opportunities for eligible individuals in all ninety-nine counties of the state.

c. Collect annual dues from members.

d. Hold regular meetings to further the purposes of the members.

e. Provide the members with representation on its governing board and committees.

f. Provide education, mentoring, and financial assistance to grow and expand rural businesses in the state.

g. Have contracted with the domestic entity described in subsection 1 to administer the health benefit plan.

3. Such nonprofit agricultural organization shall file a certification with the commissioner that the organization meets the foregoing requirements prior to providing health benefits under a self-funded arrangement to its members.

2018 Acts, ch 1063, §1

505.21 Health care access — duties of commissioner — penalties.

1. The commissioner shall adopt rules establishing a requirement that an employer provide access to health care to the employees of the employer. The rules shall provide that an employer doing business within this state shall offer each employee, at a minimum, access to health insurance. The requirement contained in this section may be satisfied by offering any of the following:

a. Health care coverage through an insurer or health maintenance organization authorized to do business in this state.

b. Access to health benefits through a health benefits plan qualified under the federal Employee Retirement Income Security Act of 1974.

2. An employer may financially contribute toward the employee's health benefit plan. The employer shall offer payroll deduction of employee contributions and direct deposit of premium payments related to a health insurance purchasing cooperative or other health care coverage.

3. A violation of this section may be reported to the consumer and legal affairs bureau in the insurance division. The division may issue, upon a finding that an employer has failed to offer an employee access to health insurance, any of the following:

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a. A cease and desist order instructing the employer to cure the failure and desist from future violations of this section.

b. An order requiring an employer who has previously been the subject of a cease and desist order to pay an employee's reasonable health insurance premiums necessary to prevent or cure a lapse in health care coverage arising out of the employer's failure to offer as required.

c. An order upon the employer assessing the reasonable costs of the division's investigation and enforcement action.

94 Acts, ch 1176, §6; 98 Acts, ch 1217, §38

505.22 Certain religious organization activities exempt from regulation.

A religious organization which, through its publication to subscribers, solicits funds for the payment of medical expenses of other subscribers, shall not be considered to be engaging in the business of insurance for purposes of this chapter or any other provision of this title, and shall not be subject to the jurisdiction of the commissioner of insurance, if all of the following apply:

1. The religious publication is provided by a nonprofit charitable organization described in section 501(c)(3) of the Internal Revenue Code.

2. Participation is limited to subscribers who are members of the same denomination or religion.

3. The publication is registered with the United States postal service and acts as an organizational clearinghouse for information between subscribers who have financial, physical, or medical needs, and subscribers who choose to assist with those needs, matching subscribers with the present ability to pay with subscribers with a present financial or medical need.

4. The organization, through its publication, provides for the payment for subscriber financial or medical needs through direct payments from one subscriber to another.

5. The organization, through its publication, suggests amounts to contribute that are voluntary among the subscribers, with no assumption of risk or promise to pay either among the subscribers or between the subscribers and the publication.

95 Acts, ch 185, §3

505.23 Hearings.

If an evidentiary hearing is conducted in a proceeding pursuant to section 508B.7, 515G.7, 521A.3, or 521A.14, or in a proceeding with respect to a merger or consolidation pursuant to chapter 521, the proceeding is a contested case subject to chapter 17A.

2000 Acts, ch 1023, §6

505.24 Sale of policy term information by consumer reporting agency.

1. For purposes of this section, unless the context otherwise requires, "*consumer reporting agency*" means any person that for monetary fees, dues, or on a cooperative nonprofit basis regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties and that uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

2. A consumer reporting agency shall not provide or sell data or lists that include any information that in whole or in part was submitted in conjunction with an insurance inquiry about a consumer's credit information or a request for a credit report or insurance score. Information submitted in conjunction with an insurance inquiry about a consumer includes, but is not limited to, the expiration dates of an insurance policy or any other information that may identify time periods during which a consumer's insurance may expire and the terms and conditions of the consumer's insurance coverage.

3. The restrictions provided in subsection 2 do not apply to data or lists supplied by a consumer reporting agency to an insurance producer from whom information was received, the insurer on whose behalf such producer acted, or such insurer's affiliates or holding companies.

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4. This section shall not be construed to restrict any insurer from being able to obtain a claims history report or a motor vehicle report.

2003 Acts, ch 91, §3

505.25 Information provided to medical assistance program, Hawki program, and child support services.

A carrier, as defined in section 514C.13, shall enter into a health insurance data match program with the department of health and human services for the sole purpose of comparing the names of the carrier's insureds with the names of recipients of the medical assistance program under chapter 249A, individuals under the purview of child support services pursuant to chapter 252B, or enrollees of the Hawki program under chapter 514I.

2004 Acts, ch 1175, §153, 162; 2005 Acts, ch 175, §123; 2006 Acts, ch 1119, §6; 2023 Acts, ch 19, §1183

Referred to in §249A.37, 252B.9

505.26 Prior authorization for prescription drug benefits — standard process and form — response requirements.

1. As used in this section:

a. "Facility", *"health benefit plan"*, *"health care professional"*, *"health care provider"*, *"health care services"*, and *"health carrier"* mean the same as defined in section 514J.102.

b. "Pharmacy benefits manager" means the same as defined in section 510B.1.

2. The commissioner shall develop, by rule, a process for use by each health carrier and pharmacy benefits manager that requires prior authorization for prescription drug benefits pursuant to a health benefit plan, to submit, on or before January 1, 2015, a single prior authorization form for approval by the commissioner, that each health carrier or pharmacy benefits manager shall be required to use beginning on July 1, 2015. The process shall provide that if a prior authorization form submitted to the commissioner by a health carrier or pharmacy benefits manager is not approved or disapproved within thirty days after its receipt by the commissioner, the form shall be deemed approved.

3. The commissioner shall develop, by rule, a standard prior authorization process which meets all of the following requirements:

a. Health carriers and pharmacy benefits managers shall allow health care providers to submit a prior authorization request electronically.

b. Health carriers and pharmacy benefits managers shall provide that approval of a prior authorization request shall be valid for a minimum length of time in accordance with the rules adopted under this section. In adopting the rules, the commissioner may consult with health care professionals who seek prior authorization for particular types of drugs, and as the commissioner determines to be appropriate, negotiate standards for such minimum time periods with individual health carriers and pharmacy benefits managers.

c. Health carriers and pharmacy benefits managers shall make the following available and accessible on their internet sites:

(1) Prior authorization requirements and restrictions, including a list of drugs that require prior authorization.

(2) Clinical criteria that are easily understandable to health care providers, including clinical criteria for reauthorization of a previously approved drug after the prior authorization period has expired.

(3) Standards for submitting and considering requests, including evidence-based guidelines, when possible, for making prior authorization determinations.

d. Health carriers shall provide a process for health care providers to appeal a prior authorization determination as provided in chapter 514J. Pharmacy benefits managers shall provide a process for health care providers to appeal a prior authorization determination that is consistent with the process provided in chapter 514J.

4. In adopting a standard prior authorization process, the commissioner shall consider national standards pertaining to electronic prior authorization, such as those developed by the national council for prescription drug programs.

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5. A prior authorization form approved by the commissioner shall meet all of the following requirements:

a. Not exceed two pages in length, except that a prior authorization form may exceed that length as determined to be appropriate by the commissioner.

b. Be available in electronic format.

c. Be transmissible in an electronic format or a fax transmission.

6. Beginning on July 1, 2015, each health carrier and pharmacy benefits manager shall use and accept the prior authorization form that was submitted by that health carrier or pharmacy benefits manager and approved for the use of that health carrier or pharmacy benefits manager by the commissioner pursuant to this section. Beginning on July 1, 2015, health care providers shall use and submit the prior authorization form that has been approved for the use of a health carrier or pharmacy benefits manager, when prior authorization is required by a health benefit plan.

7. The commissioner shall adopt rules pursuant to chapter 17A that provide requirements, not to exceed seventy-two hours for urgent claims and five calendar days for nonurgent claims, for a health carrier or pharmacy benefits manager to respond to a health care provider's request for prior authorization of prescription drug benefits or to request additional information from a health care provider concerning such a request.

2014 Acts, ch 1140, §98, 101; 2015 Acts, ch 128, §9, 50, 51
Referred to in §510B.9, 514F.7

505.27 Medical malpractice insurance — annual claims reports required.

1. An insurer providing medical malpractice insurance coverage to Iowa health care providers shall file annually on or before June 1 with the commissioner a report of all medical malpractice insurance claims, both open claims and closed claims filed during the reporting period, against any such Iowa insureds during the preceding calendar year.

2. The report shall be in writing and contain all of the following information aggregated by specialty area and paid loss and paid expense categories established by the commissioner:

a. The total number of claims in the reporting period and the nature and substance of such claims.

b. The total amounts paid within six months after final disposition of the claims.

c. The total amount reserved for the payment of claims incurred and reported but not disposed.

d. The expenses, as set forth by rule, related to the claims.

e. Any other additional information as required by the commissioner by rule.

3. The commissioner shall compile annually the data included in reports filed by insurers pursuant to this section into an aggregate form by insurer, except that such data shall not include information that directly or indirectly identifies any individual, including a patient, an insured, or a health care provider. The commissioner shall submit a written report summarizing such data along with any recommendations to the general assembly and the governor annually by December 1.

4. A report prepared pursuant to subsection 1 or 3 shall be open to the public and shall be made available to a requesting party by the commissioner at no charge, except that any identifying information of any individual, including a patient, an insured, or health care provider, shall remain confidential.

5. For purposes of this section:

a. *"Health care provider"* means the same as defined in section 135.61, a hospital licensed pursuant to chapter 135B, or a health care facility licensed pursuant to chapter 135C.

b. *"Insurer"* means an insurance company authorized to transact insurance business in this state. *"Insurer"* does not include a health care provider who maintains professional liability insurance coverage through a self-insurance plan, an unauthorized insurance company transacting business with an insured person in this state, or a person not authorized to transact insurance business in this state.

2006 Acts, ch 1128, §3; 2017 Acts, ch 29, §141; 2019 Acts, ch 59, §177; 2025 Acts, ch 120, §71
Referred to in §135P.4

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505.27A Sale of life insurance to military personnel.

Notwithstanding any other provision of this title, the commissioner of insurance shall have the authority to adopt such rules related to the sale of life insurance, other than the servicemembers' group life insurance program under 38 U.S.C. pt. II, ch. 19, subch. III, as may be necessary to protect military personnel located either on a United States military installation or elsewhere in this state and to carry out the provisions of this title.

2007 Acts, ch 137, §7

505.28 Consent to jurisdiction.

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

2006 Acts, ch 1117, §16; 2011 Acts, ch 25, §61

505.29 Administrative hearings — authority to appoint hearing officer.

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, this chapter, chapters 505A 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.

2006 Acts, ch 1117, §17; 2011 Acts, ch 25, §62

Referred to in §505.8, 507B.7A

505.30 Service of process made on the commissioner as agent or attorney for service of process — rules and fee.

1. The commissioner may adopt rules pursuant to chapter 17A setting forth procedures related to service of process made on the commissioner as agent or attorney for service of process for an individual or entity within the jurisdiction of the commissioner. The rules shall apply when the individual or entity is required by law to appoint the commissioner to serve, is required by law to consent to have the commissioner serve, is deemed by law to have appointed or to have consented to have the commissioner serve, or elects to appoint or consents to have the commissioner serve as agent or attorney for service of process.

2. The commissioner may collect a reasonable fee each time service of process is made on the commissioner as set forth in subsection 1 or as otherwise allowed by law. A fee collected by the commissioner under this subsection shall be used and is appropriated to the insurance division to offset the costs of the commissioner acting as agent or attorney for service of process. The party to a proceeding requesting service of process is entitled to recover the fee paid pursuant to this subsection and any rules adopted under this section as costs if the party prevails in the proceeding.

3. The commissioner shall maintain for ninety days a record of each service of process made on the commissioner pursuant to this section, including the date each service of process is made on the commissioner, the date each service of process is forwarded by mail by the commissioner to the defendant or respondent, and the date each certificate of service is submitted electronically to the court. The records may be maintained electronically.

2006 Acts, ch 1117, §18; 2018 Acts, ch 1018, §2

Referred to in §502.611, 507A.5, 508E.3, 511.28, 512B.33, 514.2A, 515.77, 515E.3, 520.6, 521A.3, 521B.107, 521C.13, 521J.2, 521J.102, 523A.802A, 523C.20, 523C.21

505.31 Reimbursement accounts — assistance to small employers.

The commissioner of insurance shall assist employers with twenty-five or fewer employees with implementing and administering plans under section 125 of the Internal Revenue Code, including medical expense reimbursement accounts and dependent care accounts. The commissioner shall provide information about the assistance available to small employers on the insurance division's internet site.

2008 Acts, ch 1188, §37, 43

505.32 Iowa insurance information exchange. Repealed by 2018 Acts, ch 1012, §2.

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505.33 Dramshop liability insurance evaluation.

The division shall biennially conduct an evaluation concerning minimum coverage requirements of dramshop liability insurance. In conducting the evaluation, the division shall include a comparison of other states' minimum dramshop liability insurance coverage and any other relevant issues the division identifies. By January 31, 2019, and every two years thereafter, the division shall submit a report, including any findings and recommendations, to the general assembly as provided in chapter 7A.

2018 Acts, ch 1172, §52

Dramshop liability insurance requirements, see §123.92

505.34 Medical assistance and Hawki programs — applicability of subtitle.

1. The medical assistance program under chapter 249A and the healthy and well kids in Iowa (Hawki) program under chapter 514I shall not be subject to this subtitle unless otherwise provided by law.

2. A managed care organization acting pursuant to a contract with the department of health and human services to administer the medical assistance program under chapter 249A, or the healthy and well kids in Iowa (Hawki) program under chapter 514I, shall not be subject to this subtitle unless otherwise provided by law.

2022 Acts, ch 1131, §63; 2023 Acts, ch 19, §1184

505.35 Adoption of standards by reference — rules.

Rules adopted by the commissioner pursuant to chapter 17A that adopt a standard by reference to another publication or portion thereof are exempt from the requirements of section 17A.6, subsection 5, with respect to the following:

1. Professional standards of practice and membership requirements established by the actuarial standards board, the American academy of actuaries, the American institute of certified public accountants, or their successor organizations.

2. The following publications of the national association of insurance commissioners:

a. Valuation manual used to establish principle-based reserves for the life insurance industry.

b. Accounting practices and procedures manual.

c. Financial examiners handbook.

d. Financial analysis handbook.

e. Annual/quarterly financial statement blank and instructions.

f. Model laws, regulations, and guidelines, including references to federal statutes or regulations contained therein.

2023 Acts, ch 70, §13, 14; 2024 Acts, ch 1169, §22

CHAPTER 505A

INTERSTATE INSURANCE PRODUCT REGULATION COMPACT

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

505A.1 Interstate insurance product regulation compact.

505A.1 Interstate insurance product regulation compact.

The interstate insurance product regulation compact is hereby entered into and enacted into law with all jurisdictions legally joining therein, in the form substantially as follows:

1. *Article I — Purposes.* The purposes of this compact are, through means of joint and cooperative action among the compacting states:

a. To promote and protect the interest of consumers of individual and group annuity, life insurance, disability income and long-term care insurance products.

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b. To develop uniform standards for insurance products covered under this compact.

c. To establish a central clearinghouse to receive and provide prompt review of insurance products covered under the compact and, in certain cases, advertisements related thereto, submitted by insurers authorized to do business in one or more compacting states.

d. To give appropriate regulatory approval to those product filings and advertisements satisfying the applicable uniform standard.

e. To improve coordination of regulatory resources and expertise between state insurance departments regarding the setting of uniform standards and review of insurance products covered under this compact.

f. To create the interstate insurance product regulation commission.

g. To perform these and such other related functions as may be consistent with the state regulation of the business of insurance.

2. *Article II — Definitions.* For purposes of this compact, unless the context otherwise requires:

a. "Advertisement" means any material designed to create public interest in a product, or induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace or retain a policy, as more specifically defined in the rules and operating procedures of the commission.

b. "Bylaws" means those bylaws established by the commission for its governance, or for directing or controlling the commission's actions or conduct.

c. "Commission" means the interstate insurance product regulation commission established by this compact.

d. "Commissioner" means the chief insurance regulatory official of a state including, but not limited to, commissioner, superintendent, director, or administrator.

e. "Compacting state" means any state that has enacted this compact legislation and that has not withdrawn pursuant to article XIV, paragraph *"a"*, or been terminated pursuant to article XIV, paragraph *"b"*.

f. "Domiciliary state" means the state in which an insurer is incorporated or organized, or, in the case of an alien insurer, its state of entry.

g. "Insurer" means any entity licensed by a state to issue contracts of insurance for any of the lines of insurance covered by this compact.

h. "Member" means the person chosen by a compacting state as its representative to the commission, or the person's designee. The commissioner of insurance shall be the representative member of the compact for the state of Iowa.

i. "Noncompacting state" means any state which is not at the time a compacting state.

j. "Operating procedures" means procedures promulgated by the commission implementing a rule, uniform standard, or a provision of this compact.

k. "Product" means the form of a policy or contract, including any application, endorsement, or related form which is attached to and made a part of the policy or contract, and any evidence of coverage or certificate, for an individual or group annuity, life insurance, disability income, or long-term care insurance product that an insurer is authorized to issue.

l. "Rule" means a statement of general or particular applicability and future effect promulgated by the commission, including a uniform standard developed pursuant to article VII, designed to implement, interpret, or prescribe law or policy, or describing the organization, procedure, or practice requirements of the commission, which shall have the force and effect of law in the compacting states.

m. "State" means any state, district, or territory of the United States of America.

n. "Third-party filer" means an entity that submits a product filing to the commission on behalf of an insurer.

o. "Uniform standard" means a standard adopted by the commission for a product line, pursuant to article VII, and shall include all of the product requirements in aggregate, provided that each uniform standard shall be construed, whether express or implied, to prohibit the use of any inconsistent, misleading, or ambiguous provisions in a product, and the form of the product made available to the public shall not be unfair, inequitable, or against public policy as determined by the commission.

3. *Article III — Establishment of the commission and venue.*

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a. The compacting states hereby create and establish a joint public agency known as the interstate insurance product regulation commission. Pursuant to article IV, the commission has the power to develop uniform standards for product lines, receive and provide prompt review of products filed therewith, and give approval to those product filings satisfying applicable uniform standards, provided it is not intended for the commission to be the exclusive entity for receipt and review of insurance product filings. Nothing herein shall prohibit any insurer from filing its product in any state wherein the insurer is licensed to conduct the business of insurance, and any such filing shall be subject to the laws of the state where filed.

b. The commission is a body corporate and politic, and an instrumentality of the compacting state.

c. The commission is solely responsible for its liabilities except as otherwise specifically provided in this compact.

d. Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located.

4. *Article IV — Powers of the commission.* The commission shall have the following powers:

a. To promulgate rules, pursuant to article VII, which shall have the force and effect of law and shall be binding in the compacting states to the extent and in the manner provided in this compact.

b. To exercise its rulemaking authority and establish reasonable uniform standards for products covered under this compact, and advertisement related thereto, which shall have the force and effect of law and shall be binding in the compacting states, but only for those products filed with the commission, provided that a compacting state shall have the right to opt out of such uniform standard pursuant to article VII, to the extent and in the manner provided in this compact, and, provided further, that any uniform standard established by the commission for long-term care insurance products may provide the same or greater protections for consumers as, but shall not provide less than, those protections set forth in the national association of insurance commissioners' long-term care insurance model act and long-term care insurance model regulation, respectively, adopted as of 2001. The commission shall consider whether any subsequent amendments to the long-term care insurance model act or long-term care insurance model regulation adopted by the national association of insurance commissioners require amending of the uniform standards established by the commission for long-term care insurance products.

c. To receive and review in an expeditious manner products filed with the commission, and rate filings for disability income and long-term care insurance products, and give approval of those products and rate filings that satisfy the applicable uniform standard, where such approval shall have the force and effect of law, and be binding on the compacting states to the extent and in the manner provided in the compact.

d. To receive and review in an expeditious manner advertisement relating to long-term care insurance products for which uniform standards have been adopted by the commission, and give approval to all advertisement that satisfies the applicable uniform standard. For any product covered under this compact, other than long-term care insurance products, the commission shall have the authority to require an insurer to submit all or any part of its advertisement with respect to that product for review or approval prior to use, if the commission determines that the nature of the product is such that an advertisement of the product could have the capacity or tendency to mislead the public. The actions of the commission as provided in this article shall have the force and effect of law and shall be binding in the compacting states to the extent and in the manner provided in this compact.

e. To exercise its rulemaking authority and designate products and advertisement that may be subject to a self-certification process without the need for prior approval by the commission.

f. To promulgate operating procedures, pursuant to article VII, which shall be binding in the compacting states to the extent and in the manner provided in this compact.

g. To bring and prosecute legal proceedings or actions in its name as the commission,

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provided that the standing of any state insurance department to sue or be sued under applicable law shall not be affected.

h. To issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence.

i. To establish and maintain offices.

j. To purchase and maintain insurance and bonds.

k. To borrow, accept, or contract for services of personnel, including, but not limited to, employees of a compacting state.

l. To hire employees, professionals, or specialists, and elect or appoint officers, and to fix their compensation, define their duties, and give them appropriate authority to carry out the purposes of this compact, and determine their qualifications, and to establish the commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel.

m. To accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same, provided that at all times the commission shall strive to avoid any appearance of impropriety.

n. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, real, personal, or mixed, provided that at all times the commission shall strive to avoid any appearance of impropriety.

o. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

p. To remit filing fees to compacting states as may be set forth in the bylaws, rules, or operating procedures.

q. To enforce compliance by compacting states with rules, uniform standards, operating procedures, and bylaws.

r. To provide for dispute resolution among compacting states.

s. To advise compacting states on issues relating to insurers domiciled or doing business in noncompacting jurisdictions, consistent with the purposes of this compact.

t. To provide advice and training to those personnel in state insurance departments responsible for product review, and to be a resource for state insurance departments.

u. To establish a budget and make expenditures.

v. To borrow money.

w. To appoint committees, including advisory committees comprising members, state insurance regulators, state legislators or their representatives, insurance industry and consumer representatives, and such other interested persons as may be designated in the bylaws.

x. To provide and receive information from, and to cooperate with, law enforcement agencies.

y. To adopt and use a corporate seal.

z. To perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of the business of insurance.

5. *Article V — Organization of the commission.*

a. Membership, voting, and bylaws.

(1) Each compacting state shall have and be limited to one member. Each member shall be qualified to serve in that capacity pursuant to applicable law of the compacting state. Any member may be removed or suspended from office as provided by the law of the state from which the member is appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the compacting state wherein the vacancy exists. Nothing herein shall be construed to affect the manner in which a compacting state determines the election or appointment and qualification of its own commissioner.

(2) Each member shall be entitled to one vote and shall have an opportunity to participate in the governance of the commission in accordance with the bylaws. Notwithstanding any provision herein to the contrary, no action of the commission with respect to the promulgation of a uniform standard shall be effective unless two-thirds of the members vote in favor thereof.

(3) The commission shall, by a majority of the members, prescribe bylaws to govern its

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conduct as may be necessary or appropriate to carry out the purposes, and exercise the powers, of the compact, including, but not limited to:

(a) Establishing the fiscal year of the commission.

(b) Providing reasonable procedures for appointing and electing members, as well as holding meetings, of the management committee.

(c) Providing reasonable standards and procedures:

(i) For the establishment and meetings of other committees.

(ii) Governing any general or specific delegation of any authority or function of the commission.

(d) Providing reasonable procedures for calling and conducting meetings of the commission that consists of a majority of commission members ensuring reasonable advance notice of each such meeting, and providing for the right of citizens to attend each such meeting with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and insurers' proprietary information, including trade secrets. The commission may meet in camera only after a majority of the entire membership votes to close a meeting en toto or in part. As soon as practicable, the commission shall make public:

(i) A copy of the vote to close the meeting, revealing the vote of each member, with no proxy votes allowed.

(ii) Votes taken during such meeting.

(e) Establishing the titles, duties, and authority, and reasonable procedures for the election of the officers of the commission.

(f) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any compacting state, the bylaws shall exclusively govern the personnel policies and programs of the commission.

(g) Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of this compact after the payment or reserving of all of its debts and obligations.

(h) Promulgating a code of ethics to address permissible and prohibited activities of commission members and employees.

(4) The commission shall publish its bylaws in a convenient form and file a copy of the bylaws, along with any amendments, with the appropriate agency or officer in each of the compacting states.

b. Management committee, officers, and personnel.

(1) A management committee comprising no more than fourteen members shall be established as follows:

(a) One member from each of the six compacting states with the largest premium volume for individual and group annuities, life, disability income, and long-term care insurance products, determined from the records of the national association of insurance commissioners for the prior year.

(b) Four members from those compacting states with at least two percent of the market based on the premium volume described in subparagraph division (a), other than the six compacting states with the largest premium volume, selected on a rotating basis as provided in the bylaws.

(c) Four members from those compacting states with less than two percent of the market, based on the premium volume described in subparagraph division (a), with one selected from each of the four zone regions of the national association of insurance commissioners as provided in the bylaws.

(2) The management committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to:

(a) Managing the affairs of the commission in a manner consistent with the bylaws and purposes of the commission.

(b) Establishing and overseeing an organizational structure within, and appropriate procedures for, the commission to provide for the creation of uniform standards and other rules, receipt and review of product filings, administrative and technical support functions, review of decisions regarding the disapproval of a product filing, and the review of elections

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made by a compacting state to opt out of a uniform standard, provided that a uniform standard shall not be submitted to the compacting states for adoption unless approved by two-thirds of the members of the management committee.

(c) Overseeing the offices of the commission.

(d) Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the commission.

(3) The commission shall elect annually officers from the management committee, with each having such authority and duties, as may be specified in the bylaws.

(4) The management committee may, subject to the approval of the commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the commission may deem appropriate. The executive director shall serve as secretary to the commission, but shall not be a member of the commission. The executive director shall hire and supervise such other staff as may be authorized by the commission.

c. Legislative and advisory committees.

(1) A legislative committee comprising state legislators or their designees shall be established to monitor the operations of, and make recommendations to, the commission, including the management committee, provided that the manner of selection and term of any legislative committee member shall be as set forth in the bylaws. Prior to the adoption by the commission of any uniform standard, revision to the bylaws, annual budget, or other significant matter as may be provided in the bylaws, the management committee shall consult with and report to the legislative committee.

(2) The commission shall establish two advisory committees, one of which shall comprise consumer representatives independent of the insurance industry, and the other comprising insurance industry representatives.

(3) The commission may establish additional advisory committees as its bylaws may provide for the carrying out of its functions.

d. Corporate records of the commission. The commission shall maintain its corporate books and records in accordance with the bylaws.

e. Qualified immunity, defense, and indemnification.

(1) The members, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to, or loss of, property, personal injury, or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities, provided that nothing in this subparagraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of that person.

(2) The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that nothing herein shall be construed to prohibit that person from retaining the person's own counsel; and, provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful and wanton misconduct.

(3) The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful and wanton misconduct of that person.

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6. *Article VI — Meetings and acts of the commission.*

a. The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.

b. Each member of the commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the commission. A member shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for members' participation in meetings by telephone or other means of communication.

c. The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

7. *Article VII — Rules and operating procedures — rulemaking functions of the commission and opting out of uniform standards.*

a. Rulemaking authority. The commission shall promulgate reasonable rules, including uniform standards and operating procedures, in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted hereunder, such an action by the commission shall be invalid and have no force and effect.

b. Rulemaking procedure. Rules and operating procedures shall be made pursuant to a rulemaking process that conforms to the model state administrative procedure act of 1981 as amended, as may be appropriate to the operations of the commission. Before the commission adopts a uniform standard, the commission shall give written notice to the relevant state legislative committee or committees in each compacting state responsible for insurance issues of its intention to adopt the uniform standard. The commission, in adopting a uniform standard, shall consider fully all submitted materials and issue a concise explanation of its decision.

c. Effective date and opt out of a uniform standard. A uniform standard shall become effective ninety days after its promulgation by the commission or such later date as the commission may determine, provided, however, that a compacting state may opt out of a uniform standard as provided in this article. *"Opt out"* means any action by a compacting state to decline to adopt or participate in a promulgated uniform standard. All other rules and operating procedures, and amendments thereto, shall become effective as of the date specified in each rule, operating procedure, or amendment.

d. Opt-out procedure.

(1) A compacting state may opt out of a uniform standard, either by legislation or regulation duly promulgated by the insurance department under the compacting state's administrative procedure act. If a compacting state elects to opt out of a uniform standard by regulation, it must do all of the following:

(a) Give written notice to the commission no later than ten business days after the uniform standard is promulgated, or at the time the state becomes a compacting state.

(b) Find that the uniform standard does not provide reasonable protections to the citizens of the state, given the conditions in the state.

(2) The commissioner shall make specific findings of fact and conclusions of law, based on a preponderance of the evidence, detailing the conditions in the state which warrant a departure from the uniform standard and determining that the uniform standard would not reasonably protect the citizens of the state. The commissioner must consider and balance the following factors and find that the conditions in the state and needs of the citizens of the state outweigh both of the following:

(a) The intent of the legislature to participate in, and the benefits of, an interstate agreement to establish national uniform consumer protections for the products subject to this compact.

(b) The presumption that a uniform standard adopted by the commission provides reasonable protections to consumers of the relevant product.

(3) Notwithstanding the foregoing, a compacting state may, at the time of its enactment of this compact, prospectively opt out of all uniform standards involving long-term care insurance products by expressly providing for such opt out in the enacted compact, and such

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an opt out shall not be treated as a material variance in the offer or acceptance of any state to participate in this compact. Such an opt out shall be effective at the time of enactment of this compact by the compacting state and shall apply to all existing uniform standards involving long-term care insurance products and those subsequently promulgated.

e. Effect of opt out.

(1) If a compacting state elects to opt out of a uniform standard, the uniform standard shall remain applicable in the compacting state electing to opt out until such time the opt-out legislation is enacted into law or the regulation opting out becomes effective.

(2) Once the opt out of a uniform standard by a compacting state becomes effective, as provided under the laws of that state, the uniform standard shall have no further force and effect in that state unless and until the legislation or regulation implementing the opt out is repealed or otherwise becomes ineffective under the laws of the state. If a compacting state opts out of a uniform standard after the uniform standard has been made effective in that state, the opt out shall have the same prospective effect as provided under article XIV for withdrawals.

8. *Article VIII — Commission records and enforcement.*

a. The commission shall promulgate rules establishing conditions and procedures for public inspection and copying of its information and official records, except such information and records involving the privacy of individuals and insurers' trade secrets. The commission may promulgate additional rules under which it may make available to federal and state agencies, including law enforcement agencies, records, and information otherwise exempt from disclosure, and may enter into agreements with such agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

b. Except as to privileged records, data, and information, the laws of any compacting state pertaining to confidentiality or nondisclosure shall not relieve any compacting state commissioner of the duty to disclose any relevant records, data, or information to the commission, provided that disclosure to the commission shall not be deemed to waive or otherwise affect any confidentiality requirement, and further provided that, except as otherwise expressly provided in this compact, the commission shall not be subject to the compacting state's laws pertaining to confidentiality and nondisclosure with respect to records, data, and information in its possession. Confidential information of the commission shall remain confidential after such information is provided to any commissioner.

c. The commission shall monitor compacting states for compliance with duly adopted bylaws, rules, including uniform standards, and operating procedures. The commission shall notify any noncomplying compacting state in writing of its noncompliance with commission bylaws, rules, or operating procedures. If a noncomplying compacting state fails to remedy its noncompliance within the time specified in the notice of noncompliance, the compacting state shall be deemed to be in default as set forth in article XIV.

d. The commissioner of any state in which an insurer is authorized to do business, or is conducting the business of insurance, shall continue to exercise the commissioner's authority to oversee the market regulation of the activities of the insurer in accordance with the provisions of the state's law. The commissioner's enforcement of compliance with the compact is governed by the following provisions:

(1) With respect to the commissioner's market regulation of a product or advertisement that is approved or certified to the commission, the content of the product or advertisement shall not constitute a violation of the provisions, standards, or requirements of this compact except upon a final order of the commission, issued at the request of a commissioner after prior notice to the insurer and an opportunity for hearing before the commission.

(2) Before a commissioner may bring an action for violation of any provision, standard, or requirement of this compact relating to the content of an advertisement not approved or certified to the commission, the commission, or an authorized commission officer or employee, must authorize the action. However, authorization pursuant to this subparagraph does not require notice to the insurer, opportunity for hearing, or disclosure of requests for authorization or records of the commission's action on such requests.

e. Stay of uniform standard. If a compacting state has formally initiated the process of opting out of a uniform standard by regulation, and while the regulatory opt out is pending,

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the compacting state may petition the commission, at least fifteen days before the effective date of the uniform standard, to stay the effectiveness of the uniform standard in that state. The commission may grant a stay if it determines the regulatory opt out is being pursued in a reasonable manner and there is a likelihood of success. If a stay is granted or extended by the commission, the stay or extension thereof may postpone the effective date by up to ninety days, unless affirmatively extended by the commission, provided a stay may not be permitted to remain in effect for more than one year unless the compacting state can show extraordinary circumstances which warrant a continuance of the stay, including, but not limited to, the existence of a legal challenge which prevents the compacting state from opting out. A stay may be terminated by the commission upon notice that the rulemaking process has been terminated.

f. Not later than thirty days after a rule or operating procedure is adopted, any person may file a petition for judicial review of the rule or operating procedure, provided that the filing of such a petition shall not stay or otherwise prevent the rule or operating procedure from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the commission consistent with applicable law and shall not find the rule or operating procedure to be unlawful if the rule or operating procedure represents a reasonable exercise of the commission's authority.

9. *Article IX — Dispute resolution.* The commission shall attempt, upon the request of a member, to resolve any disputes or other issues which are subject to this compact and which may arise between two or more compacting states, or between compacting states and noncompacting states, and the commission shall promulgate an operating procedure providing for resolution of such disputes.

10. *Article X — Product filing and approval.*

a. Insurers and third-party filers seeking to have a product approved by the commission shall file the product with, and pay applicable filing fees to, the commission. Nothing in this compact shall be construed to restrict or otherwise prevent an insurer from filing its product with the insurance department in any state wherein the insurer is licensed to conduct the business of insurance, and such filing shall be subject to the laws of the states where filed.

b. The commission shall establish appropriate filing and review processes and procedures pursuant to commission rules and operating procedures. Notwithstanding any provision herein to the contrary, the commission shall promulgate rules to establish conditions and procedures under which the commission will provide public access to product filing information. In establishing such rules, the commission shall consider the interests of the public in having access to such information, as well as protection of personal medical and financial information and trade secrets, that may be contained in a product filing or supporting information.

c. Any product approved by the commission may be sold or otherwise issued in those compacting states in which the insurer is legally authorized to do business.

11. *Article XI — Review of commission decisions regarding filings.*

a. Not later than thirty days after the commission has given notice of a disapproved product or advertisement filed with the commission, the insurer or third-party filer whose filing was disapproved may appeal the determination to a review panel appointed by the commission. The commission shall adopt rules to establish procedures for appointing such review panels and provide for notice and hearing. An allegation that the commission, in disapproving a product or advertisement filed with the commission, acted arbitrarily, capriciously, or in a manner that is an abuse of discretion or otherwise not in accordance with the law, is subject to judicial review in accordance with article III, paragraph *"d"*.

b. The commission shall have authority to monitor, review, and reconsider products and advertisement subsequent to their filing or approval upon a finding that the product does not meet the relevant uniform standard. Where appropriate, the commission may withdraw or modify its approval after proper notice and hearing, subject to the appeal process in paragraph *"a"*.

12. *Article XII — Finance.*

a. The commission shall pay or provide for the payment of the reasonable expenses of its establishment and organization. To fund the cost of its initial operations, the commission

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may accept contributions and other forms of funding from the national association of insurance commissioners, compacting states, and other sources. Contributions and other forms of funding from other sources shall be of such a nature that the independence of the commission concerning the performance of its duties shall not be compromised.

b. The commission shall collect a filing fee from each insurer and third-party filer filing a product with the commission to cover the cost of the operations and activities of the commission and its staff in a total amount sufficient to cover the commission's annual budget.

c. The commission's budget for a fiscal year shall not be approved until it has been subject to notice and comment as set forth in article VII.

d. The commission shall be exempt from all taxation in and by the compacting states.

e. The commission shall not pledge the credit of any compacting state, except by and with the appropriate legal authority of that compacting state.

f. The commission shall keep complete and accurate accounts of all its internal receipts, including grants and donations, and disbursements of all funds under its control. The internal financial accounts of the commission shall be subject to the accounting procedures established under its bylaws. The financial accounts and reports, including the system of internal controls and procedures of the commission, shall be audited annually by an independent certified public accountant. Upon the determination of the commission, but no less frequently than every three years, the review of the independent auditor shall include a management and performance audit of the commission. The commission shall make an annual report to the governor and legislature of the compacting states, which shall include a report of the independent audit. The commission's internal accounts shall not be confidential and such materials may be shared with the commissioner of any compacting state upon request; provided, however, that any work papers related to any internal or independent audit and any information regarding the privacy of the individuals and insurers' proprietary information, including trade secrets, shall remain confidential.

g. A compacting state shall not have any claim to or ownership of any property held by or vested in the commission or to any commission funds held pursuant to the provisions of this compact.

13. *Article XIII — Compacting states, effective date, and amendment.*

a. Any state is eligible to become a compacting state.

b. This compact shall become effective and binding upon legislative enactment of this compact into law by two compacting states, provided the commission shall become effective for purposes of adopting uniform standards for reviewing, and giving approval or disapproval of, products filed with the commission that satisfy applicable uniform standards only after twenty-six states are compacting states or, alternatively, by states representing greater than forty percent of the premium volume for life insurance, annuity, disability income, and long-term care insurance products, based on records of the national association of insurance commissioners for the prior year. Thereafter, it shall become effective and binding as to any other compacting state upon enactment of this compact into law by that state.

c. Amendments to this compact may be proposed by the commission for enactment by the compacting states. An amendment shall not become effective and binding upon the commission and the compacting states unless and until all compacting states enact the amendment into law.

14. *Article XIV — Withdrawal, default, and termination.*

a. Withdrawal.

(1) Once effective, this compact shall continue in force and remain binding upon each and every compacting state, provided that a compacting state may withdraw from this compact by enacting a statute specifically repealing the statute which enacted the compact into law.

(2) The effective date of withdrawal is the effective date of the repealing statute. However, the withdrawal shall not apply to any product filings approved or self-certified, or any advertisement of such products, on the date the repealing statute becomes effective, except by mutual agreement of the commission and the withdrawing state unless the approval is rescinded by the withdrawing state as provided in subparagraph (5).

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(3) The commissioner of the withdrawing state shall immediately notify the management committee in writing upon the introduction of legislation repealing this compact in the withdrawing state.

(4) The commission shall notify the other compacting states of the introduction of such legislation within ten days after its receipt of notice.

(5) The withdrawing state is responsible for all obligations, duties, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal, except to the extent those obligations may have been released or relinquished by mutual agreement of the commission and the withdrawing state. The commission's approval of products and advertisement prior to the effective date of withdrawal shall continue to be effective and be given full force and effect in the withdrawing state, unless formally rescinded by the withdrawing state in the same manner as provided by the laws of the withdrawing state for the prospective disapproval of products or advertisement previously approved under state law.

(6) Reinstatement following withdrawal of any compacting state shall occur upon the effective date of the withdrawing state reenacting the compact.

b. Default.

(1) If the commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, the bylaws or duly promulgated rules or operating procedures, then, after notice and hearing as set forth in the bylaws, all rights, privileges, and benefits conferred by this compact on the defaulting state shall be suspended from the effective date of default as fixed by the commission. The grounds for default include, but are not limited to, failure of a compacting state to perform its obligations or responsibilities, and any other grounds designated in commission rules. The commission shall immediately notify the defaulting state in writing of the defaulting state's suspension, pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from this compact and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination.

(2) Product approvals by the commission or product self-certifications, or any advertisement in connection with such product, that are in force on the effective date of termination shall remain in force in the defaulting state in the same manner as if the defaulting state had withdrawn voluntarily pursuant to paragraph *"a"*.

(3) Reinstatement following termination of any compacting state requires a reenactment of this compact.

c. Dissolution of compact.

(1) This compact dissolves effective upon the date of the withdrawal or default of the compacting state which reduces membership in this compact to one compacting state.

(2) Upon the dissolution of this compact, this compact becomes null and void and shall be of no further force or effect, and the business and affairs of the commission shall be wound up and any surplus funds shall be distributed in accordance with the bylaws.

15. *Article XV — Severability and construction.*

a. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of this compact shall be enforceable.

b. The provisions of this compact shall be liberally construed to effectuate its purposes.

16. *Article XVI — Binding effect of compact and other laws.*

a. Other laws.

(1) Nothing herein prevents the enforcement of any other law of a compacting state, except as provided in subparagraph (2).

(2) For any product approved or certified to the commission, the rules, uniform standards, and any other requirements of the commission shall constitute the exclusive provisions applicable to the content, approval, and certification of such products. For advertisement that is subject to the commission's authority, any rule, uniform standard, or other requirement of the commission which governs the content of the advertisement

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shall constitute the exclusive provision that a commissioner may apply to the content of the advertisement. Notwithstanding the foregoing, action taken by the commission shall not abrogate or restrict:

(a) The access of any person to state courts.

(b) Remedies available under state law related to breach of contract, tort, general consumer protection laws, or general consumer protection regulations that apply to the sale or advertisement of the product or other laws not specifically directed to the content of the product.

(c) State law relating to the construction of insurance contracts.

(d) The authority of the attorney general of the state, including but not limited to maintaining any actions or proceedings, as authorized by law.

(3) All insurance products filed with individual states shall be subject to the laws of those states.

b. Binding effect of this compact.

(1) All lawful actions of the commission, including all rules and operating procedures adopted by the commission, are binding upon the compacting states.

(2) All agreements between the commission and the compacting states are binding in accordance with their terms.

(3) Upon the request of a party to a conflict over the meaning or interpretation of commission actions, and upon a majority vote of the compacting states, the commission may issue advisory opinions regarding the meaning or interpretation in dispute.

(4) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by that provision upon the commission shall be ineffective as to that compacting state, and those obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which those obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.

2003 Acts, ch 91, §54; 2003 Acts, ch 179, §74; 2004 Acts, ch 1110, §6 – 16; 2005 Acts, ch 70, §3; 2008 Acts, ch 1032, §201; 2009 Acts, ch 41, §263

CHAPTER 505B

INSURANCE NOTICES AND DOCUMENTS — ELECTRONIC DELIVERY AND POSTING

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

505B.1 Notices and documents delivered by electronic means.
505B.2 Posting of documents on insurer's internet site.
505B.3 Applicability.

505B.1 Notices and documents delivered by electronic means.

1. As used in this chapter, unless the context otherwise requires:

a. "Delivered by electronic means", *"deliver by electronic means"*, or *"delivery by electronic means"* means any of the following:

(1) Delivery to an electronic mail address at which a party has consented to receive notices or documents.

(2) Posting on an electronic network or site accessible via the internet, a mobile application, computer, mobile device, tablet, or any other electronic device, together with separate notice of the posting which shall be provided by electronic mail to the address at which the party has consented to receive notice or by any other delivery method that has been consented to by the party.

b. "Party" means a recipient of a notice or document required as part of an insurance transaction, including but not limited to an applicant, an insured, a policyholder, or an annuity contract holder.

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2. *a.* Subject to the requirements of this section, except for a notice of cancellation, nonrenewal, or termination, any notice to a party or any other document required under applicable law in an insurance transaction or that is to serve as evidence of insurance coverage may be delivered, stored, or presented by electronic means so long as the notice or document meets the requirements of chapter 554D.

b. A notice of cancellation, nonrenewal, or termination shall be delivered by mail as provided by law and shall not be delivered by electronic means unless the notice is sent and received as required pursuant to section 554D.117 in a manner that is verifiable and is approved by the commissioner by rules adopted pursuant to chapter 17A. Delivery of a notice or document by electronic means in a manner that meets the requirements of chapter 554D and this chapter, and in a manner that is verifiable and is approved by the commissioner by rule, may be used in lieu of delivery by mail. Nothing in this section shall prohibit the delivery of a courtesy copy of a notice of cancellation, nonrenewal, or termination by electronic means even if the manner of electronic delivery has not been approved by the commissioner by rule if both of the following requirements are met:

(1) The notice of cancellation, nonrenewal, or termination is properly delivered by mail as provided by law.

(2) The requirements of subsection 4 are satisfied.

3. Delivery of a notice or document in accordance with this section shall be considered equivalent to any delivery method required under applicable law, including delivery by first class mail; first class mail, postage prepaid; certified mail; certificate of mail; or certificate of mailing.

4. A notice or document may be delivered by electronic means by an insurer to a party under this section if all of the following occur:

a. The party has affirmatively consented to such method of delivery and has not withdrawn the consent.

b. The party, before giving consent, is provided with a clear and conspicuous statement informing the party of the following:

(1) The right of the party to have the notice or document provided or made available in paper form.

(2) The right of the party to withdraw consent to have a notice or document delivered by electronic means and any conditions or consequences imposed in the event consent is withdrawn.

(3) Whether the party's consent applies as follows:

(a) Only to the particular transaction as to which the notice or document must be provided.

(b) To notices of cancellation, nonrenewal, or termination.

(c) To other identified categories of notices or documents that may be delivered by electronic means during the course of the parties' relationship.

(4) The means, after consent is given, by which a party may obtain a paper copy of a notice or document delivered by electronic means.

(5) The procedure a party must follow to withdraw consent to have a notice or document delivered by electronic means and to update information needed to contact the party electronically.

c. Both of the following occur:

(1) Before giving consent, the party is provided with a statement of the hardware and software requirements for access to and retention of a notice or document delivered by electronic means.

(2) The party consents electronically, or confirms consent electronically, in a manner that reasonably demonstrates that the party can access information in the electronic form that will be used for notices or documents delivered by electronic means as to which the party has given consent.

d. After consent of the party is given, the insurer, in the event a change in the hardware or software requirements needed to access or retain a notice or document delivered by electronic means creates a material risk that the party will not be able to access or retain a subsequent notice or document to which the consent applies, does the following:

(1) Provides the party with a statement of the following:

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(a) The revised hardware and software requirements for access to and retention of a notice or document delivered by electronic means.

(b) The right of the party to withdraw consent without the imposition of any condition or consequence that was not disclosed under paragraph *"b"*, subparagraph (2).

(2) Complies with paragraph *"b"*.

5. *a.* For purposes of this subsection, *"consumer"* and *"portable electronics insurance"* mean the same as defined in section 522E.1.

b. Notwithstanding subsection 4, affirmative consent from a party to have notices and documents delivered by electronic means for portable electronics insurance sold pursuant to chapter 522E is obtained if a consumer provides an electronic mail address and the consumer is provided at the point of sale, or prior to the point of sale, a conspicuously located disclosure advising the consumer that the consumer is giving affirmative consent. The disclosure must also advise the consumer of the consumer's right to receive a paper copy of notices and documents and of the process by which the consumer can opt out of delivery by electronic means.

6. This section does not affect requirements related to content or timing of any notice or document required under applicable law.

7. If a provision of this title or applicable law requiring a notice or document to be provided to a party expressly requires verification or acknowledgment of receipt of the notice or document, the notice or document may be delivered by electronic means only if the method used provides for verification or acknowledgment of receipt.

8. The legal effectiveness, validity, or enforceability of any contract or policy of insurance executed by a party shall not be denied solely because of the failure to obtain electronic consent or confirmation of consent of the party in accordance with subsection 4, paragraph "*c*", subparagraph (2).

9. *a.* A withdrawal of consent by a party does not affect the legal effectiveness, validity, or enforceability of a notice or document delivered by electronic means to the party before the withdrawal of consent is effective.

b. A withdrawal of consent by a party is effective within a reasonable period of time after receipt of the withdrawal by the insurer.

c. Failure by an insurer to comply with subsection 4, paragraph *"d"*, may be treated, at the election of the party, as a withdrawal of consent for purposes of this section.

10. This section does not apply to a notice or document delivered by an insurer in an electronic form before July 1, 2014, to a party who, before that date, has consented to receive a notice or document in an electronic form otherwise allowed by law.

11. If the consent of a party to receive certain notices or documents in an electronic form is on file with an insurer before July 1, 2014, and pursuant to this section an insurer intends to deliver additional notices or documents to such party in an electronic form, then prior to delivering such additional notices or documents electronically, the insurer shall do all of the following:

a. Provide the party with a statement that describes all of the following:

(1) The notices or documents that will be delivered by electronic means under this section that were not previously delivered electronically.

(2) The party's right to withdraw consent to have notices or documents delivered by electronic means without the imposition of any condition or consequence that was not disclosed at the time of initial consent.

b. Comply with all of the requirements of subsection 4, paragraph *"b"*.

12. *a.* For purposes of this subsection:

(1) *"Covered employee"* or *"employee"* means an individual participating in a group health plan who is entitled to notices and documents and who is an employee of the sponsor or policyholder of the group health plan.

(2) *"Covered person"* or *"person"* means an individual participating in a group health plan who is entitled to notices and documents.

(3) *"Smart device"* means an electronic device that combines a cell phone with a hand-held computer and that offers internet access, and text or electronic mail capabilities.

b. Notwithstanding any provision of this section to the contrary, a sponsor or policyholder

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of a group health plan may consent to notices and documents delivered by electronic means, unless there is a federal requirement for a specific mode of delivery, on behalf of the sponsor or policyholder's covered employees and covered persons. For such consent to be effective, the sponsor or policyholder shall do all of the following:

(1) (a) Assign each covered employee for whom consent is being given an electronic mail address for employment-related purposes at which the employee may receive or access notifications regarding posted notices and documents delivered by electronic means, or require each employee for whom consent is being given to provide the sponsor or policyholder with an electronic mail address or a smart device number at which the employee may receive or access notifications regarding posted notices and documents delivered by electronic means.

(b) Require each covered person, or a covered employee on behalf of a covered person, to provide the sponsor or policyholder with an electronic mail address or a smart device number at which the person may receive or access notifications regarding notices and documents delivered by electronic means.

(2) Prior to delivery by electronic means of notices and documents to covered employees and covered persons, the sponsor or policyholder shall provide a notification in paper form to each employee and each person for whom consent is being given that does all of the following:

(a) Notifies the employee or person that notices and documents for the group health plan will be posted to an internet site to which the employee or person will have reasonable access.

(b) Confirms the electronic mail address or smart device number to which notifications regarding notices and documents will be delivered by electronic means to the employee or person.

(c) Provides instructions for accessing notices or documents on the internet site described in subparagraph (2), subparagraph division (a).

(d) Provides the time period during which a specific type of notice or document delivered by electronic means will remain accessible.

(e) Advises the employee or person that a paper form of a notice or document may be requested and will be provided free of charge, and the process to request a paper form.

(f) Advises the employee or person of the right to opt out of delivery by electronic means and the process to exercise that right.

(3) Provides notice to each impacted covered employee and each impacted covered person each time a notice or document is posted on the internet site described in subparagraph (2), subparagraph division (a). The notice may be delivered by electronic means to the covered employee's or covered person's electronic mail address or smart device number and shall include all of the following:

(a) A prominent statement that important information regarding the group health plan has been posted on the internet site.

(b) The name of, or a description of, the notice or document.

(c) The internet site address or the hyperlink at which the notice or document may be accessed.

(d) A statement of the recipient's right to request the notice or document in paper form, free of charge, and the process to exercise that right.

(e) A statement of the recipient's right to opt out of delivery by electronic means and to receive documents in paper form free of charge.

(f) The time period during which the notice or document will remain accessible on the internet site.

(g) A telephone number for the insurer or the group health plan administrator.

13. An insurer shall deliver a notice or document by any other delivery method permitted by law other than electronic means if either of the following occurs:

a. The insurer attempts to deliver the notice or document by electronic means and has a reasonable basis for believing that the notice or document has not been received by the party.

b. The insurer becomes aware that the electronic mail address provided by the party is no longer valid.

14. It shall be the exclusive responsibility of an insurer to satisfy the requirements of this section and to deliver any notice or document sent to a party pursuant to this section.

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15. This section shall not be construed to modify, limit, or supersede the provisions of the federal Electronic Signatures in Global and National Commerce Act, Pub. L. No. 106-229, 114 Stat. 464 (2000), codified at 15 U.S.C. §7001 et seq., as amended.

2014 Acts, ch 1007, §5; 2015 Acts, ch 108, §1 – 6; 2019 Acts, ch 16, §1, 2; 2020 Acts, ch 1063, §269; 2022 Acts, ch 1053, §1

Referred to in §522E.1, 522E.9, 522E.13

505B.2 Posting of documents on insurer's internet site.

1. Notwithstanding any contrary provision of chapter 554D, an insurer may mail, deliver, or post on the insurer's internet site insurance documents, including policies, riders, endorsements, and annuity contracts that do not contain personally identifiable information. If the insurer elects to post an insurance policy or endorsement on the insurer's internet site in lieu of mailing or delivering the policy or endorsement to the insured, the insurer must comply with all of the following conditions:

a. The policy or endorsement must be accessible and remain accessible to the insured and to the licensed insurance producer of record for as long as the policy or endorsement is in force.

b. After the expiration of the policy or endorsement, the insurer must archive the expired policy or endorsement for a period of five years or other period required by law, and make the policy or endorsement available upon request.

c. The policy or endorsement must be posted in a manner that enables the insured and the licensed insurance producer of record to print and save the policy or endorsement using programs and applications that are widely available on the internet and free to use.

d. The insurer must provide the following information in, or simultaneously with, each declarations page provided at the time of issuance of the initial policy and any renewal of that policy:

(1) A description of the exact policy or endorsement purchased by the insured.

(2) A description of the insured's right to receive, upon request and without charge, a paper copy of the insured's policy or endorsement by mail.

(3) An internet address where the insured's policy or endorsement is posted.

e. The insurer, upon request and without charge, must deliver a paper copy of the policy or endorsements to the insured by mail.

f. The insurer must provide notice, in the format preferred by the insured, of any changes to the policy or endorsement, the insured's right to obtain, upon request and without charge, a paper copy of such policy or endorsement, and the internet address where such policy or endorsement is posted.

2. Nothing in this section shall be construed to affect the timing or content of any notice or document required to be provided or made available to any insured under applicable law.

2014 Acts, ch 1007, §6; 2015 Acts, ch 108, §7

505B.3 Applicability.

The provisions of this chapter shall apply to the insurance products and documents, including insurance policies, insurance riders, insurance endorsements, and annuity contracts filed with and regulated by the commissioner of insurance under the authority provided to the commissioner by Title XIII, subtitle 1.

2014 Acts, ch 1007, §7

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CHAPTER 506

DOMESTIC INSURANCE COMPANIES

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

506.1 Rules — limitations.
506.2 Sale of securities restricted.
506.3 Certificate of compliance.
506.4 Maximum promotion expense allowed.
506.5 Regulation by commissioner.
506.6 Promoters restricted.
506.7 Penalty. Repealed by 2004 Acts, ch 1110, §71.
506.8 Liability to stockholders.
506.9 Judicial review.
506.10 Sale of stock as inducement to insurance.
506.11 Securities law applicable.
506.12 Principal executive office.
506.13 New officers or directors — biographical affidavit required.
506.14 Voluntary dissolution of domestic mutual insurance companies.

506.1 Rules — limitations.

The commissioner of insurance shall promulgate such reasonable rules and regulations as the commissioner deems necessary to assure the proper operation of newly organized insurance companies but in no event shall the commissioner:

1. Require that more than twenty percent of the original capital and surplus of a stock corporation subject to the provisions of this chapter be invested by the organizers; or

2. Restrict the alienation of securities issued to organizers for a period of more than:

a. Five years, or

b. Until the operation of the insurance company produces earned surplus for two successive years.

[C66, 71, 73, 75, 77, 79, 81, §506.1]

506.2 Sale of securities restricted.

Neither the securities in a domestic insurance company, nor securities in a holding company, one of the purposes of which is to organize, purchase, or otherwise acquire control of a domestic insurance company, nor membership in an association in process of organization shall be sold or solicited until such company or association, and the promoters thereof, shall have first complied with all of the statutory provisions regulating the organization of such companies and associations, and also have secured from the commissioner of insurance a certificate indicating full compliance with the provisions of this chapter.

[S13, §1683-r3; C24, 27, 31, 35, 39, §**8616;** C46, 50, 54, 58, 62, §506.1; C66, 71, 73, 75, 77, 79, 81, §506.2]

88 Acts, ch 112, §501

506.3 Certificate of compliance.

Before the commissioner of insurance shall issue such certificate of compliance, the commissioner shall first be satisfied with the general plan of such organization and the character of the advertising to be used; the commissioner shall also see that all rules and regulations promulgated under this chapter have been complied with and fix the time within which such organization shall be completed; the commissioner shall also prescribe the method of keeping books and accounts of insurance companies and those of fiscal agents of corporations subject to the provisions of this chapter.

[S13, §1683-r3; C24, 27, 31, 35, 39, §**8617;** C46, 50, 54, 58, 62, §506.2; C66, 71, 73, 75, 77, 79, 81, §506.3]

506.4 Maximum promotion expense allowed.

The maximum promotion expense which may be incurred shall in no case exceed fifteen percent of the sale price of said stock, and no portion of such amount shall be used in the payment of salaries for officers and directors before the issuance, by the commissioner of insurance, of authority to transact an insurance business. Any amount paid to the company for stock above the par value of the stock shall constitute a contributed surplus but no

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dividends shall be paid by the company except from the earned profits arising from their business, which shall not include contributed capital or contributed surplus.

[C24, 27, 31, 35, 39, §**8618;** C46, 50, 54, 58, 62, §506.3; C66, 71, 73, 75, 77, 79, 81, §506.4]

Referred to in §506.6, 515.10

506.5 Regulation by commissioner.

The commissioner of insurance shall have power to regulate all other matters in connection with the organization of such domestic corporations, and the sale of stock or the issuing of certificates by all insurance corporations within the state, to the end that fraud may be prevented in the organization of such companies and the sale of their stocks and securities.

[S13, §1683-r3; C24, 27, 31, 35, 39, §**8619;** C46, 50, 54, 58, 62, §506.4; C66, 71, 73, 75, 77, 79, 81, §506.5]

Referred to in §515.10

506.6 Promoters restricted.

No company shall enter into any contract with any promoter, officer, director, or agent of the company or any other person to pay the person's expenses or to pay the person any commission or any compensation for the person's services in promoting or organizing such company, or in selling its stock in excess of the amount authorized in section 506.4; nor shall it contract with any such person to pay the person any part of the premiums arising from the insurance it has written or may write as compensation, directly or indirectly, for aiding in the promotion or for aiding or effecting any consolidation of such company with any other company, without the approval of the commissioner of insurance.

[C24, 27, 31, 35, 39, §**8620;** C46, 50, 54, 58, 62, §506.5; C66, 71, 73, 75, 77, 79, 81, §506.6]

Referred to in §515.10

506.7 Penalty. Repealed by 2004 Acts, ch 1110, §71.

506.8 Liability to stockholders.

Any person, association, or corporation who sells or aids in selling or causes to be sold any stock, certificate of membership, or evidence of interest in any such corporation or association, in violation of law, shall be personally liable to any person to whom the person, association or certificate of membership or evidence of interest, in an amount equal to the price paid therefor by such person with legal interest, and suit to recover the same may be brought by such purchasers, jointly or severally, in any court of competent jurisdiction.

[C24, 27, 31, 35, 39, §**8622;** C46, 50, 54, 58, 62, §506.7; C66, 71, 73, 75, 77, 79, 81, §506.8]

506.9 Judicial review.

Judicial review of the acts of commissioner of insurance may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

[C24, 27, 31, 35, 39, §**8623;** C46, 50, 54, 58, 62, §506.8; C66, 71, 73, 75, 77, 79, 81, §506.9]

2003 Acts, ch 44, §114

506.10 Sale of stock as inducement to insurance.

1. No insurance company shall issue in this state, or permit its agents, officers, or employees to issue in this state its own stock, agency company stock or other stock or securities, or any special or advisory board or other contract of any kind promising returns and profits as an inducement to insurance.

2. No insurance company shall be authorized to do business in this state which issues or permits its agents, officers, or employees to issue in this state or in any other state or territory, agency company stock or other stock or securities, or any special advisory board or other contract of any kind promising returns and profits as an inducement to insurance.

3. No corporation or stock company, acting as an agent of an insurance company, or any of its agents, officers, or employees, shall be permitted to agree to sell, offer to sell, or give or offer to give, directly or indirectly, in any manner whatsoever, any share of stock, securities, bonds, or agreement of any form or nature, promising returns and profits as an inducement to insurance, or in connection therewith.

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4. Nothing contained in this section shall impair or affect in any manner any such contracts issued or made as an inducement to insurance prior to April 16, 1921, or prevent the payment of the dividends or returns therein stipulated to be paid.

5. It shall be the duty of the commissioner upon being satisfied that any insurance company, or any agent thereof, has violated any of the provisions of this section, to revoke the certificate of authority of the company or agent so offending.

[C24, 27, 31, 35, 39, §**8624;** C46, 50, 54, 58, 62, §506.9; C66, 71, 73, 75, 77, 79, 81, §506.10]
2018 Acts, ch 1041, §127; 2019 Acts, ch 59, §178

506.11 Securities law applicable.

Nothing contained in this chapter shall be construed to exempt any corporation from the requirements of chapter 502.

[C66, 71, 73, 75, 77, 79, 81, §506.11]

506.12 Principal executive office.

An insurance company incorporated under the laws of this state for the purpose of engaging in the business of insurance shall maintain a principal executive office in this state unless otherwise allowed by the commissioner of insurance. The location of the principal executive office in this state of an insurance company incorporated under chapter 490 shall be identified in the insurance company's articles of incorporation.

92 Acts, ch 1162, §2

506.13 New officers or directors — biographical affidavit required.

Within thirty days after a quarterly or annual statement of an insurance company domiciled in this state first names an individual as an officer or director of the company on the jurat page of the quarterly or annual statement, the new officer or director shall file a biographical affidavit with the commissioner. The affidavit shall be prepared on the current template for biographical affidavits prescribed by the national association of insurance commissioners.

2007 Acts, ch 137, §8

506.14 Voluntary dissolution of domestic mutual insurance companies.

1. Any plan for voluntary dissolution of a domestic mutual insurance company licensed to transact the business of insurance under chapter 508, 515, 518, or 518A shall be presented for approval by the commissioner not less than ninety days in advance of notice of the plan to policyholders.

2. The commissioner shall approve the plan if the commissioner finds that the plan complies with all applicable provisions of law and is fair and equitable to the domestic mutual insurance company and its policyholders.

2013 Acts, ch 124, §8

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CHAPTER 507

EXAMINATION OF INSURANCE COMPANIES

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 507C.12, 508.36, 510B.10, 514.10, 521A.6, 521H.1, 521H.6, 521J.8, 521J.110, 669.14, 670.7

507.1 Purpose — definitions.
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507.14 Confidential documents — exceptions.
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507.1 Purpose — definitions.

1. The purpose of this chapter is to provide an effective and efficient system for examining the activities, operations, financial condition, and affairs of all persons transacting the business of insurance in this state and all persons otherwise subject to the jurisdiction of the commissioner. The chapter is intended to enable the commissioner to adopt a flexible system of examinations which directs resources as deemed appropriate and necessary for the administration of the insurance and insurance-related laws of this state.

2. As used in this chapter, unless the context otherwise requires:

a. *"Commissioner"* means the commissioner of insurance of this state.

b. *"Company"* means any person engaging in or proposing or attempting to engage in any transaction or kind of insurance or surety business and any person or group of persons who may otherwise be subject to the administrative, regulatory, or taxing authority of the commissioner.

c. *"Division"* means the division of insurance of the department of insurance and financial services.

d. *"Examiner"* means any individual or firm authorized by the commissioner to conduct an examination pursuant to this chapter.

e. *"Insurer"* includes all companies or associations organized under chapter 508, 511, 512A, 512B, 514, 514B, 515, 515C, or 518A, associations subject to chapters 518 and 520, and companies or associations admitted or seeking to be admitted to this state under any of those chapters.

f. *"Person"* means any individual, aggregation of individuals, trust, association, partnership, or corporation or an affiliate of any of these.

[S13, §1821-i; C24, 27, 31, 35, 39, §**8625;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §507.1]
88 Acts, ch 1112, §301; 92 Acts, ch 1117, §1; 2023 Acts, ch 19, §2730
Referred to in §515I.2

507.2 Authority, scope, and scheduling of examinations.

1. The commissioner or any of the commissioner's examiners may conduct an examination under this chapter of any company as often as the commissioner deems appropriate, but at a minimum, shall conduct an examination of any domestic insurer licensed in this state no less than once every five years. In scheduling and determining the nature, scope, and frequency of the examinations, the commissioner shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants, and other criteria as set forth in the examiners' handbook adopted by the national association of insurance commissioners and in effect when the commissioner exercises discretion under this section.

2. For purposes of completing an examination of any company pursuant to this chapter, the commissioner may examine or investigate any person, or the business of any person,

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insofar as the examination or investigation is, in the sole discretion of the commissioner, necessary or material to the examination of the company.

3. In lieu of an examination under this chapter of any foreign or alien insurer licensed in this state, the commissioner may accept an examination report on the company as prepared by the regulatory authority for insurance for the company's state of domicile or port-of-entry state.

[C97, §1753; S13, §1821-a, -h; C24, 27, 31, 35, 39, §**8626, 8642, 9009, 9061;** C46, §507.2, 507.18, 515.130, 518.36; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §507.2]

92 Acts, ch 1117, §2; 95 Acts, ch 185, §4

507.3 Conduct of examinations.

1. Upon determining that an examination should be conducted, the commissioner or the commissioner's designee may appoint one or more examiners to perform the examination and instruct them as to the scope of the examination. In conducting the examination, the examiner shall observe those guidelines and procedures set forth in the examiners' handbook adopted by the national association of insurance commissioners. The commissioner may also employ other guidelines as the commissioner deems appropriate.

2. A company or person from whom information is sought and its officers, directors, and agents shall provide to the examiners appointed under subsection 1, timely, convenient, and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents, and any or all computer or other recordings relating to the property, assets, business, and affairs of the company being examined. The officers, directors, employees, and agents of the company or person shall facilitate the examination and aid in the examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees, or agents, to submit to examinations or to comply with any reasonable written request of the examiners is grounds for suspension or revocation of, or nonrenewal of, any license or authority held by the company to engage in the business of insurance or other business subject to the commissioner's jurisdiction. Should a company decline or refuse to submit to an examination as provided in this chapter, the commissioner shall immediately revoke its certificate of authority, and if the company is organized under the laws of this state, the commissioner shall report the commissioner's action to the attorney general, who shall immediately apply to the district court for the appointment of a receiver to administer the final affairs of the company.

3. The commissioner or any of the commissioner's examiners may issue subpoenas, administer oaths, and examine under oath any person as to any matter pertinent to the examination. Upon the failure or refusal of any person to obey a subpoena, the commissioner may petition a court of competent jurisdiction, and upon proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order is punishable as contempt of court.

4. When making an examination under this chapter, the commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners, the reasonable cost of which shall be borne by the company which is the subject of the examination.

5. This chapter does not limit the commissioner's authority to terminate or suspend any examination in order to pursue other legal or regulatory action pursuant to the insurance laws of this state. Findings of fact and conclusions made pursuant to any examination are deemed to be prima facie evidence in any legal or regulatory action.

[S13, §1821-b; C24, 27, 31, 35, 39, §**8627;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §507.3]

92 Acts, ch 1117, §3; 97 Acts, ch 186, §2

507.4 Examiners — salaries.

1. The commissioner of insurance may appoint insurance examiners, at least one of whom shall be an experienced actuary, and at least one of whom shall be an experienced and competent fire insurance accountant, and who, while conducting examinations, shall possess all the powers conferred upon the commissioner of insurance for such purposes.

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The entire time of the examiners shall be under the control of the commissioner, and shall be employed as the commissioner may direct.

2. The commissioner may, when in the commissioner's judgment it is advisable, appoint assistants to aid in conducting examinations. The commissioner shall employ rates of compensation consistent with current standards in the industry for certified public accountants, attorneys, and skilled insurance examiners. The commissioner may use compensation rates suggested by the national association of insurance commissioners. Insurance examiners employed under this section shall be exempt from the merit system provisions of chapter 8A, subchapter IV, under section 8A.412, subsection 16. Compensation shall be paid from appropriations for such purposes upon certification of the commissioner, which shall be reimbursed as provided in sections 507.8 and 507.9.

[S13, §1821-c; C24, 27, 31, 35, 39, §**8628;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §507.4]

2008 Acts, ch 1123, §11

Referred to in §87.11C

507.5 Chief examiner.

The commissioner may appoint a chief examiner who shall supervise insurance company examinations and perform such other duties as may be assigned by the commissioner. The chief examiner shall receive a salary to be fixed by the commissioner. The chief examiner shall be exempt from the merit system provisions of chapter 8A, subchapter IV, under section 8A.412, subsection 16.

91 Acts, ch 26, §33; 2003 Acts, ch 145, §270

Referred to in §87.11C, 505.7

507.6 Conflict of interest.

1. An examiner shall not be appointed by the commissioner if the examiner, either directly or indirectly, has a conflict of interest or is affiliated with the management of or owns a pecuniary interest in any person subject to examination under this chapter. This section shall not be construed to automatically preclude an examiner from being any of the following:

a. A policyholder or claimant under an insurance policy.

b. A grantor of a mortgage or similar instrument on the examiner's residence to a regulated entity if done under customary terms and in the ordinary course of business.

c. An investment owner in shares of regulated diversified investment companies.

d. A settlor or beneficiary of a blind trust into which any otherwise impermissible holdings have been placed.

2. Notwithstanding the requirements of subsection 1, the commissioner may retain from time to time, on an individual basis, qualified actuaries, certified public accountants, or other similar individuals who are independently practicing their professions, even though the persons may from time to time be similarly employed or retained by persons subject to examination under this chapter.

[C24, 27, 31, 35, 39, §**8630;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §507.6]

92 Acts, ch 1117, §4

Referred to in §87.11C

507.7 Expenses.

Said examiners and assistants and the said commissioner shall receive actual and necessary traveling, hotel, and other expenses while engaged in conducting examinations away from their respective places of residence.

[S13, §1821-c; C24, 27, 31, 35, 39, §**8631;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §507.7]

Referred to in §87.11C, 505.7, 521A.6

507.8 Payment by company.

The commissioner shall upon the completion of an examination, or at such regular intervals prior to completion as the commissioner determines, prepare an account of the costs incurred in performing and preparing the report of such examinations which shall be charged to and

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paid by the companies examined, and upon failure or refusal of any company examined to pay such bill or bills, the same may be recovered in an action brought in the name of the state, and the commissioner may also revoke the certificate of authority of such company to transact business within this state.

[S13, §1821-c; C24, 27, 31, 35, 39, §**8632;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §507.8]

88 Acts, ch 1112, §302
Referred to in §505.7, 507.4, 508E.7

507.9 Fees — accounting.

All fees collected under the provisions of this chapter shall be paid to the commissioner of insurance and shall be turned in to the state treasury for deposit as provided in section 505.7.

[S13, §1821-c; C24, 27, 31, 35, 39, §**8633;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §507.9]

2009 Acts, ch 181, §64
Referred to in §505.7, 507.4, 508E.7
Deposit of fees, §12.10

507.10 Examination reports.

1. *General description.* All examination reports shall be comprised only of facts appearing upon the books, records, or other documents of the company, its agents, or other persons examined, or as ascertained from the testimony of its officers or agents or other persons examined concerning its affairs, and such conclusions and recommendations as the examiners find reasonably warranted from the facts.

2. *Filing of examination report.* No later than sixty days following completion of the examination, the examiner in charge shall file with the division a verified written report of examination. Upon receipt of the verified report and after administrative review, the division shall transmit the report to the company examined, together with a notice which shall afford the company examined a reasonable opportunity of not more than thirty days to make a written submission or rebuttal with respect to any matters contained in the examination report.

3. *Adoption of report on examination.* Within twenty days of the end of the period allowed for the receipt of written submissions or rebuttals, the commissioner shall fully consider and review the report, together with any written submissions or rebuttals and any relevant portions of the examiner's work papers and enter an order which does one of the following:

a. Adopts the examination report as filed or with modification or corrections. If the examination report reveals that the company is operating in violation of any law or a rule or prior order of the commissioner, the commissioner may order the company to take any action the commissioner considers necessary and appropriate to cure the violation.

b. Rejects the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation, or information, and refiling pursuant to subsection 1 above.

c. Calls for an investigatory hearing with no less than twenty days' notice to the company for purposes of obtaining additional documentation, data, information, and testimony.

4. *Orders and procedures.*

a. All orders entered pursuant to subsection 3, paragraph *"a"*, shall be accompanied by findings and conclusions resulting from the commissioner's consideration and review of the examination report, relevant examiner work papers, and any written submissions or rebuttals. Any such order is a final administrative decision and may be appealed pursuant to chapter 17A, and shall be served upon the company by certified mail, together with a copy of the adopted examination report. The board of directors of the company shall timely review the adopted report. The minutes of the meeting of the board at which the adopted report is considered shall reflect that each member of the board has reviewed the adopted report.

b. Any hearing conducted under subsection 3, paragraph *"c"*, by the commissioner or an authorized representative, shall be conducted as a nonadversarial, confidential, investigatory proceeding as necessary for the resolution of any inconsistencies, discrepancies, or disputed

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issues apparent upon the face of the filed examination report or indicated as a result of the commissioner's review of relevant work papers or by the written submission or rebuttal of the company. Within twenty days of the conclusion of any such hearing, the commissioner shall enter an order pursuant to subsection 3, paragraph *"a"*.

(1) (a) The commissioner shall not appoint an examiner as an authorized representative to conduct the hearing. The hearing shall proceed expeditiously with discovery by the company limited to the examiner's work papers which tend to substantiate any assertions set forth in any written submission or rebuttal. The commissioner or a representative acting on the commissioner's behalf may issue subpoenas for the attendance of any witnesses or the production of any documents deemed relevant to the investigation whether under the control of the division of insurance, the company, or other persons. The documents produced shall be included in the record and testimony taken by the commissioner or a representative acting on the commissioner's behalf shall be under oath and preserved for the record.

(b) This section does not require the division of insurance to disclose any information or records which would indicate or show the existence of any investigation or activity of a criminal or juvenile justice agency.

(2) The hearing shall proceed with the commissioner or the commissioner's representative posing questions to the persons subpoenaed. Thereafter the company and the division may present testimony relevant to the investigation. Cross-examination shall be conducted only by the commissioner or the commissioner's representative. The company and the division shall be permitted to make closing statements and may be represented by counsel.

5. *Publication and use.*

a. Upon the adoption of the preliminary examination report under subsection 3, paragraph *"a"*, the commissioner shall hold the content of the final examination report as private and confidential information not subject to disclosure and it is not a public record under chapter 22, for a period of twenty days except to the extent provided in subsection 2. After the twenty-day period has elapsed, the commissioner may open the final report for public inspection so long as no court of competent jurisdiction has stayed its publication.

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 government 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.

c. If the commissioner determines that regulatory action is appropriate as a result of any examination, the commissioner may initiate any proceeding or action as provided by law.

[S13, §1821-d; C24, 27, 31, 35, 39, §**8634;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §507.10]

92 Acts, ch 1117, §5; 95 Acts, ch 191, §25; 2001 Acts, ch 69, §3; 2006 Acts, ch 1117, §19; 2012 Acts, ch 1023, §157; 2013 Acts, ch 124, §9

Referred to in §511.23

507.11 Reserved.

507.12 Procedure against life companies.

In case of companies organized under the provisions of chapter 508, the officers shall proceed as provided in sections 508.18 and 508.19.

[S13, §1821-d; C24, 27, 31, 35, 39, §**8636;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §507.12]

91 Acts, ch 26, §57

Referred to in §511.23

507.13 Reserved.

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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 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:

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.

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

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 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 the law of the recipients' jurisdiction, to maintain confidentiality of the documents, materials, information, orders, or other actions. Confidential records may be disclosed to the national association of insurance commissioners, the international association of insurance supervisors, and the bank for international settlements provided that the associations and bank certify 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 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.

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6. Analysis notes, work papers, or other documents related to the analysis of an insurer are confidential records under chapter 22.

[S13, §1821-d; C24, 27, 31, 35, 39, §**8638;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §507.14]

90 Acts, ch 1234, §3; 91 Acts, ch 26, §34; 92 Acts, ch 1117, §6; 2004 Acts, ch 1110, §17; 2006 Acts, ch 1117, §20; 2012 Acts, ch 1138, §34; 2013 Acts, ch 90, §150

Referred to in §22.7(53), 508.36, 508E.7, 510B.10, 515H.3, 616.15

Documents in support of statements of actuarial opinion, see §515H.3

507.15 Transfer pending examination.

Any transfer of stock of any company, pending an investigation, shall not release the party making the transfer from any liability for losses that may have occurred previous to such transfer.

[S13, §1821-e; C24, 27, 31, 35, 39, §**8639;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §507.15]

507.16 Unlawful solicitation of business.

It shall be unlawful for any officer, manager, agent, or representative of any insurance company contemplated by this chapter, who, with knowledge that its certificate of authority has been suspended or revoked, or that it is insolvent, or is doing an unlawful or unauthorized business, to solicit or receive applications for insurance for the company, or to do any other act or thing toward receiving or procuring any new business for the company. The provisions of sections 505.7A and 511.17 are extended to all companies contemplated by this chapter.

[S13, §1821-f; C24, 27, 31, 35, 39, §**8640;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §507.16]

2004 Acts, ch 1110, §18; 2007 Acts, ch 126, §89

507.17 Immunity from liability.

1. A cause of action does not arise nor shall any liability be imposed against the commissioner, the commissioner's authorized representative, or any examiner appointed by the commissioner for any statements made or conduct performed in good faith while carrying out the provisions of this chapter.

2. A cause of action does not arise, nor shall any liability be imposed against any person for the act of communicating or delivering information or data to the commissioner or the commissioner's authorized representative, or an examiner pursuant to an examination made under this chapter, if the act of communication or delivery was performed in good faith and without fraudulent intent or the intent to deceive.

3. This section does not abrogate or modify in any way any common law or statutory privilege or immunity enjoyed by any person identified in subsection 1.

4. A person identified in subsection 1 is entitled to an award of attorney's fees and costs if the person is the prevailing party in a civil cause of action for libel, slander, or any other relevant tort arising out of activities in carrying out the provisions of this chapter and the party bringing the action was not substantially justified in doing so. For purposes of this section, a proceeding is substantially justified if the proceeding has a reasonable basis in law or fact at the time that it is initiated.

[S13, §1821-g; C24, 27, 31, 35, 39, §**8641;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §507.17]

92 Acts, ch 1117, §7

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CHAPTER 507A

UNAUTHORIZED INSURERS

Referred to in §87.4, 296.7, 331.301, 364.4, 432.5, 505.28, 505.29, 507E.8, 508F.6, 522B.17, 522F.1, 669.14, 670.7

507A.1 Title.
507A.2 Purpose.
507A.3 Definitions — scope.
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507A.6 Secretary of state as process agent.
507A.7 Proceedings before commissioner — indemnifying bond.
507A.8 Order by commissioner to produce contracts.
507A.9 Premium tax on unauthorized insurers.
507A.10 Cease and desist orders — civil and criminal penalties.
507A.11 Reciprocal enforcement of court orders.

507A.1 Title.

This chapter may be cited as the *"Iowa Unauthorized Insurers Act"*.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §507A.1]

507A.2 Purpose.

1. The purpose of this chapter is to subject certain persons and insurers to the jurisdiction of the insurance commissioner and the courts of this state in suits by or on behalf of the state and insureds or beneficiaries under insurance contracts. The general assembly hereby declares that it is a subject of concern that many residents of this state hold policies of insurance issued by persons and insurers not authorized to do insurance business in this state, thus presenting to such residents the often insuperable obstacle of asserting their legal rights under such policies in forums foreign to them under laws and rules of practice with which they are not familiar. The general assembly further declares that it is also concerned with the protection of residents of this state against acts by persons and insurers not authorized to do an insurance business in this state, by the maintenance of fair and honest insurance markets, by protecting the premium tax revenues of this state, by protecting authorized persons and insurers which are subject to regulation from unfair competition by unauthorized persons and insurers, and by protecting against the evasion of the insurance regulatory laws of this state.

2. In furtherance of such state interest, in this chapter the general assembly provides methods for substituted service of process upon such persons or insurers in any proceeding, suit or action in any court and substitute service of any notice, order, pleading, or process upon such persons or insurers in any proceeding before the commissioner of insurance to enforce or effect full compliance with the insurance and tax laws of this state. In so doing, the state exercises its powers to protect residents of this state and to define what constitutes doing an insurance business in this state, and also exercises powers and privileges available to this state by virtue of Pub. L. No. 79-15, 79th Congress of the United States, Ch. 20, 1st Sess., S. 340, 59 Stat. 33, codified at 15 U.S.C. §1011 – 1015, which declares that the business of insurance and every person engaged therein shall be subject to the laws of the several states.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §507A.2]

2006 Acts, ch 1010, §134; 2019 Acts, ch 59, §179

507A.3 Definitions — scope.

1. Unless otherwise indicated, *"insurer"* as used in this chapter includes all corporations, associations, partnerships and individuals engaged in the business of insurance. Any of the following acts in this state, effected by mail or otherwise, by an unauthorized insurer is defined to be doing an insurance business in this state:

a. The making of or proposing to make, as an insurer, an insurance contract.

b. The taking or receiving of any application for insurance.

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c. The receiving or collection of any premiums, membership fees, assessments, dues or other considerations for any insurance.

d. The issuance or delivery of contracts of insurance to residents of this state or to corporations or persons authorized to do business in this state.

e. The doing of any kind of insurance business specifically recognized as constituting the doing of an insurance business within the meaning of the statutes relating to insurance.

f. The doing or proposing to do any insurance business in substance equivalent to any of the foregoing in a manner designed to evade the provisions of the insurance laws of this state.

g. Any other transactions of business relating directly to insurance in this state by an insurer.

2. The venue of an act committed by mail is at the point where the matter transmitted by mail is delivered and takes effect.

[C50, 54, 58, 62, 66, §507A.3(1); C71, 73, 75, 77, 79, 81, §507A.3; 81 Acts, ch 165, §1]
2012 Acts, ch 1023, §157; 2019 Acts, ch 59, §180
Referred to in §507A.7, 522C.2

507A.4 Transactions where law not applicable.

The provisions of this chapter shall not apply to:

1. The lawful transaction of surplus lines insurance as permitted by chapter 515I.
2. The lawful transaction of reinsurance by insurers.
3. Attorneys acting in the ordinary relation of attorney and client in the adjustment of claims or losses.
4. Transactions in this state involving a policy lawfully solicited, written, and delivered outside of this state, covering subjects of insurance not resident located, or expressly to be performed in this state at the time of issue, and which transactions are subsequent to the issuance of the policy.
5. Transactions in this state involving group or blanket insurance and group annuities where the master policy of such groups was lawfully issued and delivered in a state in which the company was authorized to do an insurance business.
6. Transactions in this state involving any policy of insurance issued prior to July 1, 1967.
7. Insurance on vessels, craft or hulls, cargoes, marine builder's risk, marine protection and indemnity or other risk including strikes and war risks commonly insured under ocean or wet marine forms of policy.
8. Transactions involving risks located in this state where the policy or contract of insurance for such risk was principally negotiated and delivered outside this state and was lawfully issued in a state or foreign country in which the foreign or alien insurer was authorized to do an insurance business, and where such insurer has no contact with this state except in connection with inspections or losses required by virtue of the contract or policy of insurance covering the risk located in this state.
9. Transactions involving a multiple employer welfare arrangement as defined in section 3 of the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. §1002, paragraph 40, or a multiple employer welfare arrangement formed as an association health plan pursuant to 29 C.F.R. pt. 2510 that complies with chapter 513D.
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.

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(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 13.

(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.

[C71, 73, 75, 77, 79, 81, §507A.4]

94 Acts, ch 1038, §1, 3; 95 Acts, ch 33, §1; 96 Acts, ch 1024, §1; 97 Acts, ch 67, §1, 2; 98 Acts, ch 1012, §1; 2001 Acts, ch 13, §1, 3 – 5; 2001 Acts, ch 69, §4, 39; 2003 Acts, ch 91, §4; 2003 Acts, 1st Ex, ch 2, §39, 209; 2006 Acts, ch 1117, §21; 2007 Acts, ch 152, §52; 2012 Acts, ch 1025, §18, 22; 2018 Acts, ch 1063, §2; 2021 Acts, ch 181, §1

507A.5 Proscribed acts binding on insurer.

1. A person or insurer shall not directly or indirectly perform any act of doing an insurance business as defined in this chapter except as provided by and in accordance with the specific authorization by statute. However, should an unauthorized person or insurer perform an act of doing an insurance business as set forth in this chapter, it shall be equivalent to and shall constitute an irrevocable appointment by such person or insurer, binding upon the person, the person's executor or administrator, or successor in interest if a corporation, of the commissioner of insurance or the commissioner's successor in office, to be the true and lawful attorney upon whom may be served all lawful process in any action, suit or proceeding in any court arising out of doing an insurance business in this state or instituted by or on behalf of an insured or beneficiary arising out of such an act of doing an insurance business, except in an action, suit, or proceeding by the commissioner of insurance or by the state. An act of doing an insurance business by an unauthorized person or insurer shall be signification of its agreement that such service of process is of the

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same legal force and validity as personal service of process in this state upon such person or insurer.

2. Service of process made upon the commissioner as the attorney for service of process shall be made as provided in section 505.30. Such service of process shall be sufficient to provide notice if all of the following apply:

a. The plaintiff or plaintiff's attorney sends a copy of the service of process by certified mail within ten days thereafter to the defendant at the defendant's last known principal place of business.

b. The defendant's receipt or a receipt issued by the post office showing the name of the sender of the certified mail and the name and address of the person to whom the certified mail is addressed and an affidavit by the plaintiff or plaintiff's attorney attesting to compliance with this subsection are filed with the clerk of the court in which the action is pending on or before the date the defendant is required to appear or within such further time as the court may allow.

3. Service of process in any such action, suit, or proceeding shall in addition to the manner as provided in this chapter be valid if made upon a person within this state who, in this state on behalf of such insurer, is soliciting insurance, making, issuing, or delivering any contract of insurance, or collecting or receiving any premium, membership fee, assessment, or other consideration for insurance, and if all of the following apply:

a. The plaintiff or plaintiff's attorney sends a copy of such service of process by certified mail within ten days thereafter to the defendant at the defendant's last known principal place of business.

b. The defendant's receipt, or a receipt issued by the post office showing the name of the sender of the certified mail and the name and address of the person to whom the certified mail is addressed, and an affidavit by the plaintiff or plaintiff's attorney attesting to compliance with this subsection are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear or within such further time as the court may allow.

4. A plaintiff shall not be entitled to a judgment by default under this chapter until the expiration of thirty days from the date on which the plaintiff or plaintiff's attorney files the affidavit of compliance.

5. Nothing in this section shall limit or abridge the right to serve any process, notice, or demand upon any insurer in any other manner now or hereafter permitted by law.

[C50, 54, 58, 62, 66, §507A.3; C71, 73, 75, 77, 79, 81, §507A.5]

2018 Acts, ch 1018, §3

Referred to in §507A.7

507A.6 Secretary of state as process agent.

1. Any act of doing an insurance business as set forth in this chapter by any unauthorized person or insurer is equivalent to and shall constitute an irrevocable appointment by such person and insurer, binding upon the person or insurer, the person's or insurer's executor or administrator, or successor in interest if a corporation, of the secretary of state or the secretary of state's successor in office, to be the true and lawful attorney of such person or insurer upon whom may be served all legal process in any action, suit, or proceeding in any court by the commissioner of insurance or by the state and upon whom may be served any notice, order, pleading or process in any proceeding before the commissioner of insurance and which arises out of doing an insurance business in this state by such person or insurer. Any act of doing an insurance business in this state by any unauthorized person or insurer shall be signification of its agreement that any such legal process in such court action, suit, or proceeding and any such notice, order, pleading, or process in such administrative proceeding before the commissioner of insurance so served shall be of the same legal force and validity as personal service of process in this state upon such person or insurer.

2. Service of process in such action shall be made by delivering to and leaving with the secretary of state or some person in apparent charge of the secretary of state's office, two copies thereof. Service upon the secretary of state as such attorney shall be service upon the principal.

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3. The secretary of state shall forthwith forward by certified mail one of the copies of such process or such notice, order, pleading, or process in proceedings before the commissioner to the defendant in such court proceeding or to whom the notice, order, pleading, or process in such administrative proceeding is addressed or directed at the last known principal place of business and shall keep a record of all process so served on the secretary of state which shall show the day and hour of service. Such service is sufficient, provided:

a. Notice of such service and a copy of the court process or the notice, order, pleading, or process in such administrative proceeding is sent within ten days thereafter by certified mail by the plaintiff or the plaintiff's attorney in the court proceeding or by the commissioner of insurance in the administrative proceeding to the defendant in the court proceeding or to whom the notice, order, pleading, or process in such administrative proceeding is addressed or directed at the last known principal place of business of the defendant in the court or administrative proceeding.

b. The defendant's receipt or receipts issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person or insurer to whom the letter is addressed, and an affidavit of the plaintiff or the plaintiff's attorney in court proceeding or of the commissioner of insurance in administrative proceeding, showing compliance therewith are filed with the clerk of the court in which such action, suit, or proceeding is pending or with the commissioner in administrative proceedings, on or before the date the defendant in the court or administrative proceeding is required to appear or respond thereto, or within such further time as the court or commissioner of insurance may allow.

4. No plaintiff shall be entitled to a judgment or a determination by default in any court or administrative proceeding in which court process or notice, order, pleading, or process in proceedings before the commissioner of insurance is served under this section until the expiration of forty-five days from the date of filing of the affidavit of compliance.

5. Nothing in this section shall limit or abridge the right to serve any process, notice, order, or demand upon any person or insurer in any other manner now or hereafter permitted by law.

[C50, 54, 58, 62, 66, §507A.3; C71, 73, 75, 77, 79, 81, §507A.6]
Referred to in §507A.7

507A.7 Proceedings before commissioner — indemnifying bond.

1. Before any unauthorized person or insurer files or causes to be filed any pleading or process in an administrative proceeding before the commissioner of insurance, instituted against such person or insurer, by service made as provided in this chapter, such person or insurer shall either:

a. Deposit with the clerk of the court in which such action, suit, or proceeding is pending, or with the commissioner of insurance in administrative proceedings before the commissioner, cash or securities, or file with such clerk or commissioner a bond with good and sufficient sureties, to be approved by the clerk or commissioner in an amount to be fixed by the court or commissioner sufficient to secure the payment of any final judgment which may be rendered in such action or administrative proceeding.

b. Procure a certificate of authority to transact the business of insurance in this state.

2. The court in any action, suit, or proceeding in which service is made as provided in section 507A.6, subsections 2 and 3, or the commissioner of insurance in any administrative proceeding before the commissioner in which service is made as provided in section 507A.6, subsections 2 and 3, may in the court's or commissioner's discretion, order such postponement as may be necessary to afford the defendant reasonable opportunity to comply with the provisions of subsection 1 of this section and to defend such action.

3. Nothing in subsection 1 of this section shall be construed to prevent an unauthorized person or foreign or alien insurer from filing a motion to quash a writ or to set aside service thereof made in the manner provided in sections 507A.5 and 507A.6, on the ground that such unauthorized person or insurer has not done any of the acts enumerated in section 507A.3.

4. In an action against an unauthorized person or insurer upon a contract of insurance issued or delivered in this state to a resident thereof or to a corporation authorized to do

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business therein, if the person or insurer has failed for thirty days after demand prior to the commencement of the action to make payment in accordance with the terms of the contract, and it appears to the court that such refusal was without reasonable cause, the court may allow to the plaintiff a reasonable attorney fee and include such fee in any judgment that may be rendered in such action. Failure of the person or insurer to defend any such action shall be deemed prima facie evidence that its failure to make payment was without reasonable cause.

[C50, 54, 58, 62, 66, §507A.4, 507A.5; C71, 73, 75, 77, 79, 81, §507A.7]

2013 Acts, ch 30, §119

Referred to in §602.8102(69)

507A.8 Order by commissioner to produce contracts.

1. Whenever the commissioner of insurance has reason to believe that insurance has been effectuated by or for any person in this state with an unauthorized insurer the commissioner shall in writing order such person to produce for examination all insurance contracts and other documents evidencing insurance with both authorized and unauthorized insurers and to disclose to the commissioner the amount of insurance, name and address of each insurer, gross amount of premium paid or to be paid and the name and address of the person or persons assisting or aiding in the solicitation, negotiation, or effectuation of such insurance.

2. Every person investigating or adjusting any loss or claim on a subject of insurance in this state shall immediately report to the commissioner every insurance policy or contract which has been entered into by any insurer not authorized to transact such insurance in this state.

3. Every person who, for thirty days after receipt of written order pursuant to subsection 1 of this section, neglects to comply with the requirements of such order or who willfully makes a disclosure that is untrue, deceptive, or misleading shall forfeit fifty dollars.

[C71, 73, 75, 77, 79, 81, §507A.8]

507A.9 Premium tax on unauthorized insurers.

1. For all premiums collected during the calendar year, except premiums 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 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.

2. If the policy covers risks or exposures only partly in the state, the tax payable shall be computed on the portions of the premium which are properly allocable to the risks or exposures located in the state. In determining the amount of premiums taxable in this state, all premiums written, procured, or received in this state and all premiums on policies negotiated in this state shall be deemed written on property or risks located or resident in this state, except such premiums as are properly allocated or apportioned and reported as taxable premiums of any other state or states.

3. The attorney general, upon request of the commissioner of insurance, shall proceed in the courts of this state or any other state or in any federal court or agency to recover such tax not paid within the time prescribed in this section.

[C71, 73, 75, 77, 79, 81, §507A.9]

2006 Acts, ch 1117, §22

Referred to in §515I.10, 515I.11

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507A.10 Cease and desist orders — civil and criminal penalties.

1. Upon a determination by the commissioner, after a hearing conducted pursuant to chapter 17A, that a person or insurer has violated a provision of this chapter, the commissioner shall reduce the findings of the hearing to writing and deliver a copy of the findings to the person or insurer, may issue an order requiring the person or insurer to cease and desist from engaging in the conduct resulting in the violation, and may assess a civil penalty of not more than fifty thousand dollars against the person or insurer.

2. *a.* Upon a determination by the commissioner that a person or insurer has engaged, is engaging, or is about to engage in any act or practice constituting a violation of this chapter or a rule adopted or order issued under this chapter, the commissioner may issue a summary order, including a brief statement of findings of fact, conclusions of law, and policy reasons for the decision, and directing the person or insurer to cease and desist from engaging in the act or practice or to take other affirmative action as is in the judgment of the commissioner necessary to comply with the requirements of this chapter.

b. A person to whom a summary order has been issued under this subsection may contest the order by filing a request for a contested case proceeding and hearing as provided in chapter 17A and in accordance with rules adopted by the commissioner. However, the person shall have at least thirty days from the date that the order is issued in order to file the request. Section 17A.18A is inapplicable to a summary order issued under this subsection. If a hearing is not timely requested, the summary order becomes final by operation of law. The order shall remain effective from the date of issuance until the date the order becomes final by operation of law or is overturned by a presiding officer or court following a request for hearing.

c. A person or insurer violating a summary order issued under this subsection shall be deemed in contempt of that order. The commissioner may petition the district court to enforce the order as certified by the commissioner. The district court shall find the person in contempt of the order if the court finds after hearing that the person or insurer is not in compliance with the order. The court may assess a civil penalty against the person or insurer and may issue further orders as it deems appropriate.

3. A person acting as an insurance producer, as defined in chapter 522B, without proper licensure, or an insurer who willfully violates any provision of this chapter, or any rule adopted or order issued under this chapter, is guilty of a class "D" felony.

4. A person acting as an insurance producer, as defined in chapter 522B, without proper licensure, or an insurer who willfully violates any provision of this chapter, or any rule adopted or order issued under this chapter, and when such violation results in a loss of more than ten thousand dollars, is guilty of a class "C" felony.

5. The commissioner may refer such evidence as is available concerning violations of this chapter or of any rule adopted or order issued under this chapter, or of the failure of a person to comply with the licensing requirements of chapter 522B, to the attorney general or the proper county attorney who may, with or without such reference, institute the appropriate criminal proceedings under this chapter.

6. This chapter does not limit the power of the state to punish any person for any conduct that constitutes a crime under any other statute.

[C71, 73, 75, 77, 79, 81, §507A.10; 81 Acts, ch 165, §2]
95 Acts, ch 185, §5; 2004 Acts, ch 1110, §19
Referred to in §515I.11

507A.11 Reciprocal enforcement of court orders.

The attorney general upon request of the commissioner of insurance may proceed in the courts of this state or any reciprocal state to enforce an order or decision in any court proceeding or in any administrative proceeding before the commissioner of insurance.

1. As used in this section, unless the context otherwise requires:

a. "Reciprocal state" means any state or territory of the United States the laws of which contain procedures substantially similar to those specified in this section for the enforcement of decrees or orders in equity issued by courts located in other states or territories of the United States, against any insurer incorporated or authorized to do business in said state or territory.

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b. *"Foreign decree"* means any decree or order in equity of a court located in a reciprocal state, including a court of the United States located therein, against any insurer incorporated or authorized to do business in this state.

c. *"Qualified party"* means a state regulatory agency acting in its capacity to enforce the insurance laws of its state.

2. The commissioner of insurance shall determine which states and territories qualify as reciprocal states and shall maintain at all times an up-to-date list of such states.

3. A copy of any foreign decree authenticated in accordance with the statutes of this state may be filed in the office of the clerk of any district court of this state. The clerk, upon verifying with the insurance commissioner that the decree or order qualifies as a foreign decree, shall treat the foreign decree in the same manner as a decree of a district court of this state. A foreign decree so filed has the same effect and shall be deemed as a decree of a district court of this state, and is subject to the same procedures, defenses and proceedings for reopening, vacating, or staying as a decree of a district court of this state and may be enforced or satisfied in like manner.

4. *a.* At the time of the filing of the foreign decree, the attorney general shall make and file with the clerk of the court an affidavit setting forth the name and last known post office address of the defendant.

b. Promptly upon the filing of the foreign decree and the affidavit, the clerk shall mail notice of the filing of the foreign decree to the defendant at the address given and to the insurance commissioner of this state and shall make a note of the mailing in the docket. In addition, the attorney general may mail a notice of the filing of the foreign decree to the defendant and to the insurance commissioner of this state and may file proof of mailing with the clerk. Lack of mailing notice of filing by the clerk shall not affect the enforcement proceedings if proof of mailing by the attorney general has been filed.

c. No execution or other process for enforcement of a foreign decree filed under this section shall issue until thirty days after the date the decree is filed.

5. *a.* If the defendant shows the district court that an appeal from the foreign decree is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign decree until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the defendant has furnished the security for the satisfaction of the decree required by the state in which it was rendered.

b. If the defendant shows the district court any ground upon which enforcement of a decree of any district court of this state would be stayed, the court shall stay enforcement of the foreign decree for an appropriate period, upon requiring the same security for satisfaction of the decree which is required in this state.

6. Any person filing a foreign decree shall pay to the clerk of court twenty-five dollars. Fees for docketing, transcription or other enforcement proceedings shall be as provided for decrees of the district court.

[C71, 73, §507A.6(6); C75, 77, 79, 81, §507A.11]

Referred to in §602.8102(71)

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CHAPTER 507B

INSURANCE TRADE PRACTICES

Referred to in §87.4, 87.24, 231.78, 296.7, 321B.8, 331.301, 364.4, 505.8, 505.28, 505.29, 507F.14, 508.15A, 508E.17, 508F.6, 508F.7, 510.5A, 510.23, 510B.10, 512B.32, 513A.7, 513C.9, 514B.18, 514B.32, 514F.8E, 514J.119, 515.137A, 515.144, 515A.13, 515E.10, 515I.11, 521E.8, 522A.3, 522B.11, 522B.12, 522B.17, 522C.15, 522D.7, 522D.8, 522F.22, 668.9, 669.14, 670.7

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507B.1 Declaration of purpose.

The purpose of this chapter is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945, Pub. L. No. 79-15, 59 Stat. 33, codified at 15 U.S.C. §1011 – 1015, by defining, or providing for the determination of, all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §507B.1]
2006 Acts, ch 1010, §135

507B.2 Definitions.

When used in this chapter:

1. *"Person"* shall mean any individual, corporation, association, partnership, reciprocal exchange, interinsurer, fraternal beneficiary association, and any other legal entity engaged in the business of insurance, including insurance producers, appraisers, umpires, and adjusters. *"Person"* shall also mean any corporation operating under the provisions of chapter 514 and any benevolent association as defined and operated under chapter 512A. For purposes of this chapter, corporations operating under the provisions of chapter 514 and chapter 512A shall be deemed to be engaged in the business of insurance.

2. *"Commissioner"* shall mean the commissioner of insurance of this state.

3. *"Insurance policy"* or *"insurance contract"* shall mean any contract of insurance, indemnity, subscription, membership, suretyship, or annuity issued, proposed for issuance, or intended for issuance by any person.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §507B.2]
2004 Acts, ch 1110, §20; 2025 Acts, ch 28, §53
Referred to in §507B.7
Workers' compensation coverage plan under chapter 87 considered a person under this chapter, see §87.24

507B.3 Unfair competition or unfair and deceptive acts or practices prohibited.

A person shall not engage in this state in any trade practice which is defined in this chapter as, or determined pursuant to section 507B.6 to be, an unfair method of competition, or an unfair or deceptive act or practice in the business of insurance.

1. A person who violates a provision in chapter 321B shall be deemed to have committed an unfair trade practice under this chapter.

2. A person who violates a provision in chapter 508E shall be deemed to have committed an unfair trade practice under this chapter.

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3. The issuance of a qualified charitable gift annuity as provided in chapter 508F does not constitute a trade practice in violation of this chapter.

[C58, 62, 66, 71, §507B.3, 507B.5; C73, 75, 77, 79, 81, §507B.3]

2001 Acts, ch 28, §1; 2003 Acts, ch 91, §5; 2004 Acts, ch 1110, §21; 2008 Acts, ch 1123, §12; 2008 Acts, ch 1155, §20; 2025 Acts, ch 58, §9, 10

Referred to in §515E.4, 515K.5

Subsection 1 applies to insurance policies issued or renewed on or after July 1, 2025; 2025 Acts, ch 58, §10

507B.4 Unfair methods of competition and unfair or deceptive acts or practices defined.

1. For purposes of subsection 3, paragraph *"p"*, *"insurer"* means an entity providing a plan of health insurance, health care benefits, or health care services, or an entity subject to the jurisdiction of the commissioner performing utilization review, including an insurance company offering sickness and accident plans, a health maintenance organization, a nonprofit health service corporation, a plan established pursuant to chapter 509A for public employees, or any other entity providing a plan of health insurance, health care benefits, or health care services. However, *"insurer"* does not include an entity that sells disability income insurance.

2. *a.* For purposes of subsection 3, paragraphs *"k"*, *"l"*, and *"m"*, *"personal lines property and casualty insurance"* means insurance sold to individuals and families primarily for noncommercial purposes as provided in chapter 522B.

b. For purposes of subsection 3, paragraph *"i"*, subparagraph (2), subparagraph division (d), *"customer"* means a policyholder, potential policyholder, certificate holder, potential certificate holder, an insured, potential insured, or an applicant.

3. The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

a. Misrepresentations and false advertising of insurance policies. Making, issuing, circulating, or causing to be made, issued or circulated, any estimate, illustration, circular, statement, sales presentation, omission, or comparison which does any of the following:

(1) Misrepresents the benefits, advantages, conditions, or terms of any insurance policy.

(2) Misrepresents the dividends or share of the surplus to be received on any insurance policy.

(3) Makes any false or misleading statements as to the dividends or share of surplus previously paid on any insurance policy.

(4) Is misleading or is a misrepresentation as to the financial condition of any person, or as to the legal reserve system upon which any life insurer operates.

(5) Uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof.

(6) Is a misrepresentation for the purpose of inducing or tending to induce the lapse, forfeiture, exchange, conversion, or surrender of any insurance policy.

(7) Is a misrepresentation for the purpose of effecting a pledge or assignment of or effecting a loan against any insurance policy.

(8) Misrepresents any insurance policy as being shares of stock.

(9) Misrepresents any insurance policy to consumers by using the terms "burial insurance", "funeral insurance", "burial plan", or "funeral plan" in its names or titles, unless the policy is made with a funeral provider as beneficiary who specifies and fixes a price under contract with an insurance company. This subparagraph does not prevent insurers from stating or advertising that insurance benefits may provide cash for funeral or burial expenses.

(10) Is a misrepresentation, including any intentional misquote of premium rate, for the purpose of inducing or tending to induce the purchase of an insurance policy.

b. False information and advertising.

(1) *Generally.* Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion,

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representation, or statement with respect to the business of insurance or with respect to any person in the conduct of the person's insurance business, which is untrue, deceptive, or misleading.

(2) *False statement of assets.* In the case of a company transacting the business of fire insurance within the state, stating or representing by advertisement in any newspaper, magazine, or periodical, or by any sign, circular, card, policy of insurance, or renewal certificate thereof or otherwise, that any funds or assets are in its possession and held available for the protection of holders of its policies unless so held, except the policy of insurance or certificate of renewal thereof may state, as a single item, the amount of capital set forth in the charter, or articles of incorporation, or association, or deed of settlement under which it is authorized to transact business.

(3) *Statement of capital and surplus.*

(a) In the case of a foreign company transacting the business of casualty insurance in the state, or an officer, producer, or representative of such a company, issuing or publishing an advertisement, public announcement, sign, circular, or card that purports to disclose the company's financial standing and fails to exhibit the following:

(i) The capital actually paid in cash, and the amount of net surplus of assets over all the company's liabilities actually held and available for the payment of losses by fire and for the protection of holders of fire policies.

(ii) The amount of net surplus of assets over all liabilities in the United States actually available for the payment of losses by fire and held in the United States for the protection of holders of fire policies in the United States, including in such liabilities the fund reserved for reinsurance of outstanding risks.

(b) The amounts stated for capital and net surplus shall correspond with the latest verified statement made by the company or association to the commissioner of insurance.

c. Defamation. Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false, or maliciously critical of or derogatory to the financial condition of any person, and which is calculated to injure such person.

d. Boycott, coercion and intimidation. Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance.

e. False statements and entries.

(1) Knowingly filing with any supervisory or other public official, or knowingly making, publishing, disseminating, circulating or delivering to any person, or placing before the public, or knowingly causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false material statement of fact as to the financial condition of a person.

(2) Knowingly making any false entry of a material fact in any book, report or statement of any person or knowingly omitting to make a true entry of any material fact pertaining to the business of such person in any book, report or statement of such person.

f. Stock operations and advisory board contracts. Issuing or delivering or permitting agents, officers or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

g. Unfair discrimination.

(1) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.

(2) Making or permitting any unfair discrimination between insureds of the same class for essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of insurance other than life or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever.

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(3) Making or permitting any discrimination in the sale of insurance solely on the basis of domestic abuse as defined in section 236.2 or sexual abuse as defined in section 236A.2.

h. Release or use of genetic information. Failure of a person to comply with section 729.6, subsection 4.

i. Rebates.

(1) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract of life insurance, life annuity or accident and health insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or any thing of value whatsoever not specified in the contract.

(2) Subparagraphs (1) and (3), and paragraph *"g"*, shall not be construed to include any of the following practices in the definition of unfair discrimination or rebates:

(a) In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise rebating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided that any such bonuses or rebatement of premiums shall be fair and equitable to policyholders and for the best interests of the company and its policyholders.

(b) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expenses.

(c) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experienced thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

(d) The offer or provision, at no or reduced cost, by an insurer or producer by or through an employee, affiliate, or third-party representative, of a value-added product or service that is not specified in the policy of insurance if the value-added product or service that is offered or provided meets all of the following criteria:

(i) The product or service relates to the policy of insurance.

(ii) The product or service is designed primarily to accomplish at least one of the following:

(A) Provide loss mitigation or loss control.

(B) Reduce the customer's claim costs or claim settlement costs.

(C) Provide the customer with education regarding liability risks, or the risk of loss to persons or property.

(D) Monitor or assess risk, identify sources of risk, or develop strategies for eliminating or reducing risk.

(E) Enhance the customer's health.

(F) Enhance the customer's financial wellness through education or financial planning services.

(G) Provide the customer with post-loss services.

(H) Incentivize behavioral changes to improve the health of, or to reduce the risk of death or disability of, a customer.

(I) Assist in the administration of employee or retiree benefit insurance coverage.

(iii) The cost to the insurer or producer offering or providing the product or service to a customer must be reasonable in comparison to the customer's premiums and insurance coverage for the policy class.

(iv) If the insurer or producer provides the product or service offered, the insurer or producer shall ensure that the customer is provided with contact information for customer

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service or technical support personnel who can assist the customer with questions regarding the product or service.

(v) The availability of the value-added product or service shall be based on documented objective criteria and the value-added product or service must be offered to all customers in a nondiscriminatory manner. The documented objective criteria shall be maintained by the insurer or producer and provided to the commissioner upon request. If an insurer or producer does not have sufficient documented objective criteria, but has a good-faith belief that the product or service meets the criteria under subparagraph subdivision (ii), the insurer or producer may offer or provide the product or service in a nondiscriminatory manner to customers as part of a pilot program or a test program for up to one year. Prior to launching the pilot program or test program, the insurer or producer must notify the commissioner. If the commissioner does not object to the pilot program or test program within twenty-one calendar days from the date of notice, the insurer or producer may proceed with the pilot program or test program.

(vi) The commissioner may adopt rules pursuant to chapter 17A to administer this subparagraph division.

(3) (a) Paying, allowing, or giving, or offering to pay, allow, or give, directly or indirectly, as an inducement to purchase or acquire insurance other than life insurance, life annuity, or accident and health insurance, or after insurance has been effected, any rebate, discount, abatement, credit, or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue on the policy, or any valuable consideration or inducement, not specified in the policy, except to the extent provided for in an applicable filing. An insured named in a policy, or an employee of the insured, shall not knowingly receive or accept, directly or indirectly, any rebate, discount, abatement, credit, or reduction of premium, or any such special favor or advantage or valuable consideration or inducement.

(b) This subparagraph (3) shall not be construed to prohibit the payment of commissions or other compensation to duly licensed producers, or to prohibit any insurer from allowing or returning to its participating policyholders, members, or subscribers, dividends, savings, or unabsorbed premium deposits. As used in this subparagraph (3), *"insurance"* includes suretyship and *"policy"* includes bond.

j. Unfair claim settlement practices. Committing or performing with such frequency as to indicate a general business practice any of the following:

(1) Misrepresenting pertinent facts or insurance policy provisions relating to coverages of issue.

(2) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies.

(3) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.

(4) Refusing to pay claims without conducting a reasonable investigation based upon all available information.

(5) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed.

(6) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear, or failing to include interest on the payment of claims when required under paragraph *"p"* or section 511.38.

(7) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds.

(8) Attempting to settle a claim for less than the amount to which a reasonable person would have believed the person was entitled by reference to written or printed advertising material accompanying or made part of an application.

(9) Attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of the insured.

(10) Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which payments are being made.

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(11) Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration.

(12) Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information.

(13) Failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage.

(14) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

(15) Failing to comply with the procedures for auditing claims submitted by health care providers as set forth by rule of the commissioner. However, this subparagraph shall have no applicability to liability insurance, workers' compensation or similar insurance, automobile or homeowners' medical payment insurance, disability income, or long-term care insurance.

k. 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:

(1) 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.

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

l. 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.

m. 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.

n. Misrepresentation in insurance applications. Making false or fraudulent statements or representations on or relative to an application for an insurance policy, for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, agent, broker, or individual.

o. Omission from insurance application. Failing to designate on an insurance policy application the licensee who has solicited and written the policy.

p. Payment of interest. Failure of an insurer to pay interest at the rate of ten percent per annum on all health insurance claims that the insurer fails to timely accept and pay pursuant to section 507B.4A, subsection 2, paragraph "*d*". Interest shall accrue commencing on the thirty-first day after receipt of all properly completed proof of loss forms.

q. Rating organizations. Any violation of section 515F.16.

r. Minor traffic violations. Failure of a person to comply with section 516B.3.

s. Information. Failing or refusing to furnish any policyholder or applicant, upon reasonable request, information to which that individual is entitled.

t. Pharmacy benefits managers. Any violation of chapter 510B by a pharmacy benefits manager.

u. 340B drug program. Any violation of chapter 510D by a group health plan, a health carrier that offers group or individual health insurance coverage, a third-party administrator, or a pharmacy benefits manager.

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v. Post-loss assignment of benefits. Any violation of section 515.137A by a residential contractor.

[C97, §1782; S13, §1782, 1820-b; SS15, §1758-f; C24, 27, 31, 35, 39, §**8666, 8759, 9022;** C46, 50, 54, §508.23, 511.20, 515.144; C58, 62, 66, 71, 73, 75, 77, 79, 81, §507B.4]

85 Acts, ch 229, §1; 87 Acts, ch 65, §2; 87 Acts, ch 120, §7; 89 Acts, ch 321, §32; 90 Acts, ch 1234, §64; 92 Acts, ch 1162, §3; 93 Acts, ch 88, §4; 95 Acts, ch 185, §6; 2001 Acts, ch 69, §5 – 7, 39; 2001 Acts, ch 118, §15, 56; 2006 Acts, ch 1117, §23, 24; 2007 Acts, ch 152, §53, 54; 2008 Acts, ch 1074, §1; 2010 Acts, ch 1153, §1; 2012 Acts, ch 1023, §101; 2016 Acts, ch 1073, §145; 2017 Acts, ch 121, §25; 2017 Acts, ch 148, §32; 2018 Acts, ch 1012, §1; 2022 Acts, ch 1113, §1, 16, 23; 2023 Acts, ch 22, §1 – 3; 2023 Acts, ch 43, §1; 2025 Acts, ch 28, §27

Referred to in §231.77, 507B.6, 507B.7, 507B.12, 510B.10, 510D.3, 515E.4, 515K.5, 729.6

Subsection 3, paragraph t applies to pharmacy benefits managers that manage a prescription drug benefit in the state on or after June 13, 2022; 2022 Acts, ch 1113, §16

507B.4A Duty to respond to inquiries and prompt payment of claim.

1. A person shall promptly respond to inquiries from the commissioner.

a. A person's actions are deemed untimely under this subsection if the person fails to respond to an inquiry from the commissioner within thirty days of the receipt of the inquiry, unless good cause exists for delay.

b. Failure to respond to inquiries from the commissioner pursuant to this subsection with such frequency as to indicate a general business practice shall subject the person to penalty under this chapter.

2. *a.* An insurer providing accident and sickness insurance under chapter 509, 514, or 514A; a health maintenance organization; or another entity providing health insurance or health benefits subject to state insurance regulation shall either accept and pay or deny a clean claim.

b. For purposes of this subsection, *"clean claim"* means a properly completed paper or electronic billing instrument containing all reasonably necessary information, that does not involve coordination of benefits for third-party liability, preexisting condition investigations, or subrogation, and that does not involve the existence of particular circumstances requiring special treatment that prevents a prompt payment from being made.

c. The commissioner shall adopt rules establishing processes for timely adjudication and payment of claims by insurers for health care benefits. The rules shall be consistent with the time frames and other procedural standards for claims decisions by group health plans established by the United States department of labor pursuant to 29 C.F.R. pt. 2560 in effect on January 1, 2002.

d. Payment of a clean claim shall include interest at the rate of ten percent per annum when an insurer or other entity as defined in this subsection that administers or processes claims on behalf of the insurer or other entity fails to timely pay a claim.

e. This subsection shall not apply to liability insurance, workers' compensation or similar insurance, automobile or homeowners' medical payment insurance, disability income, or long-term care insurance.

2001 Acts, ch 69, §8, 39; 2001 Acts, ch 176, §71; 2017 Acts, ch 148, §33

Referred to in §507B.4, 507B.6, 507B.12, 514F.6

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.

2006 Acts, ch 1117, §25

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507B.4C Unclaimed life insurance.

1. *Purpose.* The purpose of this section is to require complete and proper disclosure, transparency, and accountability relating to any method of payment for life insurance death benefits regulated by the commissioner.

2. *Definitions.* As used in this section, unless the context otherwise requires:

a. "Account owner" means the owner of a retained asset account who is a resident of this state.

b. "Annuity" means an annuity contract issued in this state. *"Annuity"* does not include any annuity contract used to fund an employment-based retirement plan or program where the insurer takes direction from the plan sponsor or plan administrator.

c. "Authorized person" means a policy owner, insured, annuity owner, annuitant, or account holder, as applicable under a policy, annuity, or retained asset account.

d. "Death master file" means the United States social security administration's death master file or any other database or service that is at least as comprehensive as the United States social security administration's death master file for determining that a person has died.

e. "Death master file match" means a search of the death master file that results in a match of an authorized person's name and social security number or an authorized person's name and date of birth.

f. "Insurer" means a life insurance company regulated under chapter 508.

g. "Policy" means any policy or certificate of life insurance issued in this state. *"Policy"* does not include any of the following:

(1) A policy or certificate of life insurance which provides a death benefit under an employee benefit plan subject to the federal Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406, as codified at 29 U.S.C. §1002 et seq.

(2) A policy or certificate of life insurance which provides a death benefit under an employee benefit plan subject to a federal employee benefit program.

(3) A policy or certificate of life insurance which is used to fund a preneed plan for cemetery merchandise, funeral merchandise, funeral services, or a combination thereof.

(4) A policy or certificate of credit life or accidental death insurance.

(5) A policy issued to a group master policyowner for which the insurer does not provide recordkeeping services.

h. "Recordkeeping services" means services provided by an insurer who has entered into an agreement with a group policy customer to be responsible for obtaining, maintaining, and administering in the insurer's own recordkeeping systems at least all of the following information about each individual insured under the insured's group insurance contract or a line of coverage thereunder:

(1) Social security number or name and date of birth.

(2) Beneficiary designation information.

(3) Coverage eligibility.

(4) Benefit amount.

(5) Premium payment status.

i. "Retained asset account" means an interest-bearing account set up by an insurer in the name of the beneficiary of a policy or annuity upon the death of the insured.

3. *Insurer duties.*

a. For any in-force policy, annuity, or retained asset account issued for delivery in this state for which the insurer has not previously been notified of a claim, an insurer shall perform a comparison of such policy, annuity, or retained asset account against the death master file, on at least a semiannual basis, to identify potential death master file matches.

(1) An insurer may comply with the requirements of this subsection by using the full death master file for the initial comparison and thereafter using the death master file update files for subsequent comparisons.

(2) Nothing in this section shall be interpreted to limit the right of an insurer to request a valid death certificate as part of any claims validation process.

b. If an insurer learns of the possible death of an authorized person through a death master file match or otherwise, the insurer shall, within ninety days, do all of the following:

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(1) Complete a good-faith effort, which shall be documented by the insurer, to confirm the death of the authorized person against other available records and information.

(2) Review the insurer's records to determine whether the deceased authorized person had purchased any other products from the insurer.

(3) Determine whether benefits may be due in accordance with the applicable policy, annuity, or retained asset account.

(4) If the beneficiary or an authorized person has not communicated with the insurer within the ninety-day period, take reasonable steps, which shall be documented by the insurer, to locate and contact any beneficiary or other authorized person on the policy, annuity, or retained asset account, including sending the beneficiary or other authorized person information regarding the insurer's claims process and regarding the need to provide an official death certificate, if applicable under the policy, annuity, or retained asset account.

c. Every insurer shall implement procedures to account for all of the following:

(1) Common nicknames, initials used in lieu of a first or middle name, use of a middle name, compound first and middle names, and interchanged first and middle names.

(2) Compound last names, maiden or married names, and hyphens, blank spaces, or apostrophes in last names.

(3) Transposition of the month and date portions of the date of birth.

(4) Incomplete social security numbers.

d. An insurer may disclose minimum necessary personal information about a beneficiary or authorized person to an individual or entity whom the insurer reasonably believes may be able to assist the insurer in locating the beneficiary or authorized person entitled to payment of the claims proceeds.

e. An insurer or its service provider shall not charge a beneficiary or authorized person any fees or costs associated with a death master file search conducted pursuant to this section.

f. The benefits from a policy, annuity, or retained asset account, plus any applicable accrued interest, shall first be payable to designated beneficiaries or authorized persons, and in the event that the beneficiaries or authorized persons cannot be found, shall be reported and remitted to the state as unclaimed property pursuant to chapters 556 and 633.

4. *Rules.* The commissioner shall adopt rules to administer the provisions of this section.

5. *Orders.* The commissioner may issue an order doing any of the following:

a. Limiting the death master file comparisons required under subsection 3, paragraph *"a"*, to an insurer's electronic searchable files or approving a plan and timeline for conversion of an insurer's files to electronic searchable files.

b. Exempting an insurer from the death master file comparisons required under subsection 3, paragraph *"a"*, or permitting an insurer to perform such comparisons less frequently than semiannually, upon a demonstration of financial hardship by the insurer.

c. Phasing in requirements for compliance with this section according to a plan and timeline approved by the commissioner.

6. *Unfair trade practice.* Failure to meet any requirement of this section with such frequency as to constitute a general business practice is an unfair method of competition and an unfair or deceptive act or practice in the business of insurance under this chapter.

7. *Insurer unclaimed property reporting.*

a. If an insurer identifies a person as deceased through a death master file match as described in subsection 3, paragraph *"a"*, or other information source, and validates such information through a secondary information source, the insurer may report and remit the proceeds of the policy, annuity, or retained asset account due to the state prior to the dates required for such reporting and remittance under chapter 556, without further notice to or consent by the state, after attempting to contact any beneficiary under either of the following circumstances:

(1) The insurer is unable to locate a beneficiary who is located in this state under the policy, annuity contract, or retained asset account, after conducting reasonable search efforts of up to one year after the insurer's validation of the death master file match.

(2) No beneficiary or person, as applicable for unclaimed property reporting purposes under chapter 556, has a last known address in this state.

b. Once the insurer has reported upon and remitted the proceeds of the policy, annuity, or

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retained asset account to the state pursuant to chapter 556, the insurer is relieved from any and all additional liability to any beneficiary or authorized person relating to the proceeds reported upon and remitted.

2014 Acts, ch 1134, §23, 24; 2016 Acts, ch 1073, §146

507B.5 Favored agent or insurer — coercion of debtors.

1. No person may do any of the following:

a. Require, as a condition precedent to the lending of money or extension of credit, or any renewal thereof, that the person to whom such money or credit is extended or whose obligation the creditor is to acquire or finance, negotiate any policy or contract of insurance through a particular insurer or group of insurers or agent or broker or group of agents or brokers.

b. Unreasonably disapprove the insurance policy provided by a borrower for the protection of the property securing the credit or lien.

c. Require directly or indirectly that any borrower, mortgagor, purchaser, insurer, broker, or agent pay a separate charge in connection with the handling of any insurance policy required as security for a loan on real estate or pay a separate charge to substitute the insurance policy of one insurer for that of another.

d. Use or disclose information resulting from a requirement that a borrower, mortgagor or purchaser furnish insurance of any kind on real property being conveyed or used as collateral security to a loan, when such information is to the advantage of the mortgagee, vendor, or lender, or is to the detriment of the borrower, mortgagor, purchaser, insurer, or the agent or broker complying with such a requirement.

2. Subsection 1, paragraph *"c"* of this section does not include the interest which may be charged on premium loans or premium advancements in accordance with the security instrument.

3. For purposes of subsection 1, paragraph *"b"* of this section, such disapproval shall be deemed unreasonable if it is not based solely on reasonable standards uniformly applied, relating to the extent of coverage required and the financial soundness and the services of an insurer. Such standards shall not discriminate against any particular type of insurer, nor shall such standards call for the disapproval of an insurance policy because such policy contains coverage in addition to that required.

4. If a violation of this section is found, the person in violation shall be subject to the same procedures and penalties as are applicable to other provisions of this chapter.

5. For purposes of this section, *"person"* includes any individual, corporation, association, partnership, or other legal entity.

[C73, 75, 77, 79, 81, §507B.5]

2015 Acts, ch 29, §69

Referred to in §507B.6, 507B.12, 535.8

507B.6 Hearings — service of process, attendance of witnesses, and production of documents.

1. Whenever the commissioner believes that any person has been engaged or is engaging in this state in any unfair method of competition or any unfair or deceptive act or practice whether or not defined in section 507B.4, 507B.4A, or 507B.5 and that a proceeding by the commissioner in respect to such method of competition or unfair or deceptive act or practice would be in the public interest, the commissioner shall issue and serve upon such person a statement of the charges in that respect and a notice of a hearing on such charges to be held at a time and place fixed in the notice, which shall not be less than ten days after the date of the service of such notice.

2. At the time and place fixed for such hearing, such person shall have an opportunity to be heard and to show cause why an order should not be made by the commissioner requiring such person to cease and desist from the acts, methods or practices so complained of. Upon good cause shown, the commissioner shall permit any person to intervene, appear and be heard at such hearing by counsel or in person.

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3. Nothing contained in this chapter shall require the observance at any such hearing of formal rules of pleading or evidence.

4. The commissioner, upon such hearing, may administer oaths, examine and cross-examine witnesses, receive oral and documentary evidence, and shall have the power to subpoena witnesses, compel their attendance, and require the production of books, papers, records, correspondence, or other documents which the commissioner deems relevant to the inquiry. The commissioner, upon such hearing, may, and upon the request of any party shall, cause to be made a stenographic record of all the evidence and all the proceedings had at such hearing. If no stenographic record is made and if a judicial review is sought, the commissioner shall prepare a statement of the evidence and proceeding for use on review. In case of a refusal of any person to comply with any subpoena issued hereunder or to testify with respect to any matter concerning which the person may be lawfully interrogated, the district court of Polk county or the county where such party resides, on application of the commissioner, may issue an order requiring such person to comply with such subpoena and to testify; and any failure to obey any such order of the court may be punished by the court as a contempt thereof.

5. Statements of charges, notices, orders, subpoenas, and other processes of the commissioner under this chapter may be served by anyone authorized by the commissioner, either in the manner provided by law for service of process in civil actions, or by mailing a copy by restricted certified mail to the person affected by the statement, notice, order, subpoena, or other process at the person's residence or principal office or place of business. The verified return by the person serving the statement, notice, order, subpoena, or other process, setting forth the manner of such service, shall be proof of service, and the return receipt for the statement, notice, order, subpoena, or other process, mailed by restricted certified mail, shall be proof of the service.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §507B.6]
2001 Acts, ch 69, §9, 39; 2004 Acts, ch 1110, §22
Referred to in §507B.3, 507B.7A, 514B.26, 514F.8E, 522A.3, 522B.11, 522D.7

507B.6A Summary orders.

1. Upon a determination by the commissioner that a person or insurer has engaged, is engaging, or is about to engage in any act or practice constituting a violation of this chapter or a rule adopted or order issued under this chapter, the commissioner may issue a summary order, including a brief statement of findings of fact, conclusions of law, and policy reasons for the decision, and directing the person or insurer to cease and desist from engaging in the act or practice or to take other affirmative action as is in the judgment of the commissioner necessary to comply with the requirements of this chapter.

2. A person who has been issued a summary order under this section may contest the order by filing a request for a contested case proceeding and hearing as provided in chapter 17A and in accordance with the rules adopted by the commissioner. However, the person shall have at least thirty days from the date that the order is issued in order to file the request. Section 17A.18A is inapplicable to a summary order issued under this section. The order shall remain effective from the date of issuance unless overturned by a presiding officer or court following a request for hearing. If a hearing is not timely requested, the summary order becomes final by operation of law.

3. A person or insurer violating a summary order issued under this section shall be deemed in contempt of that order. The commissioner may petition the district court to enforce the order as certified by the commissioner. The district court shall adjudge the person in contempt of the order if the court finds after hearing that the person or insurer is not in compliance with the order. The court may assess a civil penalty against the person or insurer and may issue further orders as it deems appropriate.

2004 Acts, ch 1110, §23
Referred to in §505.8, 507B.7A, 508E.7

507B.7 Orders and penalties.

1. If, after hearing, the commissioner determines that a person has engaged in an unfair

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method of competition or an unfair or deceptive act or practice, the commissioner shall reduce the findings to writing and shall issue and cause to be served upon the person charged with the violation a copy of such findings, an order requiring such person to cease and desist from engaging in such method of competition, act, or practice, and the commissioner may at the commissioner's discretion order any one or more of the following:

a. Payment of a civil penalty of not more than one thousand dollars for each act or violation of this subtitle, but not to exceed an aggregate of ten thousand dollars, unless the person knew or reasonably should have known the person was in violation of this subtitle, in which case the penalty shall be not more than five thousand dollars for each act or violation, but not to exceed an aggregate penalty of fifty thousand dollars in any one six-month period. If the commissioner finds that a violation of this subtitle was directed, encouraged, condoned, ignored, or ratified by the employer of the person or by an insurer, the commissioner shall also assess a penalty to the employer or insurer.

b. Suspension or revocation of the license of a person as defined in section 507B.2, subsection 1, if the person knew or reasonably should have known the person was in violation of this subtitle.

c. Payment of interest at the rate of ten percent per annum if the commissioner finds that the insurer failed to pay interest as required under section 507B.4, subsection 3, paragraph *"p"*.

2. Until the expiration of the time allowed under section 507B.8 for filing a petition for review if no such petition has been duly filed within such time, or, if a petition for review has been filed within such time, then until the transcript of the record in the proceeding has been filed in the district court, the commissioner may at any time, upon such notice and in such manner as the commissioner may deem proper, modify or set aside in whole or in part any order issued by the commissioner under this section.

3. After the expiration of the time allowed for filing such a petition for review if no such petition has been duly filed within such time, the commissioner may at any time, after notice and opportunity for hearing, reopen and alter, modify, or set aside, in whole or in part, any order issued by the commissioner under this section, whenever in the commissioner's opinion conditions of fact or of law have so changed as to require such action, or if the public interest shall so require.

4. Any person who violates an order of the commissioner, and while such order is in effect, may, after notice and hearing and upon order of the commissioner, be subject at the discretion of the commissioner to any one or more of the following:

a. A monetary penalty of not more than ten thousand dollars for each and every act or violation. A penalty collected under this lettered paragraph shall be deposited as provided in section 505.7.

b. Suspension or revocation of such person's license.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §507B.7; 81 Acts, ch 165, §3]

2001 Acts, ch 69, §10, 39; 2004 Acts, ch 1110, §24; 2009 Acts, ch 181, §65; 2012 Acts, ch 1021, §97; 2012 Acts, ch 1023, §152; 2020 Acts, ch 1063, §270; 2021 Acts, ch 181, §2

Referred to in §505.8, 507B.7A, 510.21, 510.23, 510B.10, 510D.3, 514F.8E

507B.7A Administrative hearings.

Section 505.29 is applicable to hearings required by sections 507B.6, 507B.6A, and 507B.7.

2006 Acts, ch 1117, §26

507B.8 Judicial review of cease and desist orders.

1. Judicial review of the actions of the commissioner may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. To the extent that an order of the commissioner is affirmed in any judicial review proceeding, the court shall thereupon issue its own order commanding obedience to the terms of such order of the commissioner.

2. After the period for judicial review of an order of the commissioner has expired and no petition for judicial review has been filed, the attorney general upon request of the commissioner of insurance shall proceed in the Iowa district court to enforce an order of the

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commissioner. The court shall enter its order commanding obedience to the terms of the commissioner's order.

3. No order of the commissioner under this chapter or order of a court to enforce the same shall in any way relieve or absolve any person affected by such order from any liability under any other laws of this state.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §507B.8; 82 Acts, ch 1003, §3]
2003 Acts, ch 44, §114; 2018 Acts, ch 1041, §127
Referred to in §507B.7, 514F.8E

507B.9 Sale of duplicate coverage prohibited.

1. A person shall not knowingly engage in the sale of duplicate Medicare supplement insurance coverage, as defined by rule of the commissioner.

2. The commissioner of insurance shall adopt rules pursuant to chapter 17A which define the sale of duplicate Medicare supplement insurance coverage.

[C81, §507B.9]

507B.10 Reserved.

507B.11 Penalty. Repealed by 2004 Acts, ch 1110, §71.

507B.12 Rules.

1. The commissioner may, after notice and hearing, promulgate reasonable rules, as are necessary or proper to identify specific methods of competition or acts or practices which are prohibited by section 507B.4, 507B.4A, or 507B.5, but the rules shall not enlarge upon or extend the provisions of such sections. Such rules shall be subject to review in accordance with chapter 17A.

2. The powers vested in the commissioner by this chapter shall be additional to any other powers to enforce any penalties, fines, or forfeitures authorized by law with respect to the methods, acts, and practices declared to be unfair or deceptive.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §507B.12]
2001 Acts, ch 69, §11, 39; 2018 Acts, ch 1041, §127; 2019 Acts, ch 24, §76; 2020 Acts, ch 1063, §271

507B.13 Immunity from prosecution.

If any person shall ask to be excused from attending and testifying or from producing any books, papers, records, correspondence or other documents at any hearing on the ground that the testimony or evidence required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture, and shall notwithstanding be directed to give such testimony or produce such evidence, the person must nonetheless comply with such direction, but the person shall not thereafter be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which the person may testify or produce evidence pursuant thereto, and no testimony so given or evidence produced shall be received against the person upon any criminal action, investigation or proceeding, provided, however, that no such individual so testifying shall be exempt from prosecution or punishment for any perjury committed by the individual while so testifying and the testimony or evidence so given or produced shall be admissible against the individual upon any criminal action, investigation or proceeding concerning such perjury, nor shall the individual be exempt from the refusal, revocation or suspension of any license, permission or authority conferred, or to be conferred, pursuant to the insurance law of this state. Any such individual may execute, acknowledge and file in the office of the commissioner a statement expressly waiving such immunity or privilege in respect to any transaction, matter or thing specified in such statement and thereupon the testimony of such person or such evidence in relation to such transaction, matter or thing may be received or produced before any judge or justice, court, tribunal, grand jury or otherwise, and if so received or produced such individual

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shall not be entitled to any immunity or privilege on account of any testimony the individual may so give or evidence so produced.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §507B.13]

507B.14 Transfer of insurance stock.

1. When a controlling interest in two or more corporations, at least one of which is an insurance company domiciled in this state, is held by any person, group of persons, firm, or corporation, no exchange of stock, transfer or sale of securities, or loan based upon securities of any such corporation shall take place between such corporations, or between such person, group of persons, firm or corporation and such corporations, without first securing the approval of the insurance commissioner. If, in the opinion of the insurance commissioner, such sale, transfer, exchange, or loan would be improper and would work to the detriment of any such insurance company, the commissioner shall have the power to prohibit the transaction. A person, firm, or corporate officer or director shall not aid such transaction without approval of the insurance commissioner. A person, firm, or corporate officer or director who willfully violates this section is guilty of a class "D" felony. A person, firm, or corporate officer or director who willfully violates this section, and when such violation results in a loss of more than ten thousand dollars, is guilty of a class "C" felony.

2. For purposes of this section, *"controlling interest"* means actual control or the possession directly or indirectly of the power to direct or cause the direction of the management and policies of a firm, partnership, corporation, association, or trust, whether through the ownership of voting securities, by contract, or otherwise.

[C66, 71, 73, 75, 77, 79, 81, §507B.14]

2004 Acts, ch 1161, §66, 68; 2017 Acts, ch 29, §142

CHAPTER 507C

INSURERS SUPERVISION, REHABILITATION, AND LIQUIDATION

Referred to in §87.4, 296.7, 331.301, 364.4, 505.4, 505.28, 505.29, 507.14, 508D.6, 510A.6, 513D.1, 514B.25, 515E.3A, 521A.14, 521C.11, 521E.5, 521E.6, 521E.9, 521E.10, 521F.6, 521F.7, 521F.10, 521F.11, 521J.19, 669.14, 670.7

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SUBCHAPTER I

GENERAL PROVISIONS

507C.1 Short title — construction — purpose.

1. This chapter shall be cited as the "*Insurers Supervision, Rehabilitation, and Liquidation Act*".

2. This chapter shall not be interpreted to limit the powers granted the commissioner by any other law.

3. This chapter shall be liberally construed to effect the purpose stated in subsection 4.

4. The purpose of this chapter is the protection of the interests of insureds, claimants, creditors, and the public, with minimum interference with the normal prerogatives of the owners and managers of insurers, through all of the following:

a. Early detection of a potentially dangerous condition in an insurer and prompt application of appropriate corrective measures.

b. Improved methods for rehabilitating insurers, involving the cooperation and management expertise of the insurance industry.

c. Enhanced efficiency and economy of liquidation, through clarification of the law, to minimize legal uncertainty and litigation.

d. Equitable apportionment of any unavoidable loss.

e. Lessening the problems of interstate rehabilitation and liquidation by facilitating cooperation between states in the liquidation process, and by extending the scope of personal jurisdiction over debtors of the insurer outside this state.

f. Regulation of the insurance business by the impact of the law relating to delinquency procedures and substantive rules on the entire insurance business.

g. Providing for a comprehensive scheme for the rehabilitation and liquidation of insurance companies and those subject to this chapter as part of the regulation of the business of insurance, the insurance industry, and insurers in this state. Proceedings in

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cases of insurer insolvency and delinquency are deemed an integral aspect of the business of insurance and are of vital public interest and concern.

84 Acts, ch 1175, §1; 92 Acts, ch 1117, §8, 9

507C.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Affiliate"* of or *"affiliated"* with a specific person, means a person that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified.

2. *"Ancillary state"* means a state other than a domiciliary state.

3. *"Commissioner"* means the commissioner of insurance and any successor in office.

4. *"Commodity contract"* means any of the following:

a. A contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a board of trade designated as a contract market by the commodity futures trading commission under the federal Commodity Exchange Act, 7 U.S.C. §1 et seq., or a board of trade outside the United States.

b. An agreement that is subject to regulation under section 19 of the federal Commodity Exchange Act, 7 U.S.C. §1 et seq., and that is commonly known to the commodities trade as a margin account, margin contract, leverage account, or leverage contract.

c. An agreement or transaction that is subject to regulation under section 4c(b) of the federal Commodity Exchange Act, 7 U.S.C. §1 et seq., and that is commonly known to the commodities trade as a commodity option.

5. *"Control"* means the same as defined in section 521A.1, subsection 3.

6. *"Creditor"* is a person having a claim against an insurer, whether the claim is matured or unmatured, liquidated or unliquidated, secured or unsecured, absolute, fixed or contingent.

7. *"Delinquency proceeding"* means a proceeding instituted against an insurer for the purpose of liquidating, rehabilitating, reorganizing or conserving the insurer, and a summary proceeding under section 507C.9 or 507C.10. *"Formal delinquency proceeding"* means any liquidation or rehabilitation proceeding.

8. *"Doing business"* means any of the following acts, whether effected by mail or otherwise:

a. The issuance or delivery of contracts of insurance to persons resident in this state.

b. The solicitation of applications for the contracts, or other negotiations preliminary to the execution of the contracts.

c. The collection of premiums, membership fees, assessments, or other consideration for the contracts.

d. The transaction of matters subsequent to execution of the contracts and arising out of them.

e. Operating as an insurer under a license or certificate of authority issued by the division.

9. *"Domiciliary state"* means the state in which an insurer is incorporated or organized, or, in the case of an alien insurer, its state of entry.

10. *"Fair consideration"* is given for property or obligation when either of the following is present:

a. When in good faith property is conveyed or services are rendered or an obligation is incurred or an antecedent debt is satisfied in exchange for the property or obligation, as a fair equivalent therefor, and in good faith.

b. When the property or obligation is received in good faith to secure a present advance or antecedent debt in amount not disproportionately small as compared to the value of the property or obligation obtained.

11. *"Federal home loan bank"* means a federal home loan bank established under the federal Home Loan Bank Act, 12 U.S.C. §1421 et seq.

12. *"Foreign country"* means another jurisdiction not in a state.

13. *"Forward contract"* means a contract for the purchase, sale, or transfer of a commodity, as defined in section 1 of the federal Commodity Exchange Act, 7 U.S.C. §1 et seq., or any similar good, article, service, right, or interest that is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with

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a maturity date more than two days after the date the contract is entered into, including, but not limited to, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or a combination of them or option on any of them. *"Forward contract"* does not include a commodity contract.

14. *a.* *"General assets"* means all real, personal, or other property, not specifically mortgaged, pledged, deposited, or otherwise encumbered for the security or benefit of specified persons or classes of persons. As to specifically encumbered property, *"general assets"* includes all property or its proceeds in excess of the amount necessary to discharge the sum or sums secured by the property or its proceeds. Assets held in trust and on deposit for the security or benefit of all policyholders or all policyholders and creditors, in more than a single state, shall be treated as general assets.

b. *"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.

15. *"Guaranty association"* means the Iowa insurance guaranty association created in chapter 515B, the Iowa life and health insurance guaranty association created in chapter 508C, and any other similar entity either presently existing or to be created by the general assembly for the payment of claims of insolvent insurers. *"Foreign guaranty association"* means a similar entity presently existing in or to be created in the future by the legislature of any other state.

16. *a.* *"Insolvency"* or *"insolvent"* means any of the following:

(1) For an insurer issuing only assessable fire insurance policies, either of the following:

(a) The inability to pay any obligation within thirty days after it becomes payable.

(b) If an assessment is made, the inability to pay the assessment within thirty days following the date specified in the first assessment notice issued after the date of loss.

(2) For any other insurer that it is unable to pay its obligations when they are due, or when its admitted assets do not exceed its liabilities plus the greater of:

(a) Any capital and surplus required by law for its organization.

(b) The total par or stated value of its authorized and issued capital stock.

(3) As to an insurer licensed to do business in this state as of July 1, 1984, which does not meet the standard established under subparagraph (2), the term *"insolvency"* or *"insolvent"* shall mean, for a period not to exceed three years from July 1, 1984, that it is unable to pay its obligations when they are due or that its admitted assets do not exceed its liabilities plus any required capital contribution ordered by the commissioner under provisions of the insurance law.

b. For purposes of this subsection *"liabilities"* includes but is not limited to reserves required by statute or by the division's rules or specific requirements imposed by the commissioner upon a company at the time of or subsequent to admission.

17. *"Insurer"* means a person who has done, purports to do, is doing or is licensed to do insurance business, and is or has been subject to the authority of, or to liquidation, rehabilitation, reorganization, supervision, or conservation by an insurance commissioner. For purposes of this chapter, any other person included under section 507C.3 is an insurer.

18. *"Insurer-member"* means an insurer who is a member of a federal home loan bank.

19. *"Netting agreement"* means an agreement, including terms and conditions incorporated by reference therein, including a master agreement, which master agreement, together with all schedules, confirmations, definitions, and addenda thereto and transactions under any thereof, shall be treated as one netting agreement, that documents one or more transactions between parties to the agreement for or involving one or more qualified financial contracts and that provides for the netting or liquidation of qualified financial contracts or present or future payment obligations or payment entitlements thereunder,

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including liquidation or closeout values relating to such obligations or entitlements among the parties to the netting agreement.

20. *"Preferred claim"* means a claim with respect to which the terms of this chapter accord priority of payment from the general assets of the insurer.

21. *"Qualified financial contract"* means a commodity contract, forward contract, repurchase agreement, securities contract, swap agreement, and any similar agreement that the commissioner determines by regulation, resolution, or order to be a qualified financial contract for the purposes of this chapter.

22. *"Receiver"* means receiver, liquidator, rehabilitator, or conservator as the context requires.

23. *"Reciprocal state"* means a state other than this state in which section 507C.18, subsection 1, sections 507C.52 and 507C.53 and sections 507C.55 through 507C.57 are in force, and in which provisions are in force requiring that the commissioner or equivalent official be the receiver of a delinquent insurer, and in which some provision exists for the avoidance of fraudulent conveyances and preferential transfers.

24. *"Repurchase agreement"* means an agreement, including related terms, that provides for the transfer of certificates of deposit, eligible bankers' acceptances, or securities that are direct obligations of, or that are fully guaranteed as to principal and interest by, the United States or an agency of the United States against the transfer of funds by the transferee of the certificates of deposit, eligible bankers' acceptances or securities, with a simultaneous agreement by the transferee to transfer to the transferor certificates of deposit, eligible bankers' acceptances, or securities as described above, at a date certain not later than one year after the transfers or on demand against the transfer of funds. For the purposes of this definition, the items that may be subject to a repurchase agreement include, but are not limited to, mortgage-related securities, a mortgage loan, and an interest in a mortgage loan, but shall not include any participation in a commercial mortgage loan, unless the commissioner determines by rule, resolution, or order to include the participation within the meaning of the term. Repurchase agreement also applies to a reverse repurchase agreement.

25. *"Secured claim"* means a claim secured by mortgage, trust deed, pledge, deposit as security, escrow, or otherwise, but not including special deposit claims or claims against general assets. The term also includes claims which have become liens upon specific assets by reason of judicial process.

26. *"Securities contract"* means a contract for the purchase, sale, or loan of a security, including an option for the repurchase or sale of a security, certificate of deposit, or group or index of securities, including an interest therein or based on the value thereof, or an option entered into on a national securities exchange relating to foreign currencies, or the guarantee of a settlement of cash or securities by or to a securities clearing agency. For the purposes of this definition, the term *"security"* includes a mortgage loan, mortgage-related securities, and an interest in any mortgage loan or mortgage-related security.

27. *"Special deposit claim"* means a claim secured by a deposit made pursuant to statute for the security or benefit of a limited class or classes of persons, but not including a claim secured by general assets.

28. *"State"* means a state, district, or territory of the United States and the Panama Canal Zone.

29. *"Swap agreement"* means an agreement, including the terms and conditions incorporated by reference in an agreement, that is a rate swap agreement, basis swap, commodity swap, forward rate agreement, interest rate future, interest rate option, forward foreign exchange agreement, spot foreign exchange agreement, rate cap agreement, rate floor agreement, rate collar agreement, currency swap agreement, cross-currency rate swap agreement, currency future, or currency option or any other similar agreement, and includes any combination of agreements and an option to enter into an agreement.

30. *"Transfer"* shall include the sale and every other and different mode, direct or indirect, of disposing of or of parting with property or with an interest in the property, or with the possession of the property or of fixing a lien upon the property or upon an interest in the property, absolutely or conditionally, voluntarily, by or without judicial proceedings.

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The retention of a security title to property delivered to a debtor shall be deemed a transfer suffered by a debtor.

84 Acts, ch 1175, §2; 92 Acts, ch 1117, §10; 2005 Acts, ch 70, §4; 2006 Acts, ch 1117, §27; 2012 Acts, ch 1023, §102; 2014 Acts, ch 1008, §1

Referred to in §515B.2

507C.3 Applicability.

This chapter may be applied to any of the following:

1. Insurers who are doing or have done insurance business in this state, and against whom claims arising from that business may exist now or in the future.
2. Insurers who purport to do insurance business in this state.
3. Insurers who have insureds who are residents in this state.
4. Other persons organized or in the process of organizing with the intent to do insurance business in this state.
5. Nonprofit health service corporations and all fraternal benefit societies and benevolent associations subject to chapters 512A, 512B, and 514.
6. Prepaid health care delivery plans which are regulated by the commissioner.
7. Health maintenance organizations formed under chapter 514B other than limited service organizations formed under section 514B.33.
8. Captive companies under chapter 521J.

84 Acts, ch 1175, §3; 93 Acts, ch 88, §5; 2019 Acts, ch 12, §1, 35, 36; 2023 Acts, ch 107, §3; 2024 Acts, ch 1043, §95

Referred to in §507C.2

507C.4 Jurisdiction and venue.

1. A delinquency proceeding shall not be commenced under this chapter by a person other than the commissioner. A court shall not have jurisdiction over a proceeding under this chapter commenced by a person other than the commissioner.
2. A court shall not have jurisdiction over a petition praying for the dissolution, liquidation, rehabilitation, sequestration, conservation or receivership of an insurer, or praying for an injunction or restraining order or other relief preliminary to, incidental to or relating to such proceedings other than pursuant to this chapter.
3. A court having jurisdiction of the subject matter has jurisdiction over a person served pursuant to the Iowa rules of civil procedure or other applicable provisions in an action brought by the receiver of a domestic insurer or an alien insurer domiciled in this state for any of the following:

a. In an action on or incident to an obligation if the person served is obligated to the insurer in any way as an incident to an agency or brokerage arrangement that may exist or has existed between the insurer and the agent or broker.

b. In an action on or incident to a reinsurance contract, if the person served is a reinsurer who has at any time written a policy of reinsurance for an insurer against which a delinquency proceeding has been instituted, or is an agent or broker of or for the reinsurer and the action results from or is incident to the relationship with the reinsurer.

c. In an action resulting from a relationship with the insurer, if the person served is or has been an officer, manager, trustee, organizer, promoter, or person in a position of comparable authority or influence in an insurer against which a rehabilitation or liquidation order is in effect when the action is commenced.

d. In an action if the person served is or was at the time of the institution of the delinquency proceeding against the insurer holding assets which are the subject of the proceeding and in which the receiver claims an interest on behalf of the insurer.

e. If the person served is obligated to the insurer in any way whatsoever, in an action on or incident to the obligation.

4. If the court on motion of a party finds that an action should as a matter of substantial justice be tried in a forum outside this state, the court may enter an order to stay the proceedings on the action in this state.

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5. All actions authorized in this chapter shall be brought in the district court in Polk county.

84 Acts, ch 1175, §4; 92 Acts, ch 1117, §11, 12; 2015 Acts, ch 29, §70

507C.5 Injunctions and orders.

1. A receiver appointed in a proceeding under this chapter may at any time apply for, and any court of general jurisdiction may grant, restraining orders, preliminary and permanent injunctions, and other orders as necessary to prevent any of the following:

a. The transaction of further business.

b. The transfer of property.

c. Interference with the receiver or with a proceeding under this chapter.

d. Waste of the insurer's assets.

e. Dissipation and transfer of bank accounts.

f. The institution or further prosecution of any actions or proceedings.

g. The obtaining of preferences, judgments, attachments, garnishments, or liens against the insurer, its assets or its policyholders.

h. The levying of execution against the insurer, its assets or its policyholders.

i. The making of a sale or deed for nonpayment of taxes or assessments that would lessen the value of the assets of the insurer.

j. The withholding from the receiver of books, accounts, documents, or other records relating to the business of the insurer.

k. Any other threatened or contemplated action that might lessen the value of the insurer's assets or prejudice the rights of policyholders, creditors, or shareholders, or the administration of a proceeding under this chapter.

2. A receiver may apply to a court outside of the state for the relief described in subsection 1.

3. *a.* Notwithstanding any other provision to the contrary, after the seventh day following the filing of a delinquency proceeding a federal home loan bank shall not be stayed or prohibited from exercising its rights regarding collateral pledged by an insurer-member.

b. If a federal home loan bank exercises its rights regarding collateral pledged by an insurer-member who is subject to a delinquency proceeding, the federal home loan bank shall repurchase any outstanding capital stock that is in excess of that amount of federal home loan bank stock that the insurer-member is required to hold as a minimum investment, to the extent the federal home loan bank in good faith determines the repurchase to be permissible under applicable laws, regulations, regulatory obligations, and the federal home loan bank's capital plan, and consistent with the federal home loan bank's current capital stock practices applicable to its entire membership.

c. Following the appointment of a receiver for an insurer-member, the federal home loan bank shall, within ten business days after a request from the receiver, provide a process and establish a timeline for all of the following:

(1) The release of collateral that exceeds the amount required to support secured obligations remaining after any repayment of loans as determined in accordance with the applicable agreements between the federal home loan bank and the insurer-member.

(2) The release of any of the insurer-member's collateral remaining in the federal home loan bank's possession following repayment of all outstanding secured obligations of the insurer-member in full.

(3) The payment of fees owed by the insurer-member and the operation of deposits and other accounts of the insurer-member with the federal home loan bank.

(4) The possible redemption or repurchase of federal home loan bank stock or excess stock of any class that an insurer-member is required to own.

d. Upon request from a receiver, the federal home loan bank shall provide any available options for an insurer-member subject to a delinquency proceeding to renew or restructure a loan to defer associated prepayment fees, subject to market conditions, the terms of any loans outstanding to the insurer-member, the applicable policies of the federal home loan bank, and the federal home loan bank's compliance with federal laws and regulations.

84 Acts, ch 1175, §5; 2014 Acts, ch 1008, §2

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507C.6 Cooperation of officers, owners, and employees — penalty.

1. An officer, manager, director, trustee, owner, employee, or agent of an insurer, or any other person with authority over or in charge of any segment of the insurer's affairs, shall cooperate with the commissioner in any proceeding under this chapter or any investigation preliminary to the proceeding. The term *"person"* as used in this section, shall include any person who exercises control directly or indirectly over activities of the insurer through any holding company or other affiliate of the insurer. *"To cooperate"* shall include, but shall not be limited to, the following:

a. To reply promptly in writing to any inquiry from the commissioner requesting a reply.

b. To make available to the commissioner any books, accounts, documents, or other records, information, or property of or pertaining to the insurer and in the person's possession, custody, or control.

2. A person shall not obstruct or interfere with the commissioner in the conduct of a delinquency proceeding or an investigation preliminary or incidental to a delinquency proceeding.

3. This section does not abridge otherwise existing legal rights, including the right to resist a petition for liquidation, other delinquency proceedings, or other orders.

4. It shall be unlawful for a person as defined in subsection 1 to fail to cooperate with the commissioner, or to obstruct or interfere with the commissioner in the conduct of a delinquency proceeding or an investigation preliminary or incidental to a delinquency proceeding, or to violate a valid order of the commissioner.

84 Acts, ch 1175, §6; 90 Acts, ch 1234, §4; 2004 Acts, ch 1110, §25

507C.7 Bonds.

In a proceeding under this chapter, the commissioner and the commissioner's deputies shall be responsible on their official bonds for the faithful performance of their duties. If the court deems it desirable for the protection of the assets, it may require an additional bond from the commissioner or the commissioner's deputies. The bonds shall be paid for out of the assets of the insurer as a cost of administration.

84 Acts, ch 1175, §7

507C.8 Continuation of delinquency proceedings. Repealed by 2015 Acts, ch 30, §198.

507C.8A Condition on release from delinquency proceedings.

An insurer subject to a delinquency proceeding shall not be released from the delinquency proceeding unless the proceeding is converted into a rehabilitation or liquidation proceeding; shall not be permitted to solicit or accept new business, or request or accept the restoration of any suspended or revoked license or certificate of authority; and shall not be returned to the control of the insurer's shareholders or private management, or have any of the insurer's assets returned to the control of its shareholders or private management, until all payments of or on account of the insurer's contractual obligations by all guaranty associations, along with all expenses of such obligations and interest on all such payments and expenses, have been repaid to the guaranty association or a plan of repayment by the insurer is approved by the guaranty association.

92 Acts, ch 1117, §13

SUBCHAPTER II

SUMMARY PROCEEDINGS

507C.9 Summary orders and supervision proceedings — penalty.

1. If after a hearing held under subsection 5, the commissioner determines that a domestic insurer has committed or engaged in, or is about to commit or engage in, an act, practice, or transaction that would subject it to delinquency proceedings under this chapter, the commissioner may make and serve upon the insurer and any other persons involved

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orders as are reasonably necessary to correct, eliminate, or remedy the conduct, condition, or ground.

2. If the commissioner upon reasonable cause determines that a domestic insurer is in a condition as to render the continuance of its business hazardous to the public or to holders of its policies or certificates of insurance or if the domestic insurer gives its consent then the commissioner shall do both of the following:

a. Notify the insurer of the determination.

b. Furnish to the insurer a written list of the commissioner's requirements to abate the determination.

3. If the commissioner makes a determination to supervise an insurer subject to an order under subsection 1 or 2, the commissioner shall notify the insurer that it is under the supervision of the commissioner. During the period of supervision, the commissioner may appoint a supervisor to supervise the insurer. The order appointing a supervisor shall direct the supervisor to enforce orders issued under subsections 1 and 2 and may also require that during the period of supervision, the insurer shall not do any of the following without the prior approval of the commissioner or the commissioner's supervisor:

a. Dispose of, convey or encumber its assets or its business in force.

b. Withdraw from its bank accounts.

c. Lend its funds.

d. Invest its funds.

e. Transfer its property.

f. Incur any debt, obligation or liability.

g. Merge or consolidate with another company.

h. Enter into a new reinsurance contract or treaty.

i. Write new or renewal business.

4. An insurer subject to an order under this section shall comply with the lawful requirements of the commissioner and, if placed under supervision, shall have sixty days from the date the supervision order is served within which to comply with the requirements of the commissioner. If the insurer fails to comply, the commissioner may institute proceedings under section 507C.12 or 507C.17 to have a rehabilitator or liquidator appointed or extend the period of supervision.

5. The notice of hearing and any order issued pursuant to subsection 1 shall be served upon the insurer pursuant to chapter 17A. The notice of hearing shall state the time and place of hearing, and the conduct, condition or ground upon which the commissioner would base an order. Unless mutually agreed between the commissioner and the insurer, the hearing shall occur not less than ten days nor more than thirty days after notice is served and shall be either in Polk county or in some other place convenient to the parties to be designated by the commissioner. All hearings under subsection 1 shall be confidential unless the insurer requests a public hearing.

6. *a.* An insurer subject to an order under subsection 2 may request a hearing to review that order. The hearing shall be held as provided in subsection 5. The request for a hearing shall not stay the effect of the order.

b. If the commissioner issues an order under subsection 2, the insurer may waive a commissioner's hearing and apply for immediate judicial relief by means of any remedy afforded by law without first exhausting administrative remedies. Subsequent to a hearing, a party to the proceedings whose interests are substantially affected is entitled to judicial review of any order issued by the commissioner.

7. During the period of supervision the insurer may request the commissioner to review an action taken or proposed to be taken by the supervisor by specifying the reasons the action complained of is believed not to be in the best interest of the insurer.

8. If a person has violated a supervision order issued under this section which was in effect, the person is liable to pay a civil penalty imposed by the district court not to exceed ten thousand dollars.

9. The commissioner may apply for and any court of general jurisdiction may grant

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restraining orders, preliminary and permanent injunctions, and other orders as necessary to enforce a supervision order.

84 Acts, ch 1175, §9
Referred to in §507C.2, 507C.11, 507C.12, 507C.54, 508C.12

507C.10 Seizure order.

1. With respect to a domestic insurer the commissioner may file in the district court a petition alleging all of the following:

a. That there exist grounds that would justify a court order for a formal delinquency proceeding against an insurer under this chapter.

b. That the interests of policyholders, creditors, or the public will be endangered by delay.

c. The contents of an order deemed necessary by the commissioner.

2. Upon a filing under subsection 1, the court may issue, ex parte and without a hearing, the requested order which shall direct the commissioner to take possession and control of all or a part of the property, books, accounts, documents, and other records of an insurer, and of the premises occupied by it for transaction of its business, and until further order of the court enjoin the insurer and its officers, managers, agents, and employees from disposing of the insurer's property and from transacting of the insurer's business, except with the written consent of the commissioner.

3. The court shall specify in the order the duration of the order. The duration shall be the time the court deems necessary for the commissioner to ascertain the condition of the insurer. Upon motion or on its own, the court may from time to time hold hearings as it deems desirable after notice as it deems appropriate, and may extend, shorten, or modify the terms of the seizure order. The court shall vacate the seizure order if the commissioner fails to commence a formal proceeding under this chapter after having had a reasonable opportunity to do so. An order of the court pursuant to a formal proceeding under this chapter shall automatically vacate the seizure order.

4. Entry of a seizure order under this section is not an anticipatory breach of a contract of the insurer.

5. An insurer subject to an ex parte order under this section may petition the court after the issuance of the order for a hearing and review of the order. The court shall hold the hearing and review not more than fifteen days after the request. A hearing under this subsection may be held privately in chambers. Upon request of the insurer the hearing shall be held privately in chambers.

6. If at any time after the issuance of an order under this section it appears to the court that a person whose interest is or will be substantially affected by the order did not appear at the hearing and has not been served, the court may order that notice be given. An order that notice be given shall not stay the effect of any order previously issued by the court.

84 Acts, ch 1175, §10
Referred to in §507C.2, 507C.11, 507C.54

507C.11 Confidentiality of hearings.

Notwithstanding chapter 22, in all administrative proceedings pursuant to sections 507C.9 and 507C.10 all orders, records, and documents pertaining to or a part of the record of the proceedings are confidential except as is necessary to obtain compliance with a proceeding. However, the records may be released if either of the following occurs:

1. The insurer requests that the records be made public.

2. After a hearing on the issue with the parties to the proceeding, the court orders that the records be made public. Until such court order, the clerk of court shall hold all papers filed in a confidential file.

84 Acts, ch 1175, §11; 92 Acts, ch 1117, §14; 2004 Acts, ch 1110, §26
Referred to in §507C.54

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SUBCHAPTER III

FORMAL PROCEEDINGS

507C.12 Grounds for rehabilitation.

1. The commissioner may petition the district court for an order to rehabilitate a domestic insurer or an alien insurer domiciled in this state on any of the following grounds:

a. The insurer is in a condition that the further transaction of business would be financially hazardous to its policyholders, creditors, or the public.

b. There is reasonable cause to believe that there has been embezzlement from the insurer, wrongful sequestration or diversion of the insurer's assets, forgery or fraud affecting the insurer, or other illegal conduct in, by, or with respect to the insurer that, if established, would endanger assets in an amount threatening the solvency of the insurer.

c. The insurer has failed to remove a person, whether an officer, manager, general agent, employee, or other person, who in fact has executive authority in the insurer, if the person has been found after notice and hearing by the commissioner to be dishonest or untrustworthy in a way affecting the insurer's business.

d. Control of the insurer is in a person or persons found after notice and hearing to be untrustworthy. Control may be by stock ownership or by other means and may be direct or indirect.

e. A person who in fact has executive authority in the insurer, whether an officer, manager, general agent, director or trustee, employee, or other person has refused to be examined under oath by the commissioner concerning the insurer's affairs, in this state or elsewhere, and after reasonable notice of the fact the insurer has failed promptly and effectively to terminate the employment and status of the person and all the person's influence on management.

f. After demand by the commissioner under chapter 507 or under this chapter, the insurer has failed to promptly make available for examination any of its property, books, accounts, documents, or other records, or those of a subsidiary or related company within the control of the insurer, or those of a person having executive authority in the insurer so far as they pertain to the insurer.

g. Without first obtaining the written consent of the commissioner, the insurer has transferred, or attempted to transfer, in a manner contrary to chapter 521 or 521A, substantially its entire property or business, or has entered into a transaction the effect of which is to merge, consolidate, or reinsure substantially its entire property or business in or with the property or business of any other person.

h. The insurer or its property has been or is the subject of an application for the appointment of a receiver, trustee, custodian, conservator or sequestrator or similar fiduciary of the insurer of its property other than as authorized under the insurance laws of this state, and the appointment has been made or is imminent, and the appointment might oust the court of this state of jurisdiction or might prejudice orderly delinquency proceedings under this chapter.

i. Within the previous three years the insurer has willfully violated its charter or articles of incorporation, its bylaws, an insurance law of this state, or a valid order of the commissioner under section 507C.9.

j. The insurer has failed to pay within sixty days after the due date an obligation to a state or any subdivision of a state or a judgment entered in a state, if the court in which the judgment was entered had jurisdiction over the subject matter. However, nonpayment shall not be a ground until sixty days after a good faith effort by the insurer to contest the obligation has been terminated whether the effort is before the commissioner or in the courts, or the insurer has systematically attempted to compromise or renegotiate previously agreed settlements with its creditors on the ground that it is financially unable to pay its obligations in full.

k. The insurer has failed to file its annual report or other financial report required within the time allowed and, after written demand by the commissioner, has failed to immediately give an adequate explanation.

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l. The board of directors or the holders of a majority of the shares entitled to vote, or a majority of those individuals entitled to the control of those entities request or consent to rehabilitation under this chapter.

2. If the petition alleges that extraordinary circumstances exist and that there is imminent substantial risk to the insurer's solvency if the insurer is not immediately placed into rehabilitation, the court may issue, ex parte and without a hearing, the requested order of rehabilitation. An insurer subject to an ex parte order under this section may petition the court after the issuance of the order for a hearing and review of the order. The court shall hold the hearing and review not more than fifteen days after the request. A hearing under this section may be held privately in chambers. Upon the request of the insurer, the hearing shall be held privately in chambers.

84 Acts, ch 1175, §12; 91 Acts, ch 26, §35; 2012 Acts, ch 1023, §157
Referred to in §507C.9, 507C.16, 507C.17, 507C.50, 507C.51

507C.13 Rehabilitation orders.

1. An order to rehabilitate the business of a domestic insurer or an alien insurer domiciled in this state shall appoint the commissioner as the rehabilitator. The order shall direct the rehabilitator to take possession of the assets of the insurer, and to administer them under the general supervision of the court. The filing or recording of the order with the clerk of the district court or recorder of deeds of the county in which the principal business of the insurer is conducted, or the county in which its principal office or place of business is located, is the same notice as a deed, bill of sale, or other evidence of title duly filed or recorded with that recorder of deeds. The order to rehabilitate the insurer shall vest title to all assets of the insurer in the rehabilitator.

2. An order issued under this section requires accounting to the court by the rehabilitator. Accountings shall be at intervals the court specifies in the order. Each accounting must include a report concerning the rehabilitator's opinion as to whether a plan pursuant to section 507C.14, subsection 4, will be prepared. If the rehabilitator includes in any accounting that such a plan is likely, the accounting shall also include a proposed timetable for the preparation and implementation of the plan.

3. Entry of an order of rehabilitation is not an anticipatory breach of a contract of the insurer.

84 Acts, ch 1175, §13; 92 Acts, ch 1117, §15
Referred to in §507C.15, 507C.37

507C.14 Powers and duties of rehabilitator.

1. The commissioner as rehabilitator may appoint one or more special deputies. The special deputies shall have the powers and responsibilities of the rehabilitator granted under this section. The commissioner may employ counsel, clerks, and assistants as necessary. The compensation of the special deputy, counsel, clerks, and assistants and all expenses of taking possession of the insurer and of conducting the proceedings shall be fixed by the commissioner with the approval of the court and shall be paid out of the funds or assets of the insurer. The persons appointed under this section shall serve at the pleasure of the commissioner. If the property of the insurer does not contain sufficient cash or liquid assets to defray the costs incurred, the commissioner may advance the costs so incurred out of any appropriation for the maintenance of the division. Amounts so advanced for expenses of administration shall be repaid to the commissioner for the use of the division out of the first available money of the insurer.

2. The rehabilitator may take action as the rehabilitator deems necessary or appropriate to reform and revitalize the insurer. The rehabilitator shall have the powers of the directors, officers, and managers of the insurer, whose authority shall be suspended, except as the powers are redelegated by the rehabilitator. The rehabilitator shall have power to direct and manage, to hire and discharge employees subject to contract rights the employees may have, and to deal with the property and business of the insurer.

3. If it appears to the rehabilitator that there has been criminal or tortious conduct, or

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breach of a contractual or fiduciary obligation by any person detrimental to the insurer, the rehabilitator may pursue appropriate legal remedies on behalf of the insurer.

4. If the rehabilitator determines that reorganization, consolidation, conversion, reinsurance, merger, or other transformation of the insurer is appropriate, the rehabilitator shall prepare a plan to effect the changes. Upon application of the rehabilitator for approval of the plan, and after notice and hearings as the court may prescribe, the court may either approve, disapprove or modify the plan proposed. Before approving a plan, the court shall find that it is fair and equitable to all parties concerned. If the plan is approved, the rehabilitator shall carry out the plan. In the case of a life insurer, if all rights of shareholders are first relinquished, the plan proposed may include the imposition of liens upon the policies of the company. A plan for a life insurer may also propose imposition of a moratorium upon loan and cash surrender rights under policies.

5. The rehabilitator shall have the power under sections 507C.26 and 507C.27 to avoid fraudulent transfers.

84 Acts, ch 1175, §14; 92 Acts, ch 1117, §16; 93 Acts, ch 88, §6
Referred to in §507C.13, 507C.16

507C.15 Actions by and against rehabilitator.

1. A court in this state, before which an action or proceeding in which the insurer is a party or is obligated to defend a party is pending when a rehabilitation order against the insurer is entered, shall stay the action or proceeding for ninety days and any additional time as necessary for the rehabilitator to obtain proper representation and prepare for further proceedings. The rehabilitator shall take action respecting the pending litigation as necessary in the interests of justice and for the protection of creditors, policyholders, and the public. The rehabilitator shall immediately consider all litigation pending outside this state and shall petition the courts having jurisdiction over that litigation for stays whenever necessary to protect the estate of the insurer.

2. A statute of limitations or defense of laches shall not run in an action by or against an insurer between the filing of a petition for appointment of a rehabilitator for that insurer and the order granting or denying that petition. An action by or against the insurer that might have been commenced when the petition was filed may be commenced for at least sixty days after the order of rehabilitation is entered or the petition is denied. The rehabilitator, upon the issuance of an order for rehabilitation pursuant to section 507C.13, may institute an action or proceeding on behalf of the insurer based upon a cause of action for which the period of limitation has not expired at the time of the filing of the petition for an order to rehabilitate. The action or proceeding by the rehabilitator may be instituted within one year or a longer period if provided by applicable law, of the issuance of the order for rehabilitation.

3. A guaranty association or foreign guaranty association covering life or health insurance or annuities shall have standing to appear in a court proceeding concerning the rehabilitation of a life or health insurer if the association is or may become liable to act as a result of the rehabilitation.

84 Acts, ch 1175, §15; 92 Acts, ch 1117, §17

507C.16 Termination of rehabilitation.

1. Whenever the commissioner determines that further attempts to rehabilitate an insurer would substantially increase the risk of loss to creditors, policyholders, or the public, or would be futile, the commissioner may petition the district court for an order of liquidation. A petition under this subsection shall have the same effect as a petition under section 507C.17. The court shall permit the directors of the insurer to take actions as are reasonably necessary to defend against the petition and may order payment from the estate of the insurer of costs and other expenses of defense as justice may require.

2. The rehabilitator may at any time petition the district court for an order terminating rehabilitation of an insurer. The directors of the insurer may petition the court for an order terminating rehabilitation of the insurer and the court may order payment from the estate of the insurer of costs and other expenses of the petition as justice may require. If the court finds that rehabilitation has been accomplished and that grounds for rehabilitation under section

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507C.12 no longer exist, it shall order that the insurer be restored to possession of its property and the control of its business. The court may also terminate the rehabilitation at any time upon its own motion.

3. If the payment of obligations pursuant to a policy issued by the insurer is suspended in substantial part for a period of six months at any time after the appointment of the rehabilitator, and the rehabilitator has not filed an application for a plan pursuant to section 507C.14, subsection 4, the rehabilitator shall petition the court for an order of liquidation on grounds of insolvency.

84 Acts, ch 1175, §16; 92 Acts, ch 1117, §18

507C.17 Grounds for liquidation.

The commissioner may petition the district court for an order directing the commissioner to liquidate a domestic insurer or an alien insurer domiciled in this state on any of the following grounds:

1. Any ground for an order of rehabilitation specified in section 507C.12 whether or not there has been a prior order directing the rehabilitation of the insurer.

2. That the insurer is insolvent.

3. That the insurer is in a condition that the further transaction of business would be hazardous, financially or otherwise, to its policyholders, its creditors, or the public.

84 Acts, ch 1175, §17

Referred to in §507C.9, 507C.16, 507C.51

507C.17A Rehabilitation or liquidation of certain covered domestic insurers.

1. The provisions of this section apply in accordance with Tit. II of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 12 U.S.C. §5301 et seq., with respect to a domestic insurer that is a covered financial company, as that term is defined under 12 U.S.C. §5381.

2. The commissioner may petition the district court for an order of rehabilitation or liquidation of a domestic insurer pursuant to this section on any of the following grounds:

a. Upon a determination and notification given by the secretary of the treasury of the United States, in consultation with the president of the United States, that the insurer is a covered financial company satisfying the requirements of 12 U.S.C. §5383(b), and the board of directors, or a body performing similar functions of a board of directors, of the insurer acquiesces or consents to the appointment of a receiver pursuant to 12 U.S.C. §5382(a)(1)(A)(i) with such consent to be considered as consent to an order of rehabilitation or liquidation.

b. Upon an order of the United States district court for the District of Columbia under 12 U.S.C. §5382(a)(1)(A)(iv)(I) granting the petition of the secretary of the treasury of the United States concerning the insurer under 12 U.S.C. §5382(a)(1)(A)(i).

c. A petition by the secretary of the treasury of the United States concerning the insurer is granted by operation of law under 12 U.S.C. §5382(a)(1)(A)(v).

3. Notwithstanding any other provision of law to the contrary, after notice to the insurer, a district court may grant an order of rehabilitation or liquidation within twenty-four hours after the filing of such a petition pursuant to this section.

4. If the district court does not make a determination on a petition for an order of rehabilitation or liquidation filed by the commissioner pursuant to this section within twenty-four hours after the filing of the petition, the order shall be deemed granted by operation of law upon the expiration of the twenty-four-hour period.

a. At the time that an order is deemed granted under this subsection, the provisions of this chapter shall be deemed to be in effect, and the commissioner shall be deemed to be affirmed as receiver and to have all of the applicable powers provided by this chapter, regardless of whether an order has been entered by the district court.

b. If an order is deemed granted by operation of law under this subsection, the district court shall expeditiously enter an order of rehabilitation or liquidation that does all of the following:

(1) Is effective as of the date that the order is deemed granted by operation of law.

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(2) Conforms to the provisions for rehabilitation or liquidation of an insurer contained in this chapter, as applicable.

5. An order of rehabilitation or liquidation made pursuant to this section shall not be subject to a stay or injunction pending appeal.

6. Nothing in this section shall be construed to supersede or impair any other power or authority of the commissioner or the district court under this chapter.

2013 Acts, ch 124, §10, 31

507C.18 Liquidation orders.

1. An order to liquidate the business of a domestic insurer shall appoint the commissioner as liquidator and shall direct the liquidator to immediately take possession of the assets of the insurer and to administer them under the general supervision of the court. The liquidator is vested with the title to the property, contracts, and rights of action and the books and records of the insurer ordered liquidated, wherever located, as of the entry of the final order of liquidation. The filing or recording of the order with the clerk of the court and the recorder of deeds of the county in which its principal office or place of business is located, or, in the case of real estate with the recorder of deeds of the county where the property is located, is notice as a deed, bill of sale, or other evidence of title duly filed or recorded with the recorder of deeds.

2. Upon issuance of the order, the rights and liabilities of an insurer and of its creditors, policyholders, shareholders, members, and other persons interested in its estate shall become fixed as of the date of entry of the order of liquidation, except as provided in sections 507C.19 and 507C.37.

3. An order to liquidate the business of an alien insurer domiciled in this state must be in the same terms and have the same legal effect as an order to liquidate a domestic insurer, except that the assets and the business in the United States shall be the only assets and business included in the order.

4. At the time of petitioning for an order of liquidation, or at any time thereafter, the commissioner, after making appropriate findings of an insurer's insolvency, may petition the court for a declaration of insolvency. After providing notice and hearing as it deems proper, the court may make the declaration.

5. An order issued under this section shall require accounting to the court by the liquidator. Accountings, at a minimum, must include all funds received or disbursed by the liquidator during the current period. An accounting shall be filed within one year of the liquidation order and at such other times as the court may require.

6. *a.* Within five days of July 1, 1992, or, if later, within five days after the initiation of an appeal of an order of liquidation, which order has not been stayed, the commissioner shall present for the court's approval a plan for the continued performance of the defendant company's policy claims obligations, including the duty to defend insureds under liability insurance policies, during the pendency of an appeal. The plan shall provide for the continued performance and payment of policy claims obligations in the normal course of events, notwithstanding the grounds alleged in support of the order of liquidation including the ground of insolvency. If the defendant company's financial condition will not, in the judgment of the commissioner, support the full performance of all policy claims obligations during the appeal pendency period, the plan may prefer the claims of certain policyholders and claimants over creditors and interested parties as well as other policyholders and claimants, as the commissioner finds to be fair and equitable considering the relative circumstances of such policyholders and claimants. The court shall examine the plan submitted by the commissioner and if it finds the plan to be in the best interests of the parties, the court shall approve the plan. No action shall lie against the commissioner or any of the commissioner's deputies, agents, clerks, assistants, or attorneys by any party based on preference in an appeal pendency plan approved by the court.

b. The appeal pendency plan shall not supersede or affect the obligations of any insurance guaranty association.

c. Any such plans shall provide for equitable adjustments to be made by the liquidator to any distributions of assets to guaranty associations, in the event that the liquidator pays

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claims from assets of the estate, which would otherwise be the obligations of any particular guaranty association but for the appeal of the order of liquidation, such that all guaranty associations equally benefit on a pro rata basis from the assets of the estate. If an order of liquidation is set aside upon an appeal, the company shall not be released from delinquency proceedings unless and until all funds advanced by a guaranty association, including reasonable administrative expenses in connection therewith relating to obligations of the company, shall be repaid in full, together with interest at the judgment rate of interest, or unless an arrangement for repayment thereof has been made with the consent of all applicable guaranty associations.

84 Acts, ch 1175, §18; 92 Acts, ch 1117, §19
Referred to in §507C.2, 507C.19, 507C.31, 507C.37
Judgment rate of interest, see §535.3

507C.19 Continuance of coverage.

1. Except for life or health insurance or annuities, policies in effect at the time of issuance of an order of liquidation shall continue in force only for the lesser of:

a. A period of thirty days from the date of entry of the liquidation orders.

b. The expiration of the policy coverage.

c. The date when the insured has replaced the insurance coverage with equivalent insurance in another insurer or otherwise terminated the policy.

d. The liquidator has effected a transfer of the policy obligation pursuant to section 507C.21, subsection 1, paragraph *"h"*.

2. An order or liquidation under section 507C.18 shall terminate coverages at the time specified in subsection 1 for purposes of any other statute.

3. Policies of life or health insurance or annuities shall continue in force for the period and under terms as is provided for by any applicable guaranty association or foreign guaranty association.

4. Policies of life or health insurance or annuities or any period or coverage of the policies not covered by a guaranty association or foreign guaranty association shall terminate under subsections 1 and 2.

84 Acts, ch 1175, §19
Referred to in §507C.18, 507C.23

507C.20 Dissolution or sale of insurer.

The commissioner may petition for an order dissolving the corporate existence of a domestic insurer or the United States branch of an alien insurer domiciled in this state at the time the commissioner applies for a liquidation order. The court shall order dissolution of the corporation upon petition by the commissioner upon or after the granting of a liquidation order. If the dissolution has not previously been ordered, it shall be effected by operation of law upon the discharge of the liquidator if the insurer is insolvent. However, dissolution may be ordered by the court upon the discharge of the liquidator if the insurer is under a liquidation order for some other reason. Notwithstanding the above, upon application by the commissioner and following notice as prescribed by the court and a hearing, the court may sell the corporation as an entity, together with any of its licenses to do business, despite the entry of an order of liquidation. The sale may be made on terms and conditions the court deems appropriate. However, the order approving the sale shall provide that the proceeds of the sale shall become part of the assets of the liquidation estate, to be distributed in the manner set forth in section 507C.42, and that the corporate entity and its licenses shall thereafter be free and clear from the claims or interests of all claimants, creditors, policyholders, and stockholders of the corporation under liquidation.

84 Acts, ch 1175, §20; 87 Acts, ch 168, §1; 88 Acts, ch 1112, §502
Referred to in §507C.21

507C.20A Redomestication of foreign insurer.

The commissioner may petition the court for an ancillary receivership or for an order redomesticating a foreign insurer which is the subject of a liquidation or other delinquency order in a reciprocal state. Only the corporate charter and rights to the licenses under such

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charter shall be redomesticated to Iowa. All claims against the foreign insurer shall remain a part of and be administered through the reciprocal state liquidation or other delinquency proceeding. Following notice as prescribed by the court and a hearing, the court may sell the corporation as an entity, together with any of its licenses, free and clear from the claims or interests of all claimants, creditors, policyholders, and stockholders of the corporation under liquidation or other delinquency proceedings, wherever located. The sale may be made on terms and conditions the court deems appropriate. The proceeds of the sale, less court costs, attorney fees, broker's fees, and the commissioner's expenses in effectuating the sale, shall become part of the assets of the liquidation or other estate in the reciprocal state.

91 Acts, ch 213, §2

507C.21 Powers of liquidator.

1. The liquidator may:

a. Appoint a special deputy to act for the liquidator under this chapter, and determine the special deputy's reasonable compensation. The special deputy shall have all powers of the liquidator granted by this section. The special deputy shall serve at the pleasure of the liquidator.

b. Hire employees and agents, legal counsel, actuaries, accountants, appraisers, consultants, and other personnel as the commissioner may deem necessary to assist in the liquidation.

c. With the approval of the court fix the reasonable compensation of employees and agents, legal counsel, actuaries, accountants, appraisers and consultants.

d. Pay reasonable compensation to persons appointed and defray from the funds or assets of the insurer all expenses of taking possession of, conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and property of the insurer. If the property of the insurer does not contain sufficient cash or liquid assets to defray the costs incurred, the commissioner may advance the costs so incurred out of an appropriation for the maintenance of the division. Amounts so advanced for expenses of administration shall be repaid to the commissioner for the use of the division out of the first available moneys of the insurer.

e. Hold hearings, subpoena witnesses, and compel their attendance, administer oaths, examine a person under oath, and compel a person to subscribe to the person's testimony after it has been correctly reduced to writing, and in connection to the proceedings require the production of books, papers, records or other documents which the liquidator deems relevant to the inquiry.

f. Collect debts and moneys due and claims belonging to the insurer, wherever located. Pursuant to this paragraph, the liquidator may:

(1) Institute timely action in other jurisdictions to forestall garnishment and attachment proceedings against debts.

(2) Perform acts as are necessary or expedient to collect, conserve or protect its assets or property, including the power to sell, compound, compromise or assign debts for purposes of collection upon terms and conditions as the liquidator deems best.

(3) Pursue any creditor's remedies available to enforce claims.

g. Conduct public and private sales of the property of the insurer.

h. Use assets of the estate of an insurer under a liquidation order to transfer policy obligations to a solvent assuming insurer, if the transfer can be arranged without prejudice to applicable priorities under section 507C.42.

i. Acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon, or otherwise dispose of or deal with property of the insurer at its market value or upon terms and conditions as are fair and reasonable. The liquidator shall also have power to execute, acknowledge, and deliver deeds, assignments, releases and other instruments necessary to effectuate a sale of property or other transaction in connection with the liquidation.

j. Borrow money on the security of the insurer's assets or without security and execute and deliver documents necessary to that transaction for the purpose of facilitating the liquidation. Money borrowed pursuant to this paragraph shall be repaid as an administrative expense

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and have priority over any other class 1 claims under the priority of distribution established in section 507C.42.

k. Enter into contracts as necessary to carry out the order to liquidate and affirm or disavow contracts to which the insurer is a party.

l. Continue to prosecute and to institute in the name of the insurer or in the liquidator's own name any and all suits and other legal proceedings, in this state or elsewhere, and to abandon the prosecution of claims the liquidator deems unprofitable to pursue further. If the insurer is dissolved under section 507C.20, the liquidator may apply to any court in this state or elsewhere for leave to substitute the liquidator for the insurer as plaintiff.

m. Prosecute an action on behalf of the creditors, members, policyholders or shareholders of the insurer against an officer of the insurer, or any other person.

n. Remove records and property of the insurer to the offices of the commissioner or to other place as may be convenient for the purposes of efficient and orderly execution of the liquidation. A guaranty association or foreign guaranty association shall have reasonable access to the records of the insurer as necessary to carry out the guaranty's statutory obligations.

o. Deposit in one or more banks in this state sums as are required for meeting current administration expenses and dividend distributions.

p. Unless the court orders otherwise, invest funds not currently needed.

q. File necessary documents for record in the office of a recorder of deeds or record office in this state or elsewhere where property of the insurer is located.

r. Assert defenses available to the insurer as against third persons including statutes of limitation, statutes of fraud, and the defense of usury. A waiver of a defense by the insurer after a petition in liquidation has been filed shall not bind the liquidator. If a guaranty association or foreign guaranty association has an obligation to defend a suit, the liquidator shall defer to the obligation and may defend only in the absence of a defense by the guaranty association.

s. Exercise and enforce the rights, remedies, and powers of a creditor, shareholder, policyholder, or member, including the power to avoid a transfer or lien that may be given by the general law and that is not included with sections 507C.26 through 507C.28.

t. Intervene in a proceeding wherever instituted that might lead to the appointment of a receiver or trustee, and act as the receiver or trustee whenever the appointment is offered.

u. Enter into agreements with a receiver or commissioner of insurance of any other state relating to the rehabilitation, liquidation, conservation or dissolution of an insurer doing business in both states.

v. Exercise powers now held or hereafter conferred upon receivers by the laws of this state not inconsistent with this chapter.

w. Audit the books and records of all agents of the insurer which relate to the business of the insurer.

2. This section does not limit the liquidator or exclude the liquidator from exercising a power not listed in subsection 1 that may be necessary or appropriate to accomplish the purposes of this chapter.

84 Acts, ch 1175, §21; 85 Acts, ch 67, §48; 92 Acts, ch 1117, §20, 21
Referred to in §507C.19

507C.22 Notice to creditors and others.

1. Unless the court otherwise directs, the liquidator shall give notice of the liquidation order as soon as possible by doing all of the following:

a. By first class mail and either by telegram or telephone to the insurance commissioner of each jurisdiction in which the insurer is doing business.

b. By first class mail to a guaranty association or foreign guaranty association which is or may become obligated as a result of the liquidation.

c. By first class mail to all insurance agents of the insurer.

d. By first class mail to all persons known or reasonably expected to have claims against the insurer, including policyholders, by mailing a notice to their last known address as indicated by the records of the insurer.

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e. By publication in a newspaper of general circulation in the county in which the insurer has its principal place of business and in other locations as the liquidator deems appropriate.

2. Notice to potential claimants under subsection 1 shall require claimants to file with the liquidator their claims together with proper proofs of the claim under section 507C.36 on or before a date the liquidator shall specify in the notice. The liquidator need not require persons claiming cash surrender values or other investment values in life insurance and annuities to file a claim. Claimants shall keep the liquidator informed of changes of address.

3. *a.* Notice to agents of the insurer and potential claimants who are policyholders under subsection 1, where applicable, shall include notice that coverage by state guaranty associations may be available for all or part of policy benefits in accordance with applicable state guaranty laws.

b. The liquidator shall promptly provide to the guaranty associations such information concerning the identities and addresses of the policyholders and their policy coverages as may be within the liquidator's possession or control, and otherwise cooperate with guaranty associations to assist them in providing to the policyholders timely notice of the guaranty associations' coverage of policy benefits including, as applicable, coverage of claims and continuation or termination of coverage.

4. If notice is given pursuant to this section, the distribution of assets of the insurer under this chapter shall be conclusive with respect to claimants, whether or not a claimant actually received notice.

84 Acts, ch 1175, §22; 92 Acts, ch 1117, §22
Referred to in §507C.23, 507C.35, 507C.38

507C.23 Duties of agents.

1. A person, who receives notice in the form prescribed in section 507C.22 that an insurer which the person represents as an agent is the subject of a liquidation order, shall within fifteen days of the notice give notice to each policyholder or other person named in a policy issued through the agent by the insurer of the liquidation order. The notice shall be sent by first class mail to the last address contained in the agent's records if the agent has a record of the address of the policyholder or other person. A policy is issued through an agent if the agent has a property interest in the expiration of the policy, or if the agent has had in the agent's possession a copy of the declarations of the policy at any time during the life of the policy, except where the ownership of the expiration of the policy has been transferred to another. The written notice shall include the name and address of the insurer, the name and address of the agent, identification of the policy impaired and the nature of the impairment including termination of coverage, as described in section 507C.19. Notice by a general agent satisfies the notice requirement for an agent under contract to the general agent. An agent obligated to give notice under this section shall file a report of compliance with the liquidator.

2. An agent failing to provide information as required in subsection 1 may be subject to payment of a penalty of not more than one thousand dollars and may have the agent's license suspended. The penalty is to be imposed only after a hearing held by the commissioner.

3. The liquidator may waive the duties imposed by this section if the liquidator determines that another notice to the policyholders of the insurer under liquidation is adequate.

84 Acts, ch 1175, §23; 92 Acts, ch 1117, §23

507C.24 Actions by and against liquidator.

1. After the issuance of an order appointing a liquidator of a domestic insurer or of an alien insurer domiciled in this state, action at law or equity shall not be brought against the insurer or liquidator in this state or elsewhere, nor shall existing actions be maintained or further presented after issuance of the order. The courts of this state shall give full faith and credit to injunctions against the liquidator or the insurer or the continuation of existing actions against the liquidator or the insurer, when the injunctions are included in an order to liquidate an insurer issued pursuant to corresponding provisions in other states. Whenever in the liquidator's judgment, protection of the estate of the insurer necessitates intervention in an action against the insurer that is pending outside this state, the liquidator may intervene

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in the action. The liquidator may defend, at the expense of the estate of the insurer, an action in which the liquidator intervenes under this section.

2. Within two years or such additional time as applicable law may permit, the liquidator may, after the issuance of an order for liquidation, institute an action or proceeding on behalf of the estate of the insurer upon any cause of action against which the period of limitation fixed by applicable law has not expired at the time of the filing of the petition upon which the order is entered. If a period of limitation is fixed by agreement for instituting a suit or proceeding upon a claim, or for filing a claim, proof of claim, proof of loss, demand, notice, or the like, or if in a proceeding, judicial or otherwise, a period of limitation is fixed in the proceeding or pursuant to applicable law for taking an action, filing a claim or pleading, or doing an act, and if the period had not expired at the date of the filing of the petition, the liquidator may, for the benefit of the estate, take any action or do any act, required of or permitted to the insurer, within a period of one hundred eighty days subsequent to the entry of an order for liquidation, or within a further period as is shown to the satisfaction of the court not to be unfairly prejudicial to the other party.

3. A statute of limitations or defense of laches shall not run with respect to an action against an insurer between the filing of a petition for liquidation against an insurer and the denial of the petition. An action against the insurer that might have been commenced when the petition was filed may be commenced for at least sixty days after the petition is denied.

4. A guaranty association or foreign guaranty association shall have standing to appear in a court proceeding concerning the liquidation of an insurer if the association is or may become liable to act as a result of the liquidation.

84 Acts, ch 1175, §24; 92 Acts, ch 1117, §24

507C.25 Collection and list of assets.

1. As soon as practicable after the liquidation order but not later than one hundred twenty days thereafter, the liquidator shall prepare in duplicate a list of the insurer's assets. The list shall be amended or supplemented as the liquidator may determine. One copy shall be filed in the office of the clerk of the court and one copy shall be retained for the liquidator's files. Amendments and supplements shall be similarly filed.

2. The liquidator shall reduce the assets to a degree of liquidity that is consistent with the effective execution of the liquidation.

3. A submission to the court for disbursement of assets in accordance with section 507C.34 fulfills the requirements of subsection 1.

84 Acts, ch 1175, §25

507C.26 Fraudulent transfers prior to petition.

1. A transfer made and an obligation incurred by an insurer within one year prior to the filing of a successful petition for rehabilitation or liquidation under this chapter is fraudulent as to then existing and future creditors if made or incurred without fair consideration, or with actual intent to hinder, delay, or defraud either existing or future creditors. A fraudulent transfer made or an obligation incurred by an insurer ordered to be rehabilitated or liquidated under this chapter may be avoided by the receiver, except as to a person who in good faith is a purchaser, lienor, or obligee for a present fair equivalent value. A purchaser, lienor, or obligee, who in good faith has given a consideration less than fair for such transfer, lien, or obligation, may retain the property, lien or obligation as security for repayment. The court may, on due notice, order any such transfer or obligation to be preserved for the benefit of the estate, and in that event, the receiver shall succeed to and may enforce the rights of the purchaser, lienor, or obligee.

2. *a.* A transfer of property other than real property is made when it becomes perfected so that a subsequent lien obtainable by legal or equitable proceedings on a simple contract could not become superior to the rights of the transferee under section 507C.28, subsection 3.

b. A transfer of real property is made when it becomes perfected so that a subsequent bona fide purchaser from the insurer could not obtain rights superior to the rights of the transferee.

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c. A transfer which creates an equitable lien is not perfected if there are available means by which a legal lien could be created.

d. A transfer not perfected prior to the filing of a petition for liquidation shall be deemed to be made immediately before the filing of the successful petition.

e. This subsection applies whether or not there are or were creditors who might have obtained a lien or persons who might have become bona fide purchasers.

3. A transaction of the insurer with a reinsurer is fraudulent and may be avoided by the receiver under subsection 1 if both of the following exist:

a. The transaction consists of the termination, adjustment, or settlement of a reinsurance contract in which the reinsurer is released from any part of its duty to pay the originally specified share of losses that had occurred prior to the time of the transaction, unless the reinsurer gives a present fair equivalent value for the release.

b. Part of the transaction took place within one year prior to the date of filing of the petition through which the receivership was commenced.

4. A person receiving property from an insurer or any benefit from an insurer which is a fraudulent transfer under subsection 1 is personally liable for the property or benefit and shall account to the liquidator.

84 Acts, ch 1175, §26; 93 Acts, ch 88, §7
Referred to in §507C.14, 507C.21, 507C.35

507C.27 Fraudulent transfer after petition.

1. After a petition for rehabilitation or liquidation has been filed a transfer of real property of the insurer made to a person acting in good faith is valid against the receiver if made for a present fair equivalent value. If the transfer was not made for a present fair equivalent value, then the transfer is valid to the extent of the present consideration actually paid for which amount the transferee shall have a lien on the property transferred. The commencement of a proceeding in rehabilitation or liquidation is constructive notice upon the recording of a copy of the petition for or order of rehabilitation or liquidation with the recorder of deeds in the county where any real property in question is located. The exercise by a court of the United States or a state or jurisdiction to authorize a judicial sale of real property of the insurer within a county in a state shall not be impaired by the pendency of a proceeding unless the copy is recorded in the county prior to the consumption of the judicial sale.

2. After a petition for rehabilitation or liquidation has been filed and before either the receiver takes possession of the property of the insurer or an order of rehabilitation or liquidation is granted:

a. A transfer of the property, other than real property, of the insurer made to a person acting in good faith is valid against the receiver if made for a present fair equivalent value. If the transfer was not made for a present fair equivalent value, then the transfer is valid to the extent of the present consideration actually paid for which amount the transferee shall have a lien on the property transferred.

b. If acting in good faith, a person indebted to the insurer or holding property of the insurer may pay the debt or deliver the property, or any part thereof, to the insurer or upon the insurer's order as if the petition were not pending.

c. A person having actual knowledge of the pending rehabilitation or liquidation is not acting in good faith.

d. A person asserting the validity of a transfer under this section shall have the burden of proof. Except as provided in this section, a transfer by or on behalf of the insurer after the date of the petition for liquidation by any person other than the liquidator shall not be valid against the liquidator.

3. A person receiving any property from the insurer or any benefit of the insurer which is a fraudulent transfer under subsection 1 is personally liable for the property or benefit and shall account to the liquidator.

4. This chapter shall not impair the negotiability of currency or negotiable instruments.

84 Acts, ch 1175, §27; 92 Acts, ch 1117, §25
Referred to in §507C.14, 507C.21, 507C.35

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507C.28 Voidable preferences and liens.

1. *a.* A preference is a transfer of the property of an insurer to or for the benefit of a creditor for an antecedent debt made or suffered by the insurer within one year before the filing of a successful petition for liquidation under this chapter, the effect of which transfer may be to enable the creditor to obtain a greater percentage of this debt than another creditor of the same class would receive. If a liquidation order is entered while the insurer is already subject to a rehabilitation order, then the transfers are preferences if made or suffered within one year before the filing of the successful petition for rehabilitation, or within two years before the filing of the successful petition for liquidation, whichever time is shorter.

b. A preference may be avoided by the liquidator if any of the following exist:

(1) The insurer was insolvent at the time of the transfer.

(2) The transfer was made within four months before the filing of the petition.

(3) At the time the transfer was made, the creditor receiving it or to be benefited by the transfer or the creditor's agent acting with reference to the transfer had reasonable cause to believe that the insurer was insolvent or was about to become insolvent.

(4) The creditor receiving the transfer was an officer, or an employee, attorney or other person who was in fact in a position of comparable influence in the insurer to an officer whether or not the person held the position of an officer, or a shareholder directly or indirectly holding more than five percent of a class of an equity security issued by the insurer, or other person, firm, corporation, association, or aggregation of persons with whom the insurer did not deal at arm's length.

c. Where the preference is voidable, the liquidator may recover the property. If the property has been converted, the liquidator may recover its value from a person who has received or converted the property. However, if a bona fide purchaser or lienor has given less than fair equivalent value, the purchaser or lienor shall have a lien upon the property to the extent of the consideration actually given. Where a preference by way of lien or security interest is voidable, the court may on due notice order the lien or security interest to be preserved for the benefit of the estate, in which event the lien or title shall pass to the liquidator.

2. *a.* A transfer of property other than real property is made when it becomes perfected so that a subsequent lien obtainable by legal or equitable proceedings on a simple contract could not become superior to the rights of the transferee.

b. A transfer of real property is made when it becomes perfected so that a subsequent bona fide purchaser from the insurer could not obtain rights superior to the rights of the transferee.

c. A transfer which creates an equitable lien is not perfected if there are available means by which a legal lien could be created.

d. A transfer not perfected prior to the filing of a petition for liquidation shall be deemed to be made immediately before the filing of the successful petition.

e. This subsection applies whether or not there are or were creditors who might have obtained liens or persons who might have become bona fide purchasers.

3. *a.* A lien obtainable by legal or equitable proceedings upon a simple contract is one arising in the ordinary course of the proceedings upon the entry or docketing of a judgment or decree, or upon attachment, garnishment, execution, or like process, whether before, upon, or after judgment or decree and whether before or upon levy. It does not include liens which under applicable law are given a special priority over other liens which are prior in time.

b. A lien obtainable by legal or equitable proceedings could become superior to the rights of a transferee, or a purchaser could obtain rights superior to the rights of a transferee within the meaning of subsection 2, if such consequences would follow only from the lien or purchase itself, or from the lien or purchase followed by a step wholly within the control of the respective lienholder or purchaser, with or without the aid of ministerial action by public officials. However, a lien could not become superior and a purchase could not create superior rights for the purpose of subsection 2 through an act subsequent to the obtaining of a lien or subsequent to a purchase which requires the agreement or concurrence of any third party or which requires further judicial action or ruling.

4. A transfer of property for or on account of a new and contemporaneous consideration,

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which is under subsection 2 made or suffered after the transfer because of delay in perfecting it, does not become a transfer for or on account of an antecedent debt if any acts required by the applicable law to be performed in order to perfect the transfer as against liens or bona fide purchasers' rights are performed within twenty-one days or any period expressly allowed by the law, whichever is less. A transfer to secure a future loan, if a loan is actually made, or a transfer which becomes security for a future loan, shall have the same effect as a transfer for or on account of a new and contemporaneous consideration.

5. If a lien voidable under subsection 1, paragraph *"b"* has been dissolved by the furnishing of a bond or other obligation, the surety on which has been indemnified directly or indirectly by the transfer of or the creation of a lien upon property of an insurer before the filing of a petition under this chapter which results in a liquidation order, the indemnifying transfer or lien is also voidable.

6. The property affected by a lien voidable under subsections 1 and 5 is discharged from the lien. The property and any of the indemnifying property transferred to or for the benefit of a surety shall pass to the liquidator. However, the court may on due notice order a lien to be preserved for the benefit of the estate and the court may direct that the conveyance be executed to evidence the title of the liquidator.

7. The court shall have summary jurisdiction of a proceeding by the liquidator to hear and determine the rights of parties under this section. Reasonable notice of hearing in the proceeding shall be given to all parties in interest, including the obligee of a releasing bond or other like obligation. Where an order is entered for the recovery of indemnifying property in kind or for the avoidance of an indemnifying lien, upon application of any party in interest, the court shall in the same proceeding ascertain the value of the property or lien. If the value is less than the amount for which the property is indemnity or than the amount of the lien, the transferee or lienholder may elect to retain the property or lien upon payment of its value, as ascertained by the court, to the liquidator within time as the court shall fix.

8. The liability of a surety under a releasing bond or other like obligation shall be discharged to the extent of the value of the indemnifying property recovered or the indemnifying lien nullified and avoided by the liquidator. Where the property is retained under subsection 7, the liability of the surety shall be discharged to the extent of the amount paid to the liquidator.

9. If a creditor has been preferred for property which becomes a part of the insurer's estate, and afterward in good faith gives the insurer further credit without security of any kind, the amount of the new credit remaining unpaid at the time of the petition may be set off against the preference which would otherwise be recoverable from the creditor.

10. If within four months before the filing of a successful petition for liquidation under this chapter, or at any time in contemplation of a proceeding to liquidate an insurer directly or indirectly, pays money or transfers property to an attorney for services rendered or to be rendered, the transaction may be examined by the court on its own motion or shall be examined by the court on petition of the liquidator. The payment or transfer shall be held valid only to the extent of a reasonable amount to be determined by the court. The excess may be recovered by the liquidator for the benefit of the estate. However, where the attorney is in a position of influence in the insurer or an affiliate, payment of any money or the transfer of any property to the attorney for services rendered or to be rendered shall be governed by the provision of subsection 1, paragraph *"b"*, subparagraph (4).

11. *a.* An officer, manager, employee, shareholder, member, subscriber, attorney, or any other person acting on behalf of the insurer who knowingly participates in giving any preference when the person has reasonable cause to believe the insurer is or is about to become insolvent at the time of the preference is personally liable to the liquidator for the amount of the preference. There is an inference that reasonable cause exists if the transfer was made within four months before the date of filing of this successful petition for liquidation.

b. A person receiving property from the insurer or the benefit thereof as a preference voidable under subsection 1 is personally liable for the property and shall account to the liquidator.

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c. This subsection shall not prejudice any other claim by the liquidator against any person.
84 Acts, ch 1175, §28; 2013 Acts, ch 30, §120
Referred to in §507C.21, 507C.26, 507C.28A, 507C.35

507C.28A Qualified financial contracts.

1. Notwithstanding any other provision of this chapter to the contrary, including any other provision of this chapter permitting the modification of contracts, or other law of a state, a person shall not be stayed or prohibited from exercising any of the following:

a. A contractual right to terminate, liquidate, or close out any netting agreement or qualified financial contract with an insurer because of any of the following:

(1) The insolvency, financial condition, or default of the insurer at any time, provided that the right is enforceable under applicable law other than this chapter.

(2) The commencement of a formal delinquency proceeding under this chapter.

b. Any right under a pledge, security, collateral, or guarantee agreement or any other similar security arrangement or credit support document relating to a netting agreement or qualified financial contract.

c. Subject to any provision of section 507C.30, subsection 2, any right to set off or net out any termination value, payment amount, or other transfer obligation arising under or in connection with a netting agreement or qualified financial contract where the counterparty or its guarantor is organized under the laws of the United States or a state or foreign jurisdiction approved by the securities valuation office or the national association of insurance commissioners as eligible for netting.

2. Upon termination of a netting agreement, the net or settlement amount, if any, owed by a nondefaulting party to an insurer against which an application or petition has been filed under this chapter shall be transferred to or on the order of the receiver for the insurer, even if the insurer is the defaulting party, notwithstanding any provision in the netting agreement that may provide that the nondefaulting party is not required to pay any net or settlement amount due to the defaulting party upon termination. Any limited two-way payment provision in a netting agreement with an insurer that has defaulted shall be deemed to be a full two-way payment provision as against the defaulting insurer. Any such amount shall, except to the extent it is subject to one or more secondary liens or encumbrances, be a general asset of the insurer.

3. In making any transfer of a netting agreement or qualified financial contract of an insurer subject to a proceeding under this chapter, the receiver shall do either of the following:

a. Transfer to one party, other than an insurer subject to a proceeding under this chapter, all netting agreements and qualified financial contracts between a counterparty or any affiliate of the counterparty and the insurer that is the subject of the proceeding, including all of the following:

(1) All rights and obligations of each party under each such netting agreement and qualified financial contract.

(2) All property, including any guarantees or credit support documents, securing any claims of each party under each such netting agreement and qualified financial contract.

b. Transfer none of the netting agreements, qualified financial contracts, rights, obligations, or property referred to in paragraph *"a"* with respect to the counterparty and any affiliate of the counterparty.

4. If a receiver for an insurer makes a transfer of one or more netting agreements or qualified financial contracts, the receiver shall use the receiver's best efforts to notify any person who is a party to the netting agreements or qualified financial contracts of the transfer by noon of the receiver's local time on the business day following the transfer. For purposes of this subsection, *"business day"* means a day other than a Saturday, Sunday, or any day on which either the New York stock exchange or the federal reserve bank of New York is closed.

5. Notwithstanding any other provision of this chapter to the contrary, a receiver shall not avoid a transfer of money or other property arising under or in connection with a netting agreement or qualified financial contract, or any pledge security, collateral, or guarantee agreement or any other similar security arrangement or credit support document relating to a netting agreement or qualified financial contract, that is made before the commencement

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of a formal delinquency proceeding under this chapter. However, a transfer may be avoided under section 507C.28 if the transfer was made with actual intent to hinder, delay, or defraud the insurer, a receiver appointed for the insurer, or existing or future creditors.

6. In exercising any of its powers under this chapter to disaffirm or repudiate a netting agreement or qualified financial contract, the receiver must take action with respect to each netting agreement or qualified financial contract and all transactions entered into in connection therewith, in its entirety. Notwithstanding any other provision of this chapter to the contrary, any claim of a counterparty against the estate arising from the receiver's disaffirmance or repudiation of a netting agreement or qualified financial contract that has not been previously affirmed in the liquidation or in the immediately preceding rehabilitation case shall be determined and shall be allowed or disallowed as if the claim had arisen before the date of the filing of the petition for liquidation or, if a rehabilitation proceeding is converted to a liquidation proceeding, as if the claim had arisen before the date of filing the petition for rehabilitation. The amount of the claim shall be the actual direct compensatory damages determined as of the date of the disaffirmance or repudiation of the netting agreement or qualified financial contract. The term *"actual direct compensatory damages"* does not include punitive or exemplary damages, damages for lost profit or lost opportunity, or damages for pain and suffering, but does include normal and reasonable costs of cover or other reasonable measures of damages utilized in the derivatives market for the contract and agreement claims.

7. The term *"contractual right"* as used in this section includes any right, whether or not evidenced in writing, arising under statutory or common law, a rule or bylaw of a national securities exchange, national securities clearing organization or securities clearing agency, a rule or bylaw, or a resolution of the governing body of a contract market or its clearing organization, or under law merchant.

8. This section shall not apply to persons who are affiliates of the insurer that is the subject of the proceeding.

9. All rights of a counterparty under this chapter shall apply to netting agreements and qualified financial contracts entered into on behalf of the general account or separate accounts, provided that the assets of each separate account are available only to counterparties to netting agreements and qualified financial contracts entered into on behalf of that separate account.

10. Notwithstanding any other provision of this chapter to the contrary, the receiver for an insurer-member shall not void any transfer of, or any obligation to transfer, money or any other property arising under or in connection with any federal home loan bank security agreement, or any pledge, security, collateral, or guarantee agreement, or any other similar arrangement or credit enhancement relating to a federal home loan bank security agreement made in the ordinary course of business and in compliance with the applicable federal home loan bank agreement. However, a transfer may be avoided under this subsection if the transfer was made with intent to hinder, delay, or defraud the insurer-member, the receiver for the insurer-member, or existing or future creditors. This subsection shall not affect a receiver's rights regarding advances to an insurer-member in delinquency proceedings pursuant to 12 C.F.R. §1266.4.

2005 Acts, ch 70, §5; 2014 Acts, ch 1008, §3

507C.29 Claims of holders of void or voidable rights.

1. A claim of a creditor who has received or acquired a preference, lien, conveyance, transfer, assignment, or encumbrance, voidable under this chapter shall not be allowed unless the creditor surrenders the preference, lien, conveyance, transfer, assignment, or encumbrance. If the avoidance is effected by a proceeding in which a final judgment has been entered, the claim shall not be allowed unless the money is paid or the property is delivered to the liquidator within thirty days from the date of the entering of the final judgment. However, the court having jurisdiction over the liquidation may allow further time if there is an appeal or other continuation of the proceeding.

2. A claim allowable under subsection 1 by reason of a voluntary or involuntary avoidance, preference, lien, conveyance, transfer, assignment, or encumbrance may be filed

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as an excused late filing under section 507C.35 if filed within thirty days from the date of the avoidance or within the further time allowed by the court under subsection 1.

84 Acts, ch 1175, §29
Referred to in §507C.35

507C.30 Setoffs.

1. Except as provided in subsection 2 and section 507C.33 mutual debts or mutual credits between the insurer and another person in connection with an action or proceeding under this chapter shall be set off and the balance only shall be allowed or paid.

2. *a.* A setoff shall not be allowed in favor of a person where any of the following are found:

(1) At the date of the filing of a petition for liquidation, the obligation of the insurer to the person would not entitle the person to share as a claimant in the assets of the insurer.

(2) The obligation of the insurer to the person was purchased by or transferred to the person with a view to its being used as a setoff.

(3) The obligation of the insurer is owed to the affiliate of such person, or any other entity or association other than the person.

(4) The obligation of the person is owed to the affiliate of the insurer, or any other entity or association other than the insurer.

(5) The obligation of the person is to pay an assessment levied against the members or subscribers of the insurer, or is to pay a balance upon a subscription to the capital stock of the insurer, or is in any other way in the nature of a capital contribution.

(6) The obligation of the person is to pay earned premiums to the insurer.

b. Nothing in paragraph "*a*", however, restricts the right of a person to set off premium due to or from the insurer pursuant to a reinsurance contract.

84 Acts, ch 1175, §30; 92 Acts, ch 1117, §26; 96 Acts, ch 1045, §1; 2005 Acts, ch 70, §6
Referred to in §507C.28A

507C.31 Assessments.

1. As soon as practicable but not more than two years from the date of an order of liquidation under section 507C.18 of an insurer issuing assessable policies, the liquidator shall make a report to the court setting forth all of the following:

a. The reasonable value of the assets of the insurer.

b. The insurer's probable total liabilities.

c. The probable aggregate amount of the assessment necessary to pay claims of creditors and expenses in full, including expenses of administration and costs of collecting the assessment.

d. A recommendation as to whether an assessment should be made and, if so, in what amount.

2. *a.* Upon the basis of the report provided in subsection 1 and any supplement or amendment to the report, the court may levy one or more assessments against all members of the insurer who are subject to assessment.

b. Subject to any applicable legal limits on assessability, the aggregate assessment shall be for the amount that the sum of the probable liabilities, the expenses of administration, and the estimated cost of collection of the assessment, exceeds the value of existing assets. Due regard shall be given to assessments that cannot be collected economically.

3. After levy of assessment under subsection 2, the liquidator shall issue an order directing a member who has not paid the assessment pursuant to the order to show cause why the liquidator should not pursue a judgment for the assessment.

4. The liquidator shall give notice of the order to show cause by publication and by first class mail to a member liable under the order. The notice shall be mailed to the member's last known address as it appears on the insurer's records at least twenty days before the return day of the order to show cause.

5. *a.* If a member does not appear and serve duly verified objections upon the liquidator on or before the return day of the order to show cause under subsection 3, the court shall

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order the adjudging member to be liable for the amount of the assessment plus costs. The liquidator shall have a judgment against the member for the amount entered in the order.

b. If on or before the return day, the member appears and serves duly verified objections upon the liquidator, the commissioner may hear and determine the matter or may appoint a referee to hear it and make such order as the facts warrant. If the commissioner determines that the objections do not warrant relief from assessment, the member may request the court to review the matter and vacate the order to show cause.

6. The liquidator may enforce an order or collect a judgment under subsection 5 by any lawful means.

84 Acts, ch 1175, §31

507C.32 Reinsurer's liability.

Notwithstanding a provision in the reinsurance contract or other agreement, the amount recoverable by the liquidator from reinsurers shall not be reduced as a result of delinquency proceedings. Payment made directly to an insured or other creditor shall not diminish the reinsurer's obligation to the insurer's estate except when either of the following applies:

1. The contract or other written agreement specifically provides for another payee of the reinsurance in the event of the insolvency of the ceding insurer.

2. The assuming insurer, with the consent of the direct insured, has assumed the policy obligations of the ceding insurer as direct obligations of the assuming insurer to the payees under the policies and in substitution for the obligations of the ceding insurer to the payees.

84 Acts, ch 1175, §32; 98 Acts, ch 1057, §2

507C.33 Recovery of premiums owed.

1. *a.* An agent, broker, premium finance company or any other person responsible for the payment of a premium is obligated to pay an unpaid premium for the full policy term due the insurer at the time of the declaration of insolvency, whether earned or unearned, as shown on the records of the insurer. The liquidator shall also have the right to recover from the person any part of an unearned premium that represents commission of the person. Credits or setoffs or both shall not be allowed to an agent, broker, or premium finance company for amounts advanced to the insurer by the agent, broker, or premium finance company on behalf of, but in the absence of a payment by, the insured.

b. Notwithstanding paragraph *"a"*, the agent, broker, premium finance company, or other person, is not liable for uncollected unearned premium of the insurer. A presumption exists that the premium as shown on the books of the insurer is collected and the burden is upon the agent, broker, premium finance company, or other person to demonstrate by a preponderance of the evidence that the unearned premium was not actually collected. For purposes of this paragraph, *"unearned premium"* means that portion of an insurance premium covering the unexpired term of the policy or the unexpired period of the policy period.

c. An insured is obligated to pay an unpaid earned premium due the insurer as shown on the records of the insurer at the time of the declaration of insolvency.

2. Upon satisfactory evidence of a violation of this section, the commissioner may pursue either one or both of the following courses of action:

a. Suspend or revoke or refuse to renew the licenses of the offending party or parties.

b. Impose a penalty of not more than one thousand dollars for each act in violation of this section by the party or parties.

3. Before the commissioner shall take any action as set forth in subsection 2, the commissioner shall give written notice to the person, company, association, or exchange accused of violating the law, stating specifically the nature of the alleged violation, and fixing a time and place, at least ten days thereafter, when a hearing on the matter shall be held. After such hearing, or upon failure of the accused to appear at the hearing, if a violation is found the commissioner shall impose those penalties under subsection 2 as deemed advisable.

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4. When the commissioner shall take action in any or all of the ways set out in subsection 2, the party aggrieved may appeal from the action to court.

84 Acts, ch 1175, §33; 91 Acts, ch 213, §3
Referred to in §507C.30

507C.34 Domiciliary liquidator's proposal to distribute assets.

1. Within one hundred twenty days of a final determination of insolvency under this chapter as assets become available, the liquidator shall make application to the court for approval of a proposal to disburse assets out of marshaled assets to a guaranty association or foreign guaranty association having obligations because of the insolvency. An application and disbursement of assets shall be made from time to time as assets become available. If the liquidator determines that there are insufficient assets to disburse, the application required by this section shall be considered satisfied by a filing by the liquidator stating the reasons for this determination.

2. The proposal shall at least include provisions for all of the following:

a. Reserving amounts for the payment of all the following:

(1) Expenses of administration.

(2) To the extent of the value of the security held, the payment of claims of secured creditors.

(3) Claims falling within the priorities established in section 507C.42, subsection 1.

b. Disbursement of the assets marshaled to date and subsequent disbursement of assets as they become available.

c. Equitable allocation of disbursements to each of the guaranty associations and foreign guaranty associations entitled to disbursements.

d. The securing by the liquidator from each of the associations entitled to disbursements of an agreement to return to the liquidator the assets, together with income earned on assets previously disbursed, as may be required to pay claims of secured creditors and claims falling within the priorities established in section 507C.42 in accordance with the priorities. A bond shall not be required of an association.

e. A full report to be made by each association to the liquidator accounting for assets so disbursed to the association, all disbursements made from the assets, interest earned by the association on the assets and any other matter as the court may direct.

3. The liquidator's proposal shall provide for disbursements to the associations in amounts estimated at least equal to the claim payments made or to be made for which the associations could assert a claim against the liquidator. The proposal shall provide that if the assets available for disbursement do not equal or exceed the amount of the claim payments made or to be made by the association then disbursements shall be in the amount of available assets.

4. With respect to an insolvent insurer writing life or health insurance or annuities, the liquidator's proposal shall provide for disbursements of assets to a guaranty association or a foreign guaranty association covering life or health insurance or annuities or to any other entity or organization reinsuring, assuming, or guaranteeing policies or contracts of insurance under the acts creating the associations.

5. Notice of the application shall be given to the association in and to the commissioners of insurance of each of the states. Notice is given when deposited in the United States certified mails, first class postage prepaid, at least thirty days prior to submission of the application to the court. Action on the application may be taken by the court provided the required notice has been given and that the liquidator's proposal complies with subsection 2, paragraphs *"a"* and *"b"*.

84 Acts, ch 1175, §34; 92 Acts, ch 1117, §27; 97 Acts, ch 186, §3
Referred to in §507C.25, 508C.8

507C.35 Filing of claims.

1. Proof of all claims shall be filed with the liquidator in the form required by section 507C.36 on or before the last day for filing specified in the notice required under section

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507C.22. However, proof of claims for cash surrender values or other investment values in life insurance and annuities need not be filed unless the liquidator expressly so requires.

2. The liquidator may permit a claimant making a late filing to share in distributions, whether past or future, as if the claimant were not late, to the extent that the payment will not prejudice the orderly administration of the liquidation under any of the following circumstances:

a. The existence of the claim was not known to the claimant and that the claimant filed the claim as promptly thereafter as reasonably possible after learning of it.

b. A transfer to a creditor was avoided under sections 507C.26 through 507C.28, or was voluntarily surrendered under section 507C.29, and that the filing satisfies the conditions of section 507C.29.

c. The valuation under section 507C.41 of security held by a secured creditor shows a deficiency, which is filed within thirty days after the valuation.

3. The liquidator shall permit late filing claims to share in distributions, whether past or future, as if they were not late, if the claims are claims of a guaranty association or foreign guaranty association for reimbursement of covered claims paid or expenses incurred, or both, subsequent to the last day for filing where the payments were made and expenses incurred as provided by law.

4. The liquidator may consider any claim filed late which is not covered by subsection 2, and permit it to receive distributions which are subsequently declared on any claims of the same or lower priority if the payment does not prejudice the orderly administration of the liquidation. The late-filing claimant shall receive at each distribution the same percentage of the amount allowed on the claim as is then being paid to claimants of any lower priority. This shall continue until the claim has been paid in full.

84 Acts, ch 1175, §35
Referred to in §507C.29, 507C.37, 507C.56

507C.36 Proof of claim.

1. Proof of claim shall consist of a statement signed by the claimant that includes all of the following that are applicable:

a. The particulars of the claim including the consideration given for it.

b. The identity and amount of the security on the claim.

c. The payments, if any, made on the debt.

d. A statement that the sum claimed is justly owing and that there is no setoff, counterclaim, or defense to the claim.

e. Any right of priority of payment or other specific right asserted by the claimant.

f. A copy of the written instrument which is the foundation of the claim.

g. The name and address of the claimant and the attorney who represents the claimant, if any.

2. A claim need not be considered or allowed if it does not contain all the information in subsection 1 which is applicable. The liquidator may require that a prescribed form be used and may require that other information and documents be included.

3. At any time the liquidator may request the claimant to present information or evidence supplementary to that required under subsection 1 and may take testimony under oath, require production of affidavits or depositions, or otherwise obtain additional information or evidence.

4. A judgment or order against an insured or the insurer entered after the date of filing of a successful petition for liquidation, or a judgment or order against an insured or the insurer entered at any time by default or by collusion need not be considered as evidence of liability or of quantum of damages. A judgment or order against an insured or the insurer entered within four months before the filing of the petition need not be considered as evidence of liability or of the quantum of damages.

5. Claims of a guaranty association or foreign guaranty association shall be in the form and contain the substantiation as may be agreed to by the association and the liquidator.

84 Acts, ch 1175, §36
Referred to in §507C.22, 507C.35, 507C.56

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507C.37 Special claims.

1. The claim of a third party which is contingent only on the third party first obtaining a judgment against the insured shall be considered and allowed as if there were no such contingency.

2. A claim may be allowed even if contingent, if it is filed in accordance with section 507C.35. It may be allowed and the claimant may participate in all distributions declared after it is filed to the extent that it does not prejudice the orderly administration of the liquidation.

3. Claims that are due except for the passage of time shall be treated as absolute claims are treated. However, the claims may be discounted at the legal rate of interest.

4. Claims made under employment contracts by directors, principal officers, or persons in fact performing similar functions or having similar powers are limited to payment for services rendered prior to the issuance of an order of rehabilitation or liquidation under section 507C.13 or 507C.18.

84 Acts, ch 1175, §37
Referred to in §507C.18, 507C.45

507C.38 Special provisions for third-party claims.

1. If a third party asserts a cause of action against an insured of an insurer in liquidation, the third party may file a claim with the liquidator.

2. Whether or not the third party files a claim, the insured may file a claim on the insured's own behalf in the liquidation. If the insured fails to file a claim by the date for filing claims specified in the order of liquidation or within sixty days after mailing of the notice required by section 507C.22, whichever is later, the insured is an unexcused late filer.

3. The liquidator shall make recommendations to the court under section 507C.42, for the allowance of an insured's claim under subsection 2 after consideration of the probable outcome of a pending action against the insured on which the claim is based, the probable damages recoverable in the action and the probable costs and expenses of defense. After allowance by the court, the liquidator shall withhold dividends payable on the claim, pending the outcome of litigation and negotiation with the insured. If it seems appropriate, the liquidator shall reconsider the claim on the basis of additional information and amend the recommendations to the court. The insured shall be afforded the same notice and opportunity to be heard on all changes in the recommendation as in its initial determination. The court may amend its allowance as it finds appropriate. As claims against the insured are settled or barred, the insured shall be paid from the amount withheld the same percentage dividend as was paid on other claims of like property, based on the lesser of:

a. The amount actually recovered from the insured by action or paid by agreement plus the reasonable costs and expenses of defense.

b. The amount allowed on the claims by the court. After all claims are settled or barred, any sum remaining from the amount withheld shall revert to the undistributed assets of the insurer. Delay in final payment under this subsection shall not be a reason for unreasonable delay of final distribution and discharge of the liquidator.

4. If several claims founded upon one policy are filed, whether by third parties or as claims by the insured under this section, and the aggregate allowed amount of the claims to which the same limit of liability in the policy is applicable exceeds that limit, each claim as allowed shall be reduced in the same proportion so that the total equals the policy limit. Claims by the insured shall be evaluated as in subsection 3. If any insured's claim is subsequently reduced under subsection 3, the amount thus freed shall be apportioned ratably among the claims which have been reduced under this subsection.

5. A claim may not be presented under this section if it is or may be covered by any guaranty association or foreign guaranty association.

84 Acts, ch 1175, §38

507C.39 Disputed claims.

1. If a claim is denied in whole or in part by the liquidator, written notice of the determination shall be given to the claimant or the claimant's attorney by first class mail at the address shown in the proof of claim. Within sixty days from the mailing of the notice,

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the claimant may file objections with the liquidator. Unless a filing is made, the claimant may not further object to the determination.

2. If objections are filed with the liquidator and the liquidator does not alter the denial of the claim as a result of the objections, the liquidator shall ask the court for a hearing as soon as practicable and give notice of the hearing by first class mail to the claimant or the claimant's attorney and to any other persons directly affected. The notice shall be given not less than ten nor more than thirty days before the date of the hearing. The matter shall be heard by the court or by a court-appointed referee. The referee shall submit findings of fact along with a recommendation.

84 Acts, ch 1175, §39
Referred to in §507C.43, 507C.56

507C.40 Claims of other person.

If a creditor, whose claim against an insurer is secured in whole or in part by the undertaking of another person, fails to prove and file that claim, then the other person may do so in the creditor's name and shall be subrogated to the rights of the creditor, whether the claim has been filed by the creditor or by the other person in the creditor's name to the extent that the other person discharges the undertaking. However, in the absence of an agreement with the creditor to the contrary, the other person is not entitled to any distribution until the amount paid to the creditor on the undertaking plus the distributions paid on the claim from the insurer's estate to the creditor equal the amount of the entire claim of the creditor. An excess received by the creditor shall be held by the creditor in trust for the other person. As used in this section, *"other person"* is not intended to apply to a guaranty association or foreign guaranty association.

84 Acts, ch 1175, §40; 92 Acts, ch 1117, §28

507C.41 Secured creditor's claims.

1. The value of security held by a secured creditor shall be determined in one of the following ways, as the court may direct:

a. By converting the security into money according to the terms of the agreement pursuant to which the security was delivered to the creditors.

b. By agreement, arbitration, compromise or litigation between the creditor and the liquidator.

2. The determination shall be under the supervision and control of the court with due regard for the recommendation of the liquidator. The amount so determined shall be credited upon the secured claim. A deficiency shall be treated as an unsecured claim. If the claimant surrenders the security to the liquidator, the entire claim shall be allowed as if unsecured.

84 Acts, ch 1175, §41
Referred to in §507C.35, 507C.58

507C.42 Priority of distribution.

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:

1. *Class 1.* The costs and expenses of administration, including but not limited to the following:

a. The actual and necessary costs of preserving or recovering the assets of the insurer.

b. Compensation for all authorized services rendered in the liquidation.

c. Necessary filing fees.

d. The fees and mileage payable to witnesses.

e. Authorized reasonable attorney's fees and other professional services rendered in the liquidation.

f. The reasonable expenses of a guaranty association or foreign guaranty association in handling claims.

2. *Class 2.* Claims under policies, including claims of the federal or any state or local

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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.

3. *Class 3.* Claims of the federal government except those under class 2.

4. *Class 4.* Reasonable compensation to employees for services performed to the extent that they do not exceed two months of monetary compensation and represent payment for services performed within one year before the filing of the petition for liquidation or, if the rehabilitation preceded liquidation, within one year before the filing of the petition for rehabilitation. Officers and directors are not entitled to the benefit of this priority. The priority is in lieu of other similar priority which may be authorized by law as to wages or compensation of employees.

5. *Class 5.* Claims of general creditors, including claims of ceding and assuming reinsurers in their capacity as such, and subrogation claims.

6. *Class 6.* Claims of any state or local government except those under class 2. Claims, including those of a governmental body for a penalty or forfeiture, are allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs incurred. The remainder of such claims shall be postponed to the class of claims under subsection 9.

7. *Class 7.* Claims filed late or any other claims other than claims under subsections 8 and 9.

8. *Class 8.* Surplus or contribution notes, or similar obligations, and premium refunds on assessable policies. Payments to members of domestic mutual insurance companies are limited in accordance with law.

9. *Class 9.* The claims of shareholders or other owners.

84 Acts, ch 1175, §42; 92 Acts, ch 1117, §29; 93 Acts, ch 88, §8; 94 Acts, ch 1023, §114; 97 Acts, ch 186, §4; 2006 Acts, ch 1117, §28, 29

Referred to in §507C.20, 507C.21, 507C.34, 507C.38, 507C.45, 507C.55, 507C.59, 508.31A, 508A.1

507C.43 Liquidator's recommendations to court.

1. The liquidator shall review claims duly filed in the liquidation and shall make further investigation as necessary. The liquidator may compound, compromise or in any other manner negotiate the amount for which claims will be recommended to the court except where the liquidator is required by law to accept claims as settled by a person or organization, including a guaranty association or foreign guaranty association. Unresolved disputes shall be determined under section 507C.39. As soon as practicable, the liquidator shall present to the court a report of the claims against the insurer with the liquidator's recommendations. The report shall include the name and address of each claimant and the amount of the claim finally recommended. If the insurer has issued annuities or life insurance policies, the liquidator shall report the persons to whom, according to the records of the insurer, amounts are owed as cash surrender values or other investment value and the amounts owed.

2. The court may approve, disapprove, or modify the report on claims by the liquidator. Reports not modified by the court within sixty days following submission by the liquidator shall be treated by the liquidator as allowed claims, subject to later modification or to rulings made by the court pursuant to section 507C.39. A claim under a policy of insurance shall not be allowed for an amount in excess of the applicable policy limits.

84 Acts, ch 1175, §43

Referred to in §507C.56

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507C.44 Distribution of assets.

Under the direction of the court, the liquidator shall pay distributions in a manner that will assure the proper recognition of priorities and a reasonable balance between the expeditious completion of the liquidation and the protection of unliquidated and undetermined claims, including third-party claims. Distribution of assets in kind may be made at valuations set by agreement between the liquidator and the creditor and approved by the court.

84 Acts, ch 1175, §44

507C.45 Unclaimed and withheld funds.

1. Unclaimed funds subject to distribution remaining in the liquidator's hands when the liquidator is ready to apply to the court for discharge, including the amount distributable to a creditor, shareholder, member, or other person who is unknown or cannot be found, shall be deposited with the state treasurer, and shall be paid without interest, except in accordance with section 507C.42, to the person entitled or the person's legal representative upon proof satisfactory to the state treasurer of the right to the funds. An amount on deposit not claimed within six years from the discharge of the liquidator is deemed to have been abandoned and shall become the property of the state without formal escheat proceedings and be deposited with the general fund.

2. Funds withheld under section 507C.37 and not distributed shall upon discharge of the liquidator be deposited with the state treasurer and paid in accordance with section 507C.42. Sums remaining which under section 507C.42 would revert to the undistributed assets of the insurer shall be transferred to the state treasurer and become the property of the state under subsection 1, unless the commissioner in the commissioner's discretion petitions the court to reopen the liquidation under section 507C.47.

3. Notwithstanding any other provision of this chapter, funds as identified in subsection 1, with the approval of the court, shall be made available to the commissioner for use in the detection and prevention of future insolvencies. The commissioner shall hold these funds and shall pay without interest, except as provided in section 507C.42, to the person entitled to the funds or the person's legal representative upon proof satisfactory to the commissioner of the person's right to the funds. The funds shall be held by the commissioner for a period of two years at which time the rights and duties to the unclaimed funds shall vest in the commissioner.

84 Acts, ch 1175, §45; 92 Acts, ch 1117, §30

507C.46 Termination of proceedings.

1. When all assets justifying the expense of collection and distribution have been collected and distributed under this chapter, the liquidator shall apply to the court for discharge. The court may grant the discharge and make any other orders, including an order to transfer remaining funds that are uneconomical to distribute, as appropriate.

2. Any other person may apply to the court at any time for an order under subsection 1. If the application is denied, the applicant shall pay the costs and expenses of the liquidator in resisting the application including a reasonable attorney fee.

84 Acts, ch 1175, §46; 92 Acts, ch 1117, §31

507C.47 Reopening liquidation.

At any time after the liquidation proceeding has been terminated and the liquidator discharged, the commissioner or other interested party may petition the court to reopen the proceedings for good cause including the discovery of additional assets. The court shall order the proceeding reopened if it is satisfied that there is justification for the reopening.

84 Acts, ch 1175, §47

Referred to in §507C.45

507C.48 Disposition of records during and after termination of liquidation.

If it appears to the commissioner that the records of an insurer in process of liquidation or completely liquidated are no longer useful, the commissioner may recommend to the court

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and the court shall direct what records shall be retained for future reference and what shall be destroyed.

84 Acts, ch 1175, §48

507C.49 External audit of receiver's books.

The court may order audits to be made of the books of the commissioner relating to a receivership established under this chapter, and a report of each audit shall be filed with the commissioner and with the court. The books, records, and other documents of the receivership shall be made available to the auditor at any time without notice. The expense of an audit shall be considered a cost of administration of the receivership.

84 Acts, ch 1175, §49

SUBCHAPTER IV

INTERSTATE RELATIONS

507C.50 Conservation of property of foreign or alien insurers found in this state.

1. If a domiciliary liquidator has not been appointed, the commissioner may apply to the court by verified petition for an order directing the commissioner to act as conservator to conserve the property of an alien insurer not domiciled in this state or a foreign insurer on any of the following grounds:

a. Any of the grounds in section 507C.12.

b. That property has been sequestered by official action in the insurer's domiciliary state, or in any other state.

c. That enough of its property has been sequestered in a foreign country to give reasonable cause to fear that the insurer is or may become insolvent.

d. That both of the following are found:

(1) That its certificate of authority to do business in this state has been revoked or that no certificate was ever issued.

(2) That there are residents of this state with outstanding claims or outstanding policies.

2. When an order is sought under subsection 1, the court shall cause the insurer to be given notice and time to respond to the petition as is reasonable under the circumstances.

3. The court may issue the order in whatever terms it deems appropriate. The filing or recording of the order with the clerk of court or the recorder of deeds of the county in which the principal business of the company is located or the county in which its principal office or place of business is located is the same notice as a deed, bill of sale, or other evidence of title duly filed or recorded with that recorder of deeds.

4. The conservator may at any time petition for and the court may grant an order under section 507C.51 to liquidate assets of a foreign or alien insurer under conservation, or, for an order under section 507C.53, to be appointed ancillary receiver.

5. The conservator may at any time petition the court for an order terminating conservation of an insurer. If the court finds that the conservation is no longer necessary, it shall order that the insurer be restored to possession of its property and the control of its business. The court may also make such finding and issue such order at any time upon motion of any interested party, but if the motion is denied costs shall be assessed against the party.

84 Acts, ch 1175, §50; 85 Acts, ch 67, §49

Referred to in §507C.51, 507C.52

507C.51 Liquidation of property of foreign or alien insurers found in this state.

1. If a domiciliary receiver has not been appointed, the commissioner may apply to the court by verified petition for an order directing the commissioner to liquidate the assets found in this state of a foreign insurer or an alien insurer not domiciled in this state on any of the following grounds:

a. Any of the grounds in section 507C.12 or 507C.17.

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b. Any of the grounds specified in section 507C.50, subsection 1, paragraphs *"b"* through *"d"*.

2. When an order is sought under subsection 1, the court shall cause the insurer to be given notice and time to respond to the petition as is reasonable under the circumstances.

3. If it appears to the court that the best interests of creditors, policyholders, and the public require, the court may issue an order to liquidate in whatever terms it deems appropriate. The filing or recording of the order with the clerk of the court or the recorder of deeds of the county in which the principal business of the company is located or the county in which its principal office or place of business is located, is same notice as a deed, bill of sale, or other evidence of title duly filed or recorded with that recorder of deeds.

4. If a domiciliary liquidator is appointed in a reciprocal state while a liquidation is proceeding under this section, the liquidator under this section shall act as ancillary receiver under section 507C.53. If a domiciliary liquidator is appointed in a nonreciprocal state while a liquidation is proceeding under this section, the liquidator under this section may petition the court for permission to act as ancillary receiver under section 507C.53.

5. On the same grounds as are specified in subsection 1, the commissioner may petition an appropriate federal district court to be appointed receiver to liquidate that portion of the insurer's assets and business over which the court will exercise jurisdiction, or any lesser part that the commissioner deems desirable for the protection of the policyholders and creditors in this state.

6. When the commissioner has liquidated the assets of a foreign or alien insurer under this section, the court may order the commissioner to pay claims of residents of this state against the insurer under rules as to the liquidation of insurers under this chapter as are otherwise compatible with this section.

84 Acts, ch 1175, §51
Referred to in §507C.50, 507C.52

507C.52 Domiciliary liquidators in other states.

1. Except as to special deposits and security on secured claims under section 507C.53, subsection 3, the domiciliary liquidator of an insurer domiciled in a reciprocal state shall be vested with the title to the assets, property, contracts, rights of action, agents' balances, books, accounts, and other records of the insurer located in this state. The date of vesting is the date of the filing of the petition, if that date is specified by the domiciliary law for the vesting of property in the domiciliary state. Otherwise, the date of vesting is the date of entry of the order directing possession to be taken. The domiciliary liquidator may immediately recover balances due from agents and obtain possession of the books, accounts, and other records of the insurer located in this state. The domiciliary liquidator may also have the right to recover all other assets of the insurer located in this state, subject to section 507C.53.

2. If a domiciliary liquidator is appointed for an insurer not domiciled in a reciprocal state, the commissioner of this state shall be vested with the title to the property, contracts and rights of action, books, accounts and other records of the insurer located in this state, at the same time that the domiciliary liquidator is vested with title in the domicile. The commissioner of this state may petition for a conservation or liquidation order under section 507C.50 or 507C.51, or for an ancillary receivership under section 507C.53, or after approval by the court may transfer title to the domiciliary liquidator, as the interests of justice and the equitable distribution of the assets require.

3. Claimants residing in this state may file claims with the liquidator or ancillary receiver in this state or with the domiciliary liquidator, if the domiciliary law permits. The claims shall be filed on or before the last date fixed for the filing of claims in the domiciliary liquidation proceedings.

84 Acts, ch 1175, §52; 92 Acts, ch 1117, §32
Referred to in §507C.2

507C.53 Ancillary formal proceedings.

1. If a domiciliary liquidator has been appointed for an insurer not domiciled in this state,

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the commissioner may file a petition with the court requesting appointment as ancillary receiver in this state if both of the following exist:

a. If the domiciliary liquidator finds that there are sufficient assets of the insurer located in this state to justify the appointment of an ancillary receiver.

b. If the protection of creditors or policyholders in this state so requires.

2. The court may issue an order appointing an ancillary receiver in whatever terms it deems appropriate. The filing or recording of the order with the recorder of deeds in this state is the same notice as a deed, bill of sale, or other evidence of title duly filed or recorded with that recorder of deeds.

3. When a domiciliary liquidator has been appointed in a reciprocal state, then the ancillary receiver appointed in this state may aid and assist the domiciliary liquidator in recovering assets of the insurer located in this state. As soon as practicable, the ancillary receiver shall liquidate from their respective securities those special deposit claims and secured claims which are proved and allowed in the ancillary proceedings in this state. The ancillary receiver shall pay the necessary expenses of the proceedings and shall promptly transfer all remaining assets, books, accounts and records to the domiciliary liquidator. Subject to this section, the ancillary receiver and any deputies have the same powers and are subject to the same duties with respect to the administration of assets as a liquidator of an insurer domiciled in this state.

4. As to assets and books, accounts, and other records in their respective states, when a domiciliary liquidator has been appointed in this state, ancillary receivers appointed in reciprocal states shall have corresponding rights, duties and powers to those provided in subsection 3 for ancillary receivers appointed in this state.

84 Acts, ch 1175, §53
Referred to in §507C.2, 507C.50, 507C.51, 507C.52

507C.54 Ancillary summary proceedings.

In the sole discretion of the commissioner, the commissioner may institute proceedings under sections 507C.9 through 507C.11 at the request of the commissioner or other appropriate insurance official of the domiciliary state of a foreign or alien insurer having property located in this state.

84 Acts, ch 1175, §54

507C.55 Claims of nonresidents against insurers domiciled in this state.

1. In a liquidation proceeding begun in this state against an insurer domiciled in this state, claimants residing in foreign countries or in nonreciprocal states shall file claims in this state, and claimants residing in reciprocal states shall file claims either with the ancillary receivers in their respective states or with the domiciliary liquidator. Claims shall be filed on or before the last date fixed for the filing of claims in the domiciliary liquidation proceeding.

2. Claims belonging to claimants residing in reciprocal states shall be proved either in the liquidation proceeding in this state as provided in this chapter or in ancillary proceedings in the reciprocal states, if a claim filing procedure is established in the ancillary proceeding. If notice of the claims and opportunity to appear and be heard is afforded the domiciliary liquidator of this state as provided in section 507C.56, subsection 2, with respect to ancillary proceedings, the final allowance of claims by the courts in ancillary proceedings in reciprocal states shall be conclusive as to amount and as to priority against special deposits or other security located in such ancillary states, but shall not be conclusive with respect to priorities against general assets under section 507C.42.

84 Acts, ch 1175, §55; 92 Acts, ch 1117, §33
Referred to in §507C.2

507C.56 Claims of residents against insurers domiciled in reciprocal states.

1. Promptly after the appointment of the commissioner as ancillary receiver for an insurer not domiciled in this state, the commissioner shall determine whether there are claimants residing in this state who are not protected by guaranty funds and whether the protection of such claimants requires the establishing of a claim filing procedure in the ancillary proceeding. If a claim filing procedure is established, claimants against the insurer

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who reside within this state may file claims either with the ancillary receiver in this state, or with the domiciliary liquidator. Claims shall be filed on or before the last dates fixed for the filing of claims in the domiciliary liquidation proceeding.

2. Claims belonging to claimants residing in this state may be proved either in the domiciliary state under the law of that state, or in ancillary proceedings in this state, provided a claim filing procedure is established in the ancillary proceeding. If a claimant elects to prove the claim in this state, the claimant shall file the claim with the liquidator in the manner provided in sections 507C.35 and 507C.36. The ancillary receiver shall make a recommendation to the court as under section 507C.43. The ancillary receiver shall also arrange a date for hearing if necessary under section 507C.39 and shall give notice to the liquidator in the domiciliary state, either by certified mail or by personal service at least forty days prior to the date set for hearing. Within thirty days after the giving of the notice, if the domiciliary liquidator gives notice in writing either by certified mail or by personal service to the ancillary receiver and to the claimant of an intention to contest the claim, the domiciliary liquidator is entitled to appear or to be represented in a proceeding in this state involving the adjudication of the claim.

3. The final allowance of the claim by the courts of this state shall be accepted as conclusive as to amount and as to priority against special deposits or other security located in this state.

84 Acts, ch 1175, §56; 92 Acts, ch 1117, §34
Referred to in §507C.2, 507C.55

507C.57 Attachment, garnishment, and levy of execution.

An action or proceeding in the nature of an attachment, garnishment, or levy of execution shall not be commenced or maintained in this state against the delinquent insurer or its assets during the pendency in this or any other state of a liquidation proceeding, whether called by that name or not.

84 Acts, ch 1175, §57
Referred to in §507C.2

507C.58 Interstate priorities.

1. In a liquidation proceeding in this state involving one or more reciprocal states, the order of distribution of the domiciliary state shall control as to claims of residents of this and reciprocal states. Claims of residents of reciprocal states shall be given equal priority of payment from general assets regardless of where the assets are located.

2. The owners of special deposit claims against an insurer for which a liquidator is appointed in this or any other state is given priority against the special deposits in accordance with the statutes governing the creation and maintenance of the deposits. If there is a deficiency in a deposit so that the claims secured by it are not fully discharged from it, the claimants may share in the general assets. However, the sharing shall be deferred until general creditors and claimants against other special deposits who have received smaller percentages from their respective special deposits have been paid percentages of their claims equal to the percentage paid from the special deposit.

3. The owner of a secured claim against an insurer for which a liquidator has been appointed in this or any other state may surrender the security and file the claim as a general creditor, or the claim may be discharged by resort to the security in accordance with section 507C.41, in which case the deficiency shall be treated as a claim against the general assets of the insurer on the same basis as claims of unsecured creditors.

84 Acts, ch 1175, §58

507C.59 Subordination of claims for noncooperation.

If an ancillary receiver in another state or foreign country, whether called by that name or not, fails to transfer to the domiciliary liquidator in this state assets within the ancillary receiver's control other than special deposits, diminished only by the expenses of the ancillary receivership, the claims filed in the ancillary receivership, other than special deposit claims or secured claims, shall be placed in the class of claims under section 507C.42, subsection 8.

84 Acts, ch 1175, §59; 97 Acts, ch 186, §5

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507C.60 Suspension of certificate of authority.

Without advance notice or a hearing, the commissioner may suspend immediately the certificate of authority of any insurer as to which proceedings for receivership, conservatorship, rehabilitation, or other delinquency proceedings have been commenced in any state by the public insurance supervisory official of that state.

2002 Acts, ch 1111, §7

CHAPTER 507D

INSURANCE ASSISTANCE

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

507D.1	Short title.	507D.4	Financing of assistance programs.
507D.2	Collection and analysis of information.	507D.5	Rate adjustment review.
507D.3	Authorized assistance programs.	507D.6	Continuing studies.

507D.1 Short title.

This chapter shall be known as the *"Insurance Assistance Act"*.

86 Acts, ch 1211, §26

507D.2 Collection and analysis of information.

1. The commissioner of insurance may adopt rules pursuant to chapter 17A for the collection of necessary additional information relating to the availability, obtainability, costs, profits, and losses associated with the provision of property, casualty, product, professional, or other liability insurance within the state, and relating to the feasibility and implementation of market assistance programs, mandatory risk allocation programs, risk-sharing programs, risk management programs, or any other authorized program under section 507D.3.

2. The commissioner shall provide for the analysis of such information gathered pursuant to this or any other section and shall make such analysis available to the general assembly on an annual basis.

86 Acts, ch 1211, §27; 2021 Acts, ch 76, §150

Referred to in §507D.4

507D.3 Authorized assistance programs.

The commissioner of insurance is authorized to institute programs, order the institution of programs within the private sector, or to contract with or delegate authority to the department of administrative services for the institution of programs relating to insurance assistance including, but not limited to, the following:

1. The development and implementation of a market assistance program to facilitate, arrange, or provide for the acquisition of property, casualty, product, professional, or other liability insurance coverage for all persons or entities seeking such coverage but for which the coverage is presently unavailable or unobtainable to the person or entity.

2. The development and implementation of a mandatory risk allocation system for property, casualty, product, professional, or other liability insurance, except asbestos and environmental impairment liability, in order to assure that all persons or entities for which such insurance is essential may obtain such insurance from insurers authorized to do business within this state.

3. The development and implementation of a risk-sharing program to assist and advise persons or entities seeking property, casualty, product, professional, or other liability insurance, except asbestos and environmental impairment liability, on the most efficient manner in which to share or pool similar risks in order to obtain essential insurance coverage at the minimum cost.

4. The development and implementation of a risk management program for persons

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or entities to which property, casualty, product, professional, or other liability insurance is essential, such program to include at a minimum the following:

a. Assistance in developing and maintaining loss and loss exposure data on such liability risks.

b. Recommendations regarding risk reduction and risk elimination programs.

c. Recommendations of those practices which will permit protection against such losses at the lowest costs, consistent with good underwriting practices and sound risk management techniques.

5. Subsections 2 and 3 shall have no application or effect after July 1, 1991.

6. An assistance program for the facilitation of insurance and financial responsibility coverage for owners and operators of underground storage tanks which store petroleum shall not be affected by the exceptions of subsections 2 and 3.

86 Acts, ch 1211, §28; 87 Acts, ch 225, §601; 88 Acts, ch 1134, §94; 89 Acts, ch 76, §9; 2003 Acts, ch 145, §286

Referred to in §507D.2, 507D.4

507D.4 Financing of assistance programs.

The insurance commissioner may, by rule, provide for the financing, as necessary, for any or all programs under sections 507D.2 and 507D.3 by the assessment of fees to insurers authorized to write property, casualty, product, professional, or other liability insurance within this state. The commissioner of insurance may assess fees and charges against persons or entities for costs incurred in providing assistance to the person or entity pursuant to section 507D.3. Fees collected pursuant to such rules shall be used solely for the purposes of the program for which assessed, and are not to be transmitted to the general fund or used for any other purposes.

86 Acts, ch 1211, §29

507D.5 Rate adjustment review.

1. The commissioner of insurance shall conduct a rate adjustment review for all insurers authorized to write property, casualty, product, professional, or other liability insurance within this state and who make a request for rate adjustment regarding such insurance. The commissioner of insurance may employ or contract with actuarial consultants as necessary to review the request. The person conducting the review shall report to the commissioner as to the advisability of the adjustment requested.

2. The reasonable fees and expenses of an actuarial consultant employed or contracted by the commissioner of insurance for purposes of a rate adjustment review shall be assessed against and paid by the person requesting such rate adjustment.

86 Acts, ch 1211, §30; 2021 Acts, ch 76, §150

507D.6 Continuing studies.

The commissioner of insurance is authorized to conduct such further surveys, market reviews, data collection and analysis, studies of a mandatory risk allocation system and a risk-sharing program and such other studies as the commissioner deems necessary for the proper implementation of this chapter.

86 Acts, ch 1211, §31

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CHAPTER 507E

INSURANCE FRAUD

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 508.102, 508.104, 669.14, 670.7

507E.1 Title.
507E.2 Purpose.
507E.2A Definitions.
507E.3 Fraudulent submissions — penalty.
507E.3A Fraudulent sales practices — penalties.
507E.4 Examination of information outside the state.
507E.5 Confidentiality.
507E.6 Duties of insurer.
507E.7 Immunity from liability.
507E.8 Law enforcement authority.

507E.1 Title.

This chapter may be cited as the *"Iowa Insurance Fraud Act"*.

94 Acts, ch 1072, §1, 9; 95 Acts, ch 185, §46

507E.2 Purpose.

An insurance fraud bureau is created within the insurance division. Upon a reasonable determination by the division, by its own inquiries or as a result of a complaint filed with the division, that a person has engaged in, is engaging in, or may be engaging in an act or practice that violates any provision of the Code subject to the jurisdiction of the commissioner, the division may administer oaths and affirmations, serve subpoenas ordering the attendance of witnesses, and collect evidence related to such act or practice.

94 Acts, ch 1072, §2; 2020 Acts, ch 1016, §2

507E.2A Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Insurance"* means any and all contracts, arrangements, and agreements by or through which one party, for compensation, assumes risks of another party and promises to pay the second party or the second party's nominee a certain or ascertainable sum of money on the occurrence of a specified contingency. *"Insurance"* includes any and all contracts, arrangements, or agreements contemplated by, falling within, and coming under section 87.11. Without limiting the foregoing, *"insurance"* includes any contract of insurance, indemnity, subscription, membership, suretyship, or annuity that has been issued, is proposed for issuance, or is intended for issuance by any person or entity.

2. *"Insurer"* means any corporation, association, partnership, or individual engaged in the business of insurance, including but not limited to a corporation, association, partnership, or individual that issues a policy of workers' compensation, a self-insured business for purposes of workers' compensation liability, or a group or self-insured plan as described in section 87.4. *"Insurer"* does not include a person required to be licensed to sell, solicit, or negotiate insurance pursuant to chapter 522B.

2018 Acts, ch 1169, §22; 2021 Acts, ch 181, §3

507E.3 Fraudulent submissions — penalty.

1. For purposes of this chapter, *"statement"* includes, but is not limited to, any notice, statement, proof of loss, bill of lading, receipt for payment, invoice, account, estimate of property damage, bill for services, diagnosis, prescription, hospital or physician record, X ray, test result, or other evidence of loss, injury, or expense.

2. A person commits a class "D" felony if the person, with the intent to defraud an insurer, does any of the following:

a. Presents or causes to be presented to an insurer, any written document or oral statement, including a computer-generated document, as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy, knowing that such document or statement contains any false information concerning a material fact.

b. Assists, abets, solicits, or conspires with another to present or cause to be presented to an insurer, any written document or oral statement, including a computer-generated

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document, that is intended to be presented to any insurer in connection with, or in support of, any claim for payment or other benefit pursuant to an insurance policy, knowing that such document or statement contains any false information concerning a material fact.

c. Presents or causes to be presented to an insurer, any written document or oral statement, including a computer-generated document, as part of, or in, an application for insurance coverage, knowing that such document or statement contains false information concerning a material fact.

94 Acts, ch 1072, §3, 9; 95 Acts, ch 185, §46; 96 Acts, ch 1045, §2
Referred to in §507E.6, 910.1

507E.3A Fraudulent sales practices — penalties.

1. A person commits the offense of fraudulent sales practices if the person, with the intent to defraud another person in connection with any sale, solicitation, or negotiation of insurance in this state, willfully does any of the following:

a. Employs any deception, device, scheme, or artifice to defraud.

b. Misrepresents, conceals, or suppresses any material fact.

c. Engages in any act, practice, or course of business which operates as a fraud or deceit upon any person.

2. A person who violates subsection 1 commits a class "D" felony.

3. Notwithstanding subsection 2, a person commits a class "C" felony if the person violates subsection 1, and such violation results in a loss of more than ten thousand dollars.

2016 Acts, ch 1122, §5; 2017 Acts, ch 29, §143
Referred to in §910.1

507E.4 Examination of information outside the state.

The bureau shall seek to obtain by request, any information related to the enforcement of this chapter in the possession of a person located outside the state. The bureau may designate a representative, including an official of the state where the information is located, to inspect the information on behalf of the bureau at the place where the information is located. The bureau may respond to similar requests from an official from another state.

94 Acts, ch 1072, §4

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 insurance 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

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

94 Acts, ch 1072, §5; 2006 Acts, ch 1117, §30; 2020 Acts, ch 1016, §3
Referred to in §22.7(54)

507E.6 Duties of insurer.

An insurer which believes that a claim or application for insurance coverage is being made which is a violation of section 507E.3 shall provide, within sixty days of the receipt of such claim or application, written notification to the bureau of the claim or application on a form prescribed by the bureau, including any additional information requested by the bureau related to the claim or application or the party making the claim or application. The fraud bureau shall review each notification and determine whether further investigation is warranted. If the bureau determines that further investigation is warranted, the bureau shall conduct an independent investigation of the facts surrounding the claim or application for insurance coverage to determine the extent, if any, to which fraud occurred in the submission of the claim or application. The bureau shall report any alleged violation of law disclosed by the investigation to the appropriate licensing agency or prosecuting authority having jurisdiction with respect to such violation.

94 Acts, ch 1072, §6; 2008 Acts, ch 1123, §13

507E.7 Immunity from liability.

1. A person acting without malice, fraudulent intent, or bad faith is not liable civilly as a result of filing a report or furnishing, orally or in writing, other information concerning alleged acts in violation of this chapter, if the report or information is provided to or received from any of the following:

a. Law enforcement officials, their agents and employees.

b. The national association of insurance commissioners, the insurance division, a federal or state governmental agency or bureau established to detect and prevent fraudulent insurance acts, or any other organization established for such purpose, and their agents, employees, or designees.

c. An authorized representative of an insurer.

2. This section does not affect in any way any common law or statutory privilege or immunity applicable to such person or entity.

94 Acts, ch 1072, §7, 9; 95 Acts, ch 185, §46; 96 Acts, ch 1045, §3; 2002 Acts, ch 1111, §9

507E.8 Law enforcement authority.

1. An individual employed by the division and designated as a peace officer shall be considered a law enforcement officer as that term is defined in section 80B.3, and shall exercise the powers of a law enforcement officer as follows:

a. For purposes of an arrest resulting from a criminal violation of any provision of the Code subject to the jurisdiction of the commissioner established as a result of an investigation pursuant to this chapter or chapter 502, 502A, 507A, 508, 522C, 522F, 523A, 523C, 523D, or 523I.

b. While conducting an investigation or engaged in an assignment authorized by this chapter or chapter 502, 502A, 507A, 508, 522C, 522F, 523A, 523C, 523D, or 523I.

c. To protect life if a public offense is committed in the presence of the peace officer.

d. While providing assistance to a law enforcement agency or another law enforcement officer.

2. Laws applicable to an arrest of an individual by a law enforcement officer of the state shall apply to an individual employed by the division and designated as a peace officer. An

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individual employed by the division and designated as a peace officer shall have the power to execute arrest warrants and search warrants, serve subpoenas issued for the examination, investigation, and trial of all offenses identified through the course of an investigation conducted pursuant to this section, and arrest upon probable cause without warrant a person found in the act of committing a violation of a law of this state.

94 Acts, ch 1072, §8; 2011 Acts, ch 70, §7; 2020 Acts, ch 1016, §4; 2021 Acts, ch 181, §4; 2023 Acts, ch 19, §2731; 2026 Acts, ch 1017, §3; 2026 Acts, ch 1027, §1, 5

Referred to in §97B.49B, 502.604A
See Code editor's note on simple harmonization at the beginning of this Code volume
Subsection 1, paragraphs a and b amended

CHAPTER 507F

INSURANCE DATA SECURITY

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 554G.3, 669.14, 670.7

507F.1 Title.
507F.2 Purpose and scope.
507F.3 Definitions.
507F.4 Information security program.
507F.5 Third-party service provider arrangements.
507F.6 Cybersecurity event — investigation.
507F.7 Cybersecurity event — notification and report to the commissioner.
507F.8 Cybersecurity event — notification to consumers.
507F.9 Cybersecurity event — third-party service providers.
507F.10 Cybersecurity event reinsurers.
507F.11 Cybersecurity event — producers of record.
507F.12 Confidentiality.
507F.13 Applicability.
507F.14 Penalties.
507F.15 Rules and enforcement.
507F.16 Severability.

507F.1 Title.

This chapter may be cited as the *"Insurance Data Security Act"*.

2021 Acts, ch 79, §1, 17

507F.2 Purpose and scope.

1. Notwithstanding any provision of law to the contrary, this chapter establishes the exclusive state standards for data security, and the investigation and notification of cybersecurity events, applicable to licensees.

2. This chapter shall not be construed to create or imply a private cause of action for a violation of its provisions, and shall not be construed to curtail a private cause of action that otherwise exists in the absence of this chapter.

2021 Acts, ch 79, §2, 17

507F.3 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Authorized individual"* means an individual known to and screened by a licensee and determined to be necessary and appropriate to have access to nonpublic information held by the licensee and the licensee's information system.

2. *"Commissioner"* means the commissioner of insurance.

3. *"Consumer"* means an individual, including but not limited to an applicant, policyholder, insured, beneficiary, claimant, or certificate holder, who is a resident of this state and whose nonpublic information is in a licensee's possession, custody, or control.

4. *"Cybersecurity event"* means an event resulting in unauthorized access to, or the disruption or misuse of, an information system or of nonpublic information stored on an information system. *"Cybersecurity event"* does not include any of the following:

a. The unauthorized acquisition of encrypted nonpublic information if the encryption, process, or key is not also acquired, released, or used without authorization.

b. An event for which a licensee has determined that the nonpublic information accessed

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by an unauthorized person has not been used or released, and the nonpublic information has been returned or destroyed.

5. *"Delivered by electronic means"* means delivery to an electronic mail address at which a consumer has consented to receive notices or documents.

6. *"Encrypted"* means the transformation of data into a form that results in a low probability of assigning meaning to the data without the use of a protective process or key.

7. *"Gramm-Leach-Bliley Act"* means the Gramm-Leach-Bliley Act of 1999, 15 U.S.C. §6801 et seq., including amendments thereto and regulations promulgated thereunder.

8. *"Health Insurance Portability and Accountability Act"* or *"HIPAA"* means the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, including amendments thereto and regulations promulgated thereunder.

9. *"Home state"* means the same as defined in section 522B.1.

10. *"Information security program"* means the administrative, technical, and physical safeguards that a licensee uses to access, collect, distribute, process, protect, store, use, transmit, dispose of, or otherwise handle nonpublic information.

11. *"Information system"* means a discrete set of electronic information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of electronic nonpublic information, and any specialized system such as an industrial or process controls system, a telephone switching and private branch exchange system, or an environmental control system.

12. *"Insurer"* means the same as defined in section 521A.1.

13. *"Licensee"* means a person licensed, authorized to operate, or registered, or a person required to be licensed, authorized to operate, or registered pursuant to the insurance laws of this state. *"Licensee"* does not include a purchasing group or a risk retention group chartered and licensed in a state other than this state, or a person acting as an assuming insurer that is domiciled in another state or jurisdiction.

14. *"Multi-factor authentication"* means authentication through verification of at least two of the following types of authentication factors:

a. A knowledge factor, such as a password.

b. A possession factor, such as a token or text message on a mobile phone.

c. An inherence factor, such as a biometric characteristic.

15. *"Nonpublic information"* means electronic information that is not publicly available information and that is any of the following:

a. Business-related information of a licensee the tampering of which, or unauthorized disclosure, access, or use of which, will cause a material adverse impact to the business, operations, or security of the licensee.

b. Information concerning a consumer which can be used to identify the consumer due to a name, number, personal mark, or other identifier, used in combination with any one or more of the following data elements:

(1) A social security number.

(2) A driver's license number or a nondriver identification card number.

(3) A financial account number, a credit card number, or a debit card number.

(4) A security code, an access code, or a password that will permit access to a consumer's financial accounts.

(5) A biometric record.

c. Information or data, except age or gender, in any form or medium created by or derived from a health care provider or a consumer, and that relates to any of the following:

(1) The past, present, or future physical, mental or behavioral health or condition of a consumer, or a member of the consumer's family.

(2) The provision of health care services to a consumer.

(3) Payment for the provision of health care services to a consumer.

16. *"Person"* means an individual or a nongovernmental entity, including but not limited to a nongovernmental partnership, corporation, branch, agency, or association.

17. *"Publicly available information"* means information that a licensee has a reasonable basis to believe is lawfully made available to the general public from federal, state, or local government records, by widely distributed media, or by disclosure to the general public

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as required by federal, state, or local law. For purposes of this definition, a licensee has a reasonable basis to believe that information is lawfully made available to the general public if the licensee has determined all of the following:

a. That the information is of a type that is available to the general public.

b. That if a consumer may direct that the information not be made available to the general public, that the consumer has not directed that the information not be made available to the general public.

18. *"Risk assessment"* means the assessment that a licensee is required to conduct pursuant to section 507F.4, subsection 3.

19. *"Third-party service provider"* means a person that is not a licensee that contracts with a licensee to maintain, process, store, or is otherwise permitted access to nonpublic information through the person's provision of services to the licensee.

2021 Acts, ch 79, §3, 17

507F.4 Information security program.

1. *a.* Commensurate with the size and complexity of a licensee, the nature and scope of a licensee's activities including the licensee's use of third-party service providers, and the sensitivity of nonpublic information used by the licensee or that is in the licensee's possession, custody, or control, the licensee shall develop, implement, and maintain a comprehensive written information security program based on the licensee's risk assessment conducted pursuant to subsection 3.

b. This section shall not apply to any of the following:

(1) A licensee that meets any of the following criteria:

(a) Has fewer than twenty individuals on its workforce, including employees and independent contractors.

(b) Has less than five million dollars in gross annual revenue.

(c) Has less than ten million dollars in year-end total assets.

(2) An employee, agent, representative, or designee of a licensee, and the employee, agent, representative, or designee is also a licensee, if the employee, agent, representative, or designee is covered by the information security program of the other licensee.

c. A licensee shall have one hundred eighty calendar days from the date the licensee no longer qualifies for exemption under paragraph *"b"* to comply with this section.

2. A licensee's information security program must be designed to do all of the following:

a. Protect the security and confidentiality of nonpublic information and the security of the licensee's information system.

b. Protect against threats or hazards to the security or integrity of nonpublic information and the licensee's information system.

c. Protect against unauthorized access to or the use of nonpublic information, and minimize the likelihood of harm to any consumer.

d. Define and periodically reevaluate a schedule for retention of nonpublic information and a mechanism for the destruction of nonpublic information if retention is no longer necessary for the licensee's business operations, or is no longer required by applicable law.

3. A licensee shall conduct a risk assessment that accomplishes all of the following:

a. Designates one or more employees, an affiliate, or an outside vendor to act on behalf of the licensee and that has responsibility for the information security program.

b. Identifies reasonably foreseeable internal or external threats that may result in unauthorized access, transmission, disclosure, misuse, alteration, or destruction of nonpublic information, including nonpublic information that is accessible to, or held by, a third-party service provider.

c. Assesses the probability of, and the potential damage caused by, the threats identified in paragraph *"b"*, taking into consideration the sensitivity of nonpublic information.

d. Assesses the sufficiency of policies, procedures, information systems, and other safeguards in place to manage the threats identified in paragraph *"b"*. This assessment must include consideration of threats identified in each relevant area of the licensee's operations, including all of the following:

(1) Employee training and management.

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(2) Information systems, including network and software design; and information classification, governance, processing, storage, transmission, and disposal.

(3) Detection, prevention, and response to an attack, intrusion, or other system failure.

e. Implements information safeguards to manage threats identified in the licensee's ongoing risk assessments and, at least annually, assesses the effectiveness of the information safeguards' key controls, systems, and procedures.

4. Based on the risk assessment conducted pursuant to subsection 3, a licensee shall do all of the following:

a. Develop, implement, and maintain an information security program as described in subsections 1 and 2.

b. Determine which of the following security measures are appropriate and implement each appropriate security measure:

(1) Place access controls on information systems, including controls to authenticate and permit access only to authorized individuals to protect against the unauthorized acquisition of nonpublic information.

(2) Identify and manage the data, personnel, devices, systems, and facilities that enable the licensee to achieve its business purposes in accordance with the data, personnel, devices, systems, and facilities relative importance to the licensee's business objectives and risk strategy.

(3) Restrict access of nonpublic information stored in or at physical locations to authorized individuals only.

(4) Protect by encryption or other appropriate means, all nonpublic information while the nonpublic information is transmitted over an external network, and all nonpublic information that is stored on a laptop computer, a portable computing or storage device, or portable computing or storage media.

(5) Adopt secure development practices for in-house developed applications utilized by the licensee, and procedures for evaluating, assessing, and testing the security of externally developed applications utilized by the licensee.

(6) Modify information systems in accordance with the licensee's information security program.

(7) Utilize effective controls, which may include multi-factor authentication procedures for authorized individuals accessing nonpublic information.

(8) Regularly test and monitor systems and procedures to detect actual and attempted attacks on, or intrusions into, information systems.

(9) Include audit trails within the information security program designed to detect and respond to cybersecurity events, and designed to reconstruct material financial transactions sufficient to support the normal business operations and obligations of the licensee.

(10) Implement measures to protect against the destruction, loss, or damage of nonpublic information due to environmental hazards, natural disasters, catastrophes, or technological failures.

(11) Develop, implement, and maintain procedures for the secure disposal of nonpublic information that is contained in any format.

c. Include cybersecurity risks in the licensee's enterprise-wide risk management process.

d. Maintain knowledge and understanding of emerging threats or vulnerabilities and utilize reasonable security measures, relative to the character of the sharing and the type of information being shared, when sharing information.

e. Provide the licensee's personnel with cybersecurity awareness training that is updated as necessary to reflect risks identified by the licensee's risk assessment.

5. *a.* If a licensee has a board of directors, the board or an appropriate committee of the board shall at a minimum require the licensee's executive management or the executive management's delegates to:

(1) Develop, implement, and maintain the licensee's information security program.

(2) Provide a written report to the board, at least annually, that documents all of the following:

(a) The overall status of the licensee's information security program and the licensee's compliance with this chapter.

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(b) Material matters related to the licensee's information security program including issues such as risk assessment; risk management and control decisions; third-party service provider arrangements; results of testing, cybersecurity events, or violations; management's response to cybersecurity events or violations; and recommendations for changes in the licensee's information security program.

b. If a licensee's executive management delegates any of its responsibilities under this section the executive management shall oversee the delegate's development, implementation, and maintenance of the licensee's information security program, and shall require the delegate to submit an annual written report to executive management that contains the information required under paragraph "*a*", subparagraph (2). If the licensee has a board of directors, the executive management shall provide a copy of the report to the board.

6. A licensee shall monitor, evaluate, and adjust the licensee's information security program consistent with relevant changes in technology, the sensitivity of the licensee's nonpublic information, changes to the licensee's information systems, internal or external threats to the licensee's nonpublic information, and the licensee's changing business arrangements, including but not limited to mergers and acquisitions, alliances and joint ventures, and outsourcing arrangements.

7. As part of a licensee's information security program, a licensee shall establish a written incident response plan designed to promptly respond to, and recover from, a cybersecurity event that compromises the confidentiality, integrity, or availability of nonpublic information in the licensee's possession, the licensee's information systems, or the continuing functionality of any aspect of the licensee's operations. The written incident response plan must address all of the following:

a. The licensee's internal process for responding to a cybersecurity event.

b. The goals of the licensee's incident response plan.

c. The assignment of clear roles, responsibilities, and levels of decision-making authority for the licensee's personnel that participate in the incident response plan.

d. External communications, internal communications, and information sharing related to a cybersecurity event.

e. The identification of remediation requirements for weaknesses identified in information systems and associated controls.

f. Documentation and reporting regarding cybersecurity events and related incident response activities.

g. The evaluation and revision of the incident response plan, as appropriate, following a cybersecurity event.

8. An insurer domiciled in this state shall annually submit to the commissioner on or before April 15 a written certification that the insurer is in compliance with this section. Each insurer shall maintain all records, schedules, documentation, and data supporting the insurer's certification for five years. To the extent an insurer has identified an area, system, or process that requires material improvement, updating, or redesign, the insurer shall document the process used to identify the area, system, or process, and the remediation that has been implemented, or will be implemented, to address the area, system, or process. All records, schedules, documentation, and data described in this subsection shall be made available for inspection by the commissioner, or the commissioner's representative, upon request of the commissioner.

9. Licensees shall comply with this section no later than January 1, 2023.

2021 Acts, ch 79, §4, 17
Referred to in §507F.3

507F.5 Third-party service provider arrangements.

1. A licensee shall exercise due diligence in the selection of third-party service providers, conduct oversight of all third-party service provider arrangements, and require all third-party service providers to implement appropriate administrative, technical, and physical measures to protect and secure the information systems and nonpublic information that are accessible to, or held by, the licensee's third-party service providers.

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2. Licensees shall comply with this section no later than January 1, 2024.
2021 Acts, ch 79, §5, 17

507F.6 Cybersecurity event — investigation.

1. If a licensee discovers that a cybersecurity event has occurred, or that a cybersecurity event may have occurred, the licensee, or the outside vendor or third-party service provider the licensee has designated to act on behalf of the licensee, shall conduct a prompt investigation of the event.

2. During the investigation, the licensee, outside vendor, or third-party service provider the licensee has designated to act on behalf of the licensee, shall, at a minimum, determine as much of the following as possible:

a. Confirm that a cybersecurity event has occurred.

b. Assess the nature and scope of the cybersecurity event.

c. Identify all nonpublic information that may have been compromised by the cybersecurity event.

d. Perform or oversee reasonable measures to restore the security of any compromised information systems in order to prevent further unauthorized acquisition, release, or use of nonpublic information that is in the licensee's possession, custody, or control.

3. If a licensee learns that a cybersecurity event has occurred, or may have occurred, in an information system maintained by a third-party service provider of the licensee, the licensee shall complete an investigation in compliance with this section, or confirm and document that the third-party service provider has completed an investigation in compliance with this section.

4. A licensee shall maintain all records and documentation related to the licensee's investigation of a cybersecurity event for a minimum of five years from the date of the event, and shall produce the records and documentation upon demand of the commissioner.

2021 Acts, ch 79, §6, 17
Referred to in §507F.9

507F.7 Cybersecurity event — notification and report to the commissioner.

1. A licensee shall notify the commissioner no later than three business days from the date of the licensee's confirmation of a cybersecurity event if any of the following conditions apply:

a. The licensee is an insurer who is domiciled in this state, or is a producer whose home state is this state, and any of the following apply:

(1) The laws of this state or federal law requires that notice of the cybersecurity event be given by the licensee to a government body, self-regulatory agency, or other supervisory body.

(2) The cybersecurity event has a reasonable likelihood of causing material harm to a material part of the normal business, operations, or security of the licensee.

b. The licensee reasonably believes that nonpublic information compromised by the cybersecurity event involves two hundred fifty or more consumers and either of the following apply:

(1) State or federal law requires that notice of the cybersecurity event be given by the licensee to a government body, self-regulatory agency, or other supervisory body.

(2) The cybersecurity event has a reasonable likelihood of causing material harm to a consumer, or to a material part of the normal business, operations, or security of the licensee.

2. A licensee's notification to the commissioner pursuant to subsection 1 shall provide, in the form and manner prescribed by the commissioner by rule, as much of the following information as is available to the licensee at the time of the notification:

a. The date and time of the cybersecurity event.

b. A description of how nonpublic information was exposed, lost, stolen, or breached, including the specific roles and responsibilities of the licensee's third-party service providers, if any.

c. How the licensee discovered or became aware of the cybersecurity event.

d. If any lost, stolen, or breached nonpublic information has been recovered and if so, how the recovery occurred.

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e. The identity of the source of the cybersecurity event.

f. The identity of any regulatory, governmental, or law enforcement agencies the licensee has notified, and the date and time of each notification.

g. A description of the specific types of nonpublic information that were lost, stolen, or breached.

h. The total number of consumers affected by the cybersecurity event. The licensee shall provide the best estimate of affected consumers in the licensee's initial report to the commissioner and shall update the estimate in each subsequent report to the commissioner under subsection 3.

i. The results of any internal review conducted by the licensee that identified a lapse in the licensee's automated controls or internal procedures, or that confirmed the licensee's compliance with all automated controls or internal procedures.

j. A description of the licensee's efforts to remediate the circumstances that allowed the cybersecurity event.

k. A copy of the licensee's privacy policy.

l. A statement outlining the steps the licensee is taking to identify and notify consumers affected by the cybersecurity event.

m. The contact information for the individual authorized to act on behalf of the licensee and who is also knowledgeable regarding the cybersecurity event.

3. A licensee shall have a continuing obligation to update and supplement the licensee's initial notification to the commissioner as material changes to information previously provided to the commissioner occur.

2021 Acts, ch 79, §7, 17
Referred to in §507F.8, 507F.9, 507F.11

507F.8 Cybersecurity event — notification to consumers.

1. In the event of a cybersecurity event involving nonpublic information a licensee shall comply with the notification requirements pursuant to section 715C.2, and all other applicable notification requirements pursuant to federal or state law.

2. If a licensee is required to provide notice of a cybersecurity event to the commissioner pursuant to section 507F.7, subsection 1, the licensee shall submit to the commissioner a copy of the consumer notices provided by the licensee to consumers under this section.

2021 Acts, ch 79, §8, 17

507F.9 Cybersecurity event — third-party service providers.

1. If a licensee becomes aware of a cybersecurity event in an information system maintained by a third-party service provider of the licensee, the licensee shall comply with section 507F.7, or the licensee may obtain a written certification from the third-party service provider that the provider is in compliance with section 507F.7. If the third-party provider fails to provide written certification to the licensee, the licensee shall comply with section 507F.7. The computation of the licensee's deadlines pursuant to section 507F.7 shall begin on the business day after the date on which the licensee's third-party service provider notifies the licensee of a cybersecurity event, or the date on which the licensee has actual knowledge of the cybersecurity event, whichever date is earlier.

2. This section shall not be construed to prohibit or abrogate an agreement between a licensee and another licensee, a third-party service provider, or any other party for the other licensee, third-party service provider, or other party to execute the requirements under section 507F.6 or section 507F.7 on behalf of the licensee.

2021 Acts, ch 79, §9, 17

507F.10 Cybersecurity event reinsurers.

1. If a cybersecurity event involves nonpublic information used by, or that is in the possession, custody, or control of, a licensee that is acting as an assuming insurer and that does not have a direct contractual relationship with consumers affected by the cybersecurity event, the assuming insurer shall notify each of the assuming insurer's affected ceding insurers and the commissioner of the assuming insurer's state of domicile within three

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business days of determining that a cybersecurity event has occurred. A ceding insurer that has a direct contractual relationship with a consumer affected by the cybersecurity event shall comply with the applicable provisions of section 715C.2, and all other applicable notification requirements pursuant to federal or state law.

2. If a cybersecurity event involves nonpublic information that is in the possession, custody, or control of a third-party service provider of a licensee that is acting as an assuming insurer, the assuming insurer shall notify each of the assuming insurer's affected ceding insurers and the commissioner of the assuming insurer's state of domicile within three business days of the date the assuming insurer receives notice from the assuming insurer's third-party service provider that a cybersecurity event involving nonpublic information has occurred. A ceding insurer that has a direct contractual relationship with a consumer affected by the cybersecurity event shall comply with the applicable provisions of section 715C.2, and all other applicable notification requirements pursuant to federal or state law.

3. Notwithstanding any law to the contrary, a licensee acting as an assuming insurer shall have no other notice obligations related to a cybersecurity event or other data breach than the notice requirements pursuant to subsections 1 and 2.

2021 Acts, ch 79, §10, 17

507F.11 Cybersecurity event — producers of record.

If a cybersecurity event involves nonpublic information that is in the possession, custody, or control of a licensee that is an insurer, or in the possession, custody, or control of the insurer's third-party service provider, and for which a consumer accessed the insurer's services through an independent insurance producer, the insurer shall notify the insurance producer of record of each consumer affected by the cybersecurity event no later than the date on which notice is provided to affected consumers pursuant to section 507F.7. An insurer shall not be required to notify an insurance producer that is not authorized by law or contract to sell, solicit, or negotiate on behalf of the insurer, or in a circumstance in which the insurer does not have current contact information for the producer of record for a specific affected consumer.

2021 Acts, ch 79, §11, 17

507F.12 Confidentiality.

1. Documents, materials, and other information in the control or possession of the commissioner that are furnished by a licensee, or by an employee or agent of the licensee acting on behalf of the licensee, or that are obtained by the commissioner in an investigation or examination, shall be confidential by law and privileged, shall not constitute a public record under chapter 22, shall not be subject to subpoena or discovery, and shall not be admissible as evidence in a private civil action. The commissioner, however, shall be authorized to use the documents, materials, and other information in the furtherance of a regulatory or legal action brought as part of the commissioner's official duties. The commissioner shall not otherwise make the documents, materials, and other information public without the prior written consent of the licensee.

2. The commissioner, or an individual who receives documents, materials, or other information under the authority of the commissioner, shall not be permitted or required to testify in a private civil action concerning any documents, materials, or other information subject to subsection 1.

3. In order to assist in the performance of the commissioner's duties under this chapter, the commissioner may:

a. Share documents, materials, and other information, including documents, materials, and other information subject to subsection 1, with state, federal, and international regulatory agencies; the national association of insurance commissioners, its affiliates and subsidiaries; and with state, federal, and international law enforcement authorities, provided that the recipient certifies in writing that the recipient will maintain the confidentiality or privileged status of any documents, materials, or other information to which confidentiality or privileged status applies.

b. Receive documents, materials, and other information, including confidential and

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privileged documents, materials, and other information from the national association of insurance commissioners, its affiliates and subsidiaries; and regulatory and law enforcement officials of foreign and domestic jurisdictions. The commissioner shall maintain as confidential or privileged any document, material, or other information received by the commissioner that is confidential or privileged, or that is 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.

c. Share documents, materials, or other information subject to subsection 1 with a third-party consultant or vendor provided that the third-party consultant or vendor certifies in writing that the consultant or vendor will maintain the confidentiality and privileged status of the document, material, or other information.

d. Enter into an agreement governing the sharing and use of documents, materials, or other information that is consistent with this subsection.

4. No waiver of an applicable privilege or claim of confidentiality in a document, material, or other information shall occur as a result of disclosure of the document, material, or other information to the commissioner under this chapter, or as a result of the sharing of the document, material, or other information as authorized under this section.

5. This chapter shall not prohibit the commissioner from releasing final, adjudicated actions that are open to public inspection pursuant to chapter 22, to a database or other clearinghouse service maintained by the national association of insurance commissioners, or its affiliates and subsidiaries.

6. Documents, materials, and other information received by the commissioner under this chapter and shared pursuant to subsection 3, shall be confidential by law and privileged, shall not constitute a public record under chapter 22, shall not be subject to subpoena or discovery, and shall not be admissible as evidence in a private civil action.

7. Ownership of documents, materials, and other information shared under this chapter with the national association of insurance commissioners, its affiliates and subsidiaries, or a third-party consultant or vendor, remains with the commissioner, and use of the documents, materials, and other information by the national association of insurance commissioners, its affiliates and subsidiaries, or a third-party consultant or vendor is subject to the direction of the commissioner.

2021 Acts, ch 79, §12, 17

507F.13 Applicability.

1. This chapter shall not apply to a licensee that is subject to, and in compliance with, the Health Insurance Portability and Accountability Act. The licensee shall annually submit to the commissioner a written certification of the licensee's compliance with HIPAA.

2. This chapter shall not apply to a licensee that is owned or controlled by a federally insured depository institution that is subject to, and in compliance with, the Gramm-Leach-Bliley Act or comparable federal law and corresponding regulations.

3. A licensee shall have one hundred eighty days from the date the licensee no longer qualifies for exemption under subsection 1 or 2 to comply with this chapter.

2021 Acts, ch 79, §13, 17

507F.14 Penalties.

A licensee that violates this chapter shall be subject to penalties pursuant to section 505.7A and chapter 507B.

2021 Acts, ch 79, §14, 17

507F.15 Rules and enforcement.

1. The commissioner may adopt rules pursuant to chapter 17A as necessary to administer this chapter.

2. The commissioner may take any enforcement action under the commissioner's authority to enforce compliance with this chapter.

2021 Acts, ch 79, §15, 17

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507F.16 Severability.

If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

2021 Acts, ch 79, §16, 17

CHAPTER 508

LIFE INSURANCE COMPANIES

Referred to in §87.4, 235F.1, 296.7, 331.301, 364.4, 423.3, 505.28, 505.29, 506.14, 507.1, 507.12, 507B.4C, 507E.8, 508A.1, 508A.5, 508B.1, 509.5, 510.11, 511.8(1)(m), 511.26, 511.41, 514A.1, 514G.103, 515.1, 515B.2, 515B.9, 518C.10, 521.1, 521A.1, 521A.14, 521E.1, 521F.2, 521I.1, 522B.1, 522F.1, 533C.103, 535.8, 669.14, 670.7

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SUBCHAPTER I

GENERAL PROVISIONS

508.1 Level premium and natural premium plan companies.

Every life insurance company upon the level premium or the natural premium plan, created under the laws of this or any other state or country, shall, before issuing policies in the state, comply with the provisions of this chapter applicable to such companies.

[C73, §1161; C97, §1768; S13, §1768; C24, 27, 31, 35, 39, §**8643;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §508.1]

508.2 Articles — approval — bylaws.

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

[S13, §1768; C24, 27, 31, 35, 39, §**8644;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §508.2]

2009 Acts, ch 145, §5

Referred to in §508.4

508.3 Requirements of articles.

Such articles shall show the name, location of principal place of business, object, amount of capital, if a stock company, and shall contain such other provisions as may be necessary to a full understanding of the nature of the business to be transacted and the plan upon which the same is to be conducted.

[S13, §1768; C24, 27, 31, 35, 39, §**8645;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §508.3]

508.4 Approval of amendments to articles — bylaws.

1. All amendments to the articles of incorporation of companies already organized under the laws of this state shall be approved in the same manner as provided in section 508.2.

2. A company shall file with the commissioner bylaws and subsequent amendments to such bylaws within thirty days of the adoption of such bylaws and amendments.

[C97, §1768; C24, 27, 31, 35, 39, §**8646;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §508.4]

2000 Acts, ch 1023, §7; 2018 Acts, ch 1041, §127; 2019 Acts, ch 59, §181

508.5 Capital and surplus required.

1. A stock life insurance company shall not be authorized to transact business under this chapter with less than five million dollars of capital and surplus paid in cash or invested as provided by law. A stock life insurance company shall not increase its capital stock unless the amount of the increase is fully paid in cash. A stock life insurance company authorized to do business in Iowa that undergoes a change of control as defined under chapter 521A shall maintain the minimum capital and surplus requirements mandated by this section.

2. Notwithstanding subsection 1, a stock life insurance company, or any other life insurance company authorized to transact business under this chapter, shall comply with the minimum capital and surplus requirements of this chapter or chapter 521E, whichever is greater.

[C73, §1162; C97, §1769; C24, 27, 31, 35, 39, §**8647;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §508.5]

90 Acts, ch 1234, §5; 95 Acts, ch 185, §7; 96 Acts, ch 1046, §1, 21; 98 Acts, ch 1057, §3

Referred to in §508.9, 508.33A

508.6 Deposit of securities — certificate. Repealed by 2024 Acts, ch 1042, §10.

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508.7 Loans to officers.

Except as permitted in sections 508.8 and 508.8A, the capital or other funds shall not be loaned directly or indirectly to an officer, director, stockholder, or employee of the company or directly or indirectly to a relative of an officer or director of the company.

[C73, §1162; C97, §1769; C24, 27, 31, 35, 39, §**8649;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §508.7; 81 Acts, ch 166, §1]

91 Acts, ch 213, §4

508.8 Insurance company officers — conflicts of interest — exceptions.

1. As used in this section, *"employee"* includes but is not limited to the officers of a life insurance company.

2. A director or officer of a life insurance company shall not receive, in addition to fixed salary or compensation, money or other valuable thing, either directly or indirectly, or through a substantial interest in another corporation or business unit, for negotiating, procuring, recommending or aiding in the purchase or sale of property, or loan, made by the insurer or an affiliate or subsidiary of the insurer; nor shall a director or officer be pecuniarily interested, either as principal, coprincipal, agent or beneficiary, either directly or indirectly, or through a substantial interest in another corporation or business unit, in the purchase, sale or loan. However, a life insurance company, in connection with the relocation of the place of employment of an employee including relocation upon the initial employment of the employee, may do either of the following:

a. Make a mortgage loan on real property owned by the employee which is to serve as the employee's dwelling.

b. Acquire at not more than fair market value the dwelling which the employee vacates upon relocation.

[C24, 27, 31, 35, 39, §**8650;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §508.8; 81 Acts, ch 166, §2]

2012 Acts, ch 1023, §103

Referred to in §508.7

508.8A Loans to employees.

1. A life insurance company having a ratio of statutory surplus to admitted assets of at least four percent may make, acquire, and hold loans to employees, officers, and directors under the following terms and conditions:

a. The company may make a mortgage loan on real property owned by an employee of the company which is to serve as the employee's dwelling, provided the company is regularly and actively involved in making residential mortgage loans to the public.

b. The company may acquire a mortgage loan on real property owned by an employee of the company which is to serve as the employee's dwelling, provided the company acquiring such loan is regularly and actively involved in acquiring residential mortgage loans not involving employees from sources in the secondary market.

c. The company may acquire a mortgage loan on real property owned by an employee, officer, or director which is included in a portfolio of mortgages initiated by others and acquired by the life insurance company. The mortgage loans in any such acquired portfolio of mortgage loans must satisfy both of the following conditions:

(1) More than seventy-five percent of the dollar value of the mortgage loans must be for real property that is owned by persons who are not employees, officers, or directors of the company.

(2) More than seventy-five percent of the mortgage loans must be for real property that is owned by persons who are not employees, officers, or directors of the company.

d. The company may continue to hold a mortgage loan on real estate which is assumed by an employee, officer, or director if the mortgage was originally properly made or acquired by the life insurance company, provided that all terms and conditions of the mortgage loan remain unchanged and the mortgage loan is serviced in accordance with customary servicing practices of prudent lending institutions.

e. The company may continue to hold a mortgage on real estate owned by an officer or

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director which was properly made or acquired by the company before the officer or director became an officer or director of the company, provided that all terms and conditions of the mortgage loan remain unchanged and the mortgage loan is serviced in accordance with customary servicing practices of prudent lending institutions.

2. As used in this section, *"employee"* does not include officers or directors of a life insurance company.

91 Acts, ch 213, §5
Referred to in §508.7

508.9 Mutual companies — conditions.

1. Level premium and natural premium life insurance companies organized under the laws of this state upon the mutual plan shall, before issuing policies, have actual applications on at least two hundred and fifty lives for an average amount of one thousand dollars each. A list of the applications giving the name, age, residence, amount of insurance, and annual premium of each applicant shall be filed with the commissioner of insurance, and a deposit made with the commissioner of an amount equal to three-fifths of the whole annual premium on the applications, in cash or the securities required by section 508.5. In addition, a deposit of cash or securities of the character provided by law for the investment of funds for life insurance companies in the sum of five million dollars shall be made with the commissioner, which shall constitute a security fund for the protection of policyholders. The contribution to the security fund shall not give to contributors to the fund or to other persons any voting or other power in the management of the affairs of the company. The security fund may be repaid to the contributors to the security fund with interest at six percent from the date of contribution, at any time, in whole or in part, if the repayment does not reduce the surplus of the company below the amount of five million dollars and then only if consent in writing for the repayment is obtained from the commissioner of insurance. Upon compliance with this section, the commissioner shall issue to the mutual company the certificate prescribed in this chapter. A mutual insurance company authorized to do business in Iowa that undergoes a change of control as defined in chapter 521A shall maintain the minimum surplus requirement mandated by this section.

2. Notwithstanding subsection 1, a mutual insurance company authorized to transact business under this chapter shall comply with the minimum surplus requirements of this section or chapter 521E, whichever is greater.

[C73, §1163; C97, §1770; C24, 27, 31, 35, 39, §**8651;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §508.9]

90 Acts, ch 1234, §6; 92 Acts, ch 1162, §4; 95 Acts, ch 185, §8; 96 Acts, ch 1046, §2

508.10 Foreign companies — capital or surplus — investments.

1. A company incorporated by or organized under the laws of any other state or government shall not transact business in this state unless it is possessed of the actual amount of capital and surplus required of any company organized by the laws of this state, or, if it be a mutual company, of surplus equal in amount thereto.

2. An alien insurer, with the approval of the commissioner, may be treated as a domestic insurer of this state in whole or in part, and if so approved is deemed to be organized under the laws of this state and is an Iowa domestic insurer as provided by rules adopted by the commissioner. The approval of the commissioner may be based upon such factors as:

a. Maintenance of an appropriate trust account, surplus account, or other financial mechanism in this state.

b. Maintenance of all books and records of United States operations in this state.

c. Maintenance of a separate financial reporting system for its United States operations.

d. Any other provisions deemed necessary by the commissioner.

3. A foreign company authorized to do business in this state shall not assumptively reinsure a block of business which includes policyholders residing in this state to a company

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not authorized to do business in this state without the prior written approval of the commissioner.

[C73, §1164; C97, §1772; C24, 27, 31, 35, 39, §**8652;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §508.10]

90 Acts, ch 1234, §69; 92 Acts, ch 1244, §47; 97 Acts, ch 186, §6; 2003 Acts, ch 145, §286; 2007 Acts, ch 137, §9

508.11 Annual statement.

The president or vice president and secretary or actuary, or a majority of the directors of each company organized under this chapter, shall annually, on or before the first day of March, prepare under oath and file in the office of the commissioner of insurance or a depository designated by the commissioner a statement of its affairs for the year terminating on the thirty-first day of December preceding, showing:

1. The name of the company and where located.
2. The names of officers.
3. The amount of capital, if a stock company.
4. The amount of capital paid in, if a stock company.
5. The value of real estate owned by the company.
6. The amount of cash on hand.
7. The amount of cash deposited in banks, giving the name of the bank or banks.
8. The amount of cash in the hands of agents, and in the course of transmission.
9. The amount of bank stock, with the name of each bank, giving par and market value of the same.
10. The amount of bonds of the United States, and all other bonds and securities, giving names and amounts, with the par and market value of each kind.
11. The amount of loans secured by first mortgage on real estate, and where such real estate is situated.
12. The amount of all other bonds, loans, how secured, and the rate of interest.
13. The amount of premium notes and their value on policies in force, if a mutual company.
14. The amount of notes given for unpaid stock, and their value in detail, if a stock company.
15. The amount of assessments unpaid on stock or premium notes.
16. The amount of interest due and unpaid.
17. The amount of all other securities.
18. The amount of losses due and unpaid.
19. The amount of losses adjusted but not due.
20. The amount of losses unadjusted.
21. The amount of claims for losses resisted.
22. The amount of money borrowed and evidences thereof.
23. The amount of dividends unpaid on stock.
24. The amount of dividends unpaid on policies.
25. The amount required to safely reinsure all outstanding risks.
26. The amount of all other claims against the company.
27. The amount of net cash premiums received.
28. The amount of notes received for premiums.
29. The amount of interest received from all sources.
30. The amount received from all other sources.
31. The amount paid for losses.
32. The amount of dividends paid to policyholders, and the amount to stockholders, if a stock company.
33. The amount of commissions and salaries paid to agents.
34. The amount paid to officers for salaries and other compensation.
35. The amount paid for taxes.
36. The amount of all other payments and expenditures.
37. The greatest amount insured on any one life.

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38. The amount deposited in other states or territories as security for policyholders therein, stating the amount in each state or territory.

39. The amount of premiums received in this state during the year.

40. The amount paid for losses in this state during the year.

41. The whole number of policies issued during the year, with the amount of insurance effected thereby, and total amount of risk.

42. All other items of information necessary to enable the commissioner of insurance to correctly estimate the cash value of policies, or to judge of the correctness of the valuation thereof.

43. All other information as required by the national association of insurance commissioners' annual statement blank. The annual statement blank shall be prepared in accordance with instructions prescribed by the commissioner. All financial information reflected in the annual report shall be kept and prepared in accordance with accounting practices and procedures prescribed by the commissioner. The commissioner may adopt by reference the annual statement handbook and the accounting practices and procedures manual of the national association of insurance commissioners.

[C73, §1167; C97, §1773; C24, 27, 31, 35, 39, §**8653;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §508.11]

91 Acts, ch 26, §36; 2003 Acts, ch 91, §6

Referred to in §508.14, 511.8(10)(a)

508.12 Redomestication of insurers.

1. An insurer which is organized under the laws of any state and has created or will create jobs in this state or which is an affiliate or subsidiary of a domestic insurer, and is admitted to do business in this state for the purpose of writing insurance authorized by this chapter may become a domestic insurer by complying with section 490.905 or 491.33 and with all of the requirements of law relative to the organization and licensing of a domestic insurer of the same type and by designating its principal place of business in this state may become a domestic corporation and be entitled to like certificates of its corporate existence and license to transact business in this state, and be subject in all respects to the authority and jurisdiction thereof.

2. The certificates of authority, agent's appointments and licenses, rates, and other items which are in existence at the time any insurer 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 insurer is deemed the same entity as it was prior to the transfer of its domicile. All outstanding policies of any transferring insurer shall remain in full force and effect and need not be endorsed as to any new name of the company or its new location unless so ordered by the commissioner of insurance.

[C75, 77, 79, 81, §508.12]

88 Acts, ch 1112, §503; 89 Acts, ch 288, §191; 2011 Acts, ch 66, §1; 2021 Acts, ch 165, §226, 230

Referred to in §508B.1

508.13 Annual certificate of authority.

1. On receipt of an application for a certificate of authority or renewal of a certificate of authority, the appropriate fees, and the statement and evidence of investment of foreign companies, 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.

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

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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 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.

[C73, §1170; C97, §1775; C24, 27, 31, 35, 39, §**8657;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §508.13]

88 Acts, ch 1112, §103; 2006 Acts, ch 1117, §31; 2009 Acts, ch 181, §66; 2023 Acts, ch 36, §1

508.14 Violation by domestic company — dissolution — administrative penalties.

1. Upon failure of a company organized under the laws of this state to file the statement in the time stated in section 508.11, or to file in a timely manner any financial statement required by rule of the commissioner of insurance, the commissioner of insurance shall notify the attorney general of the default, and the attorney general shall apply to the district court of the county where the home office of the company is located for an order requiring the company to show cause, upon reasonable notice as determined by the court, why the company's business shall not be discontinued. If, upon the hearing, sufficient cause is not shown, the court shall decree the dissolution of the company.

2. In lieu of a district court action authorized by this section, the commissioner may impose an administrative penalty of five hundred dollars upon the company. The right of the company to transact further new business in this state shall immediately cease until the requirements of this chapter have been fully complied with.

3. The commissioner may give notice to a company that has failed to file all of the company's delinquent statements within the required time that the company is in violation of this section. If the company fails to file all of the company's delinquent statements within ten days of the date of the notice, the company shall be subject to an additional administrative penalty of one hundred dollars for each day the failure continues.

4. Amounts received by the commissioner pursuant to subsections 2 and 3 shall be paid to the treasurer of state for deposit as provided in section 505.7.

[C73, §1171; C97, §1776; C24, 27, 31, 35, 39, §**8658;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §508.14]

89 Acts, ch 321, §33; 97 Acts, ch 186, §7; 2009 Acts, ch 181, §67; 2020 Acts, ch 1063, §272; 2023 Acts, ch 36, §2

508.15 Violation by foreign company.

Companies organized and chartered by the laws of a foreign state or country, failing to file the evidence of investment and statement within the time fixed, or failing to timely file any financial statement required by rule of the commissioner of insurance, shall forfeit and pay five hundred dollars, to be collected in an action in the name of the state and paid to the treasurer of state for deposit as provided in section 505.7, and their right to transact further new business in this state shall immediately cease until the requirements of this chapter have been fully complied with. The commissioner may give notice to a company which has failed to file within the time fixed that the company is in violation of this section and if the company fails to file the evidence of investment and statement within ten days of the date of the notice the company shall forfeit and pay the additional sum of one hundred dollars for each day the failure continues, to be paid to the treasurer of state for deposit as provided in section 505.7.

[C73, §1171; C97, §1776; C24, 27, 31, 35, 39, §**8659;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §508.15]

83 Acts, ch 185, §48, 62; 83 Acts, ch 186, §10105, 10201, 10204; 89 Acts, ch 321, §34; 91 Acts, ch 213, §6; 2009 Acts, ch 181, §68

508.15A Suspension and summary suspension.

The commissioner may do one or more of the following:

1. For a violation of Title XIII, subtitle 1, after a hearing provided pursuant to chapter 17A,

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order the suspension of the license or authority to transact the business of insurance within the state.

2. Upon three days' notice, if the commissioner has reason to believe that there is imminent substantial risk to an insurer's solvency, order the insurer to appear before the commissioner and show cause why its license or authority to do insurance business within the state should not be suspended. At the hearing to show cause, the commissioner may summarily suspend the license or authority of the insurer to do business within the state.

3. Summarily order an insurer to cease and desist from a violation, anticipated violation, or suspected violation of chapter 507B, 510, or 513A, if a hearing is provided pursuant to chapter 17A within thirty days of the summary cease and desist order.

91 Acts, ch 213, §7

508.16 Examination.

The commissioner of insurance at any time may make a personal examination of the books, papers, securities, and business of any life insurance company doing business in this state, or authorize any other suitable person to make the same, and the commissioner or the person so authorized may examine under oath any officer or agent of the company, or others, relative to its business and management.

[C73, §1172; C97, §1777; C24, 27, 31, 35, 39, §**8660;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §508.16]

508.17 Reserved.

508.18 Decree.

The court, on the final hearing, may make the decree subject to the provisions of section 508.19 as to the appointment of a receiver, the disposition of the deposits of the company in the hands of the commissioner, and its dissolution, if a domestic company.

[C73, §1172; C97, §1777; C24, 27, 31, 35, 39, §**8662;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §508.18]

2019 Acts, ch 24, §77

Referred to in §507.12, 508.19

508.19 Securities.

The securities that are on deposit of a defaulting or insolvent company, or a company against which proceedings are pending under section 508.18, shall vest in the state for the benefit of all policyholders of the company.

[C73, §1173; C97, §1778; C24, 27, 31, 35, 39, §**8663;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §508.19]

85 Acts, ch 228, §2; 91 Acts, ch 26, §58

Referred to in §507.12, 508.18

508.20 Reinsurance securities — title vested in commissioner.

The title to all securities deposited with the commissioner of insurance by any domestic life insurance company or association which has been, or hereafter shall be, reinsured by a foreign life insurance company, shall be vested in the commissioner for the use and benefit of only the policies of the company reinsured in force at the date of such reinsurance agreement.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §508.20]

508.21 Amount to be deposited.

The reinsuring company shall at all times maintain such deposits in at least the amount of the net reserve, as determined by the commissioner of insurance, on all policies reinsured.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §508.21]

508.22 Insolvency of company — procedure.

In the event of insolvency or receivership of such reinsuring company or its successors, the commissioner shall be appointed by the district court of the state in and for Polk county as receiver of said insolvent reinsuring company, and shall proceed, subject to the court's

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approval, to reinsure said policies in another life insurance company or to liquidate the deposits for the sole benefit of the reinsured policies, and pending liquidation or reinsurance, shall have the sole right to collect premiums due on such policies.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §508.22]

508.23 and 508.24 Reserved.

508.25 Policy forms — approval.

It shall be unlawful for any insurance company transacting business within this state, under the provisions of this chapter, to write or use any form of policy or contract of insurance, on the life of any individual in this state, until a copy of such form of policy or contract has been filed with and approved by the commissioner of insurance.

[S13, §1783-a; C24, 27, 31, 35, 39, §**8668;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §508.25]

508.26 Failure to file copy.

Should any company decline to file a copy of its form of policies or contracts, the commissioner of insurance shall suspend its authority to transact business within the state until such forms of policies or contracts have been so filed and approved.

[S13, §1783-c; C24, 27, 31, 35, 39, §**8669;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §508.26]

508.27 Violations. Repealed by 2004 Acts, ch 1110, §71.

508.28 Approval by commissioner — contestability of policy.

The commissioner of insurance shall decline to approve any such form of policy or contract of insurance unless the same shall, in all respects, conform to the laws of this state applicable thereto. The policy shall be incontestable after it shall have been in force during the lifetime of the insured for two years from its date, except for nonpayment of premiums.

[SS15, §1783-b; C24, 27, 31, 35, 39, §**8671;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §508.28]

Referred to in §514G.106

508.29 Authority to write other insurance.

Any life insurance company organized on the stock or mutual plan, and that is authorized by the company's charter or articles of incorporation, may in addition to such life insurance, insure, either individually or on the group plan, the health of persons and against personal injuries, disablement or death, resulting from traveling or general accidents by land or water, and insure employers against loss in consequence of accidents or casualties of any kind to employees or other persons, or to property resulting from any act of the employee or any accident or casualty to persons or property, or both, occurring in or connected with transacting the employer's business, or from the operation of any machinery connected with transacting the employer's business, but nothing contained in this section shall be construed to authorize any life insurance company to insure against loss or injury to person, or property, or both, growing out of explosion or rupture of steam boilers. An insurer may contract with health care service providers and offer different levels of benefits to policyholders based upon the provider contracts.

[S13, §1783-d; C24, 27, 31, 35, 39, §**8672;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §508.29]

85 Acts, ch 239, §2; 92 Acts, ch 1162, §5; 2018 Acts, ch 1026, §156; 2023 Acts, ch 36, §3

Referred to in §508.31A

508.30 Liability. Repealed by 2008 Acts, ch 1123, §56.

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508.31 Annuities.

Any life insurance company organized on the stock or mutual plan may grant and sell annuities.

[C35, §8673-e1; C39, §**8673.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §508.31]

508.31A Funding agreements.

1. A life insurance company organized under this chapter may issue funding agreements. The issuance of a funding agreement under this section is deemed to be doing insurance business. For purposes of this section, *"funding agreement"* means an agreement for an insurer to accept and accumulate funds and to make one or more payments at future dates in amounts that are not based on mortality or morbidity contingencies of the person to whom the funding agreement is issued. A funding agreement does not constitute life insurance, an annuity, or other insurance authorized by section 508.29, and does not constitute a security as defined in section 502.102.

2. *a.* Funding agreements may be issued to the following:

(1) A person authorized by a state or foreign country to engage in an insurance business or a subsidiary of such business.

(2) A person for the purpose of funding any of the following:

(a) Benefits under an employee benefit plan as defined in the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. §1001 et seq., maintained in the United States or in a foreign country.

(b) Activities of an organization exempt from taxation pursuant to section 501(c) of the Internal Revenue Code, or any similar organization in any foreign country.

(c) A program of the United States government, another state government or political subdivision of such state, or of a foreign country, or any agency or instrumentality of any such government, political subdivision, or foreign country.

(d) An agreement providing for periodic payments in satisfaction of a claim.

(e) A program of an institution which has assets in excess of twenty-five million dollars.

(3) A person other than a natural person that has assets of at least twenty-five million dollars.

(4) A person other than a natural person for the purpose of providing collateral security for securities registered with the federal securities and exchange commission.

b. A funding agreement issued pursuant to paragraph *"a"*, subparagraph (1), (2), or (3), shall be for a total amount of not less than one million dollars.

c. An amount under a funding agreement shall not be guaranteed or credited except upon reasonable assumptions as to investment income and expenses and on a basis equitable to all holders of funding agreements of a given class. Such funding agreements shall not provide for payments to the insurer based on mortality or morbidity contingencies.

d. Amounts paid to the insurer pursuant to a funding agreement, and proceeds applied under optional modes of settlement, may be allocated by the insurer to one or more separate accounts pursuant to section 508A.1.

3. A funding agreement is a class 2 claim under section 507C.42, subsection 2.

4. The commissioner may adopt rules to implement funding agreements.

98 Acts, ch 1057, §4; 99 Acts, ch 3, §1, 2; 2002 Acts, ch 1111, §8; 2003 Acts, ch 91, §7; 2003 Acts, ch 179, §75; 2003 Acts, 1st Ex, ch 2, §28, 209; 2004 Acts, ch 1086, §86

Referred to in §507C.42, 508C.3

508.32 Proceeds of policy held in trust.

1. As used in this section:

a. "Annuity contracts" and *"life insurance policies"* include accident and health insurance policies and contracts, and include undertakings, duties, and obligations incidental to or in furtherance of any such policies or contracts.

b. "Proceeds" includes additions and contributions.

c. "Trust" includes but is not limited to settlement options and contracts issued pursuant to policies or contracts, and funds held in a separate or segregated account in connection with pension or profit-sharing plans pursuant to agreements with the policyholders.

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2. Any life insurance company organized under the provisions of this chapter and doing business in this state, shall have the power to hold in trust the premiums or consideration paid for, or the proceeds of any life insurance policy or annuity contract, either individual or group, issued by it, upon such terms and subject to such limitations as to revocation or control by the policyholder or beneficiary thereunder, as shall have been agreed to in writing by such company and the policyholder; provided that the trust provisions contemplated in this section shall in no manner subject the corporation to any of the provisions of the laws of Iowa relating to banks or trust companies; and provided further, that the trust or trusts for premiums or considerations may be invested by such company in the manner specified in the trust instruments or agreements and held in a separate or segregated account; and provided further, that the forms of such trust agreements for beneficiaries shall be first submitted to and approved by the commissioner of insurance.

3. Funds held by an insurance company as authorized by this section may be held in a separate account established pursuant to section 508A.1, except that section 508A.1, subsection 5, shall not be applicable to such account. However, funds held by an insurance company as authorized in this section shall not be chargeable with liabilities arising out of any other business the company may conduct.

4. An instrument or agreement issued or used by an insurance company as authorized by this section does not constitute a security as defined in section 502.102.

[C24, 27, 31, 35, 39, §**8674;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §508.32]

97 Acts, ch 5, §1; 2018 Acts, ch 1041, §127; 2020 Acts, ch 1063, §273; 2021 Acts, ch 80, §320

508.32A Funds held in custodial or similar account.

1. A life insurance company organized under this chapter and doing business in this state may hold funds, including additions and contributions, as custodian in a custodial or similar account in conjunction with an accident and health insurance policy. Funds held by an insurance company as authorized by this section may be invested by such company in the manner specified in the account instrument or agreement, and may be held in a separate account established pursuant to section 508A.1. Funds held by an insurance company as authorized by this section shall not be chargeable with liabilities arising out of any other business the company may conduct.

2. An instrument or agreement issued or used by an insurance company as authorized by this section does not constitute a security as defined in section 502.102.

97 Acts, ch 5, §2; 2018 Acts, ch 1041, §127

508.33 Subsidiary companies acquired.

Any life insurance company incorporated in this state may organize, or acquire by purchase, in whole or in part subsidiary insurance and investment companies in which it owns not less than fifty-one percent of the common stock, and notwithstanding any other provisions of this subtitle inconsistent herewith may do all of the following:

1. Invest funds from surplus for such purpose.

2. Make loans to such subsidiaries.

3. Permit all or part of its officers and directors to serve as officers or directors of such subsidiary companies.

[C66, 71, 73, 75, 77, 79, 81, §508.33]

2011 Acts, ch 34, §116

Referred to in §511.8(10)(c)

508.33A Limited purpose subsidiary life insurance companies.

1. As used in this section unless the context otherwise requires:

a. "Affiliated company" means a domestic life insurance company that is a directly or indirectly wholly owned subsidiary of the same parent.

b. "Parent" means a person as defined in section 521A.1 who directly or indirectly through one or more intermediaries wholly owns the organizing life insurance company.

c. "Risks" means risks associated with the life insurance policies and contracts written by the ceding domestic life insurance company or assumed by the ceding domestic life insurance

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company from an affiliated company, which were written by the affiliated company and for which the ceding domestic life insurance company holds direct statutory reserves for those policies and contracts as required by section 508.36.

2. *a.* A domestic life insurance company organized pursuant to the provisions of this chapter may organize a domestic limited purpose subsidiary life insurance company pursuant to the provisions of this chapter that is wholly owned by the organizing life insurance company. The limited purpose subsidiary life insurance company may reinsure risks of the organizing life insurance company, reinsure risks of affiliated companies, and access alternative forms of financing.

b. A limited purpose subsidiary life insurance company shall submit a plan of operation to the commissioner, and the commissioner shall approve the plan of operation with such amendments as the commissioner requires, before the limited purpose subsidiary life insurance company assumes any risks under a reinsurance contract. The plan of operation and any records, books, documents, reports, or other information that the commissioner requires a limited purpose subsidiary life insurance company to produce or disclose pursuant to rules adopted under subsection 6 or pursuant to an order of the commissioner shall be treated the same as information obtained by or disclosed to the commissioner pursuant to section 521A.6 and the commissioner shall have the powers enumerated in section 521A.6 as to that insurer.

3. The organizing life insurance company may invest funds from its surplus in a limited purpose subsidiary life insurance company organized pursuant to this section.

4. The organizing life insurance company's officers and directors may serve as officers and directors of a limited purpose subsidiary life insurance company organized pursuant to this section.

5. A limited purpose subsidiary life insurance company organized pursuant to this section shall be deemed to be licensed to transact the business of reinsurance for the purposes of section 521B.102, subsection 1, but may only reinsure risks of its organizing life insurance company and of affiliated companies. A limited purpose subsidiary life insurance company organized pursuant to this section may, upon approval of the commissioner, purchase reinsurance to cede the reinsurance risks assumed by the limited purpose subsidiary life insurance company.

6. The commissioner shall adopt rules pursuant to chapter 17A concerning limited purpose subsidiary life insurance companies, including but not limited to the organization, plans of operation, capital requirements including risk-based capital requirements, reserves, authorized investments, reinsurance assumed, material transaction restrictions and requirements, dividends and distributions, operations, and the conditions, forms, and approval of financing of limited purpose subsidiary life insurance companies organized pursuant to this section.

7. Admitted assets of a limited purpose subsidiary life insurance company shall include assets approved by the commissioner which shall be deemed to be, and reported as, admitted assets of the limited purpose subsidiary life insurance company.

8. The provisions of sections 508.5 and 511.8, section 521.2, subsection 4, sections 521A.4 and 521A.5, and chapter 521E shall not be applicable to a limited purpose subsidiary life insurance company organized pursuant to this section.

9. A limited purpose subsidiary life insurance company shall not be organized pursuant to this section prior to the effective date of rules adopted by the commissioner regulating the organization and operation of limited purpose subsidiary life insurance companies as provided in subsection 6.

2010 Acts, ch 1121, §9; 2013 Acts, ch 39, §9, 11; 2024 Acts, ch 1042, §1

508.34 Required to be separate company.

Any subsidiary company shall be a separate and distinct company, with neither the organizing or acquiring life company nor such subsidiary having any liability to the creditors, policyholders or stockholders, if any, of the other. The organizing or acquiring company may be either a mutual or stock company.

[C66, 71, 73, 75, 77, 79, 81, §508.34]

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508.35 Qualifications to do business.

Any such subsidiary company organized by any such life insurance company shall comply with all the laws of the state of its incorporation pertaining to the organization and qualification to do business of its class or kind, and if incorporated outside of the state of Iowa shall be admitted to do business in this state only upon qualification under the laws of the state of Iowa relating to such foreign corporations.

[C66, 71, 73, 75, 77, 79, 81, §508.35]

508.36 Standard valuations.

This section shall be known as the "*Standard Valuation Law*".

1. *Definitions.*

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

(1) *"Accident and health insurance"* means policies or contracts that incorporate morbidity risk and provide protection against economic loss resulting from accident, sickness, or medical conditions and as may be specified in the valuation manual.

(2) *"Appointed actuary"* means a qualified actuary who is appointed in accordance with the valuation manual to prepare the actuarial opinion required in subsection 3, paragraph *"b"*.

(3) "*Company*" means an entity which has done any of the following:

(a) Written, issued, or reinsured life insurance policies or contracts, accident and health insurance policies or contracts, or deposit-type policies or contracts in this state and has at least one such policy or contract in force or on claim.

(b) Written, issued, or reinsured life insurance policies or contracts, accident and health insurance policies or contracts, or deposit-type policies or contracts in any state and is required to hold a certificate of authority to write life insurance, accident and health insurance, or deposit-type policies or contracts in any state and is required to hold a certificate of authority to write life insurance, accident and health insurance, or deposit-type policies or contracts in this state.

(4) *"Deposit-type policy or contract"* means policies or contracts that do not incorporate mortality or morbidity risks and such policies or contracts as may be specified in the valuation manual.

(5) *"Life insurance"* means policies or contracts that incorporate mortality risk, including annuity and pure endowment contracts, and such policies or contracts as may be specified in the valuation manual.

(6) "*NAIC*" means the national association of insurance commissioners.

(7) "*Operative date of the valuation manual*" means the operative date of the valuation manual as provided in subsection 14.

(8) "*Policyholder behavior*" means any action a policyholder, contract holder, or any other person with the right to elect options, such as a certificate holder, may take under a policy or contract subject to this section including but not limited to lapse, withdrawal, transfer, deposit, premium payment, loan, annuitization, or benefit elections prescribed by the policy or contract, but excluding events of mortality or morbidity that result in benefits prescribed in their essential aspects by the terms of the policy or contract.

(9) *"Principle-based valuation*" means a reserve valuation that uses one or more methods or one or more assumptions determined by the insurer and that is required to comply with subsection 15 as specified in the valuation manual.

(10) "*Qualified actuary*" means an individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the American academy of actuaries qualification standards for actuaries signing such statements and who meets the requirements specified in the valuation manual.

(11) *"Tail risk"* means a risk that occurs either where the frequency of low probability events is higher than expected under a normal probability distribution or where there are observed events of very significant size or magnitude.

(12) "*Valuation manual*" means the manual of valuation instructions adopted by the NAIC as specified in this section or as subsequently amended.

b. This subsection is applicable on or after the operative date of the valuation manual.

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2. *Reserve valuation.*

a. Policies and contracts issued prior to operative date of valuation manual.

(1) The commissioner shall annually value, or cause to be valued, the reserve liabilities, referred to in this section as reserves, for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this state, issued on or after July 1, 1973, and prior to the operative date of the valuation manual. In calculating the reserves, the commissioner may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves required in this section of any foreign or alien company, the commissioner may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard provided for in this section.

(2) The provisions set forth in subsections 4 through 13 shall apply to all policies and contracts, as appropriate, subject to this section that were issued on or after July 1, 1973, and prior to the operative date of the valuation manual and the provisions set forth in subsections 14 and 15 shall not apply to any such policies or contracts.

(3) The minimum standard for the valuation of policies and contracts issued prior to July 1, 1973, shall be the standard provided by the laws in effect immediately prior to that date.

b. Policies and contracts issued on or after operative date of valuation manual.

(1) The commissioner shall annually value, or cause to be valued, the reserve liabilities for all outstanding life insurance policies or contracts, annuity and pure endowment policies or contracts, accident and health insurance policies or contracts, and deposit-type policies or contracts of every company issued on or after the operative date of the valuation manual. In lieu of the valuation of the reserves required of a foreign or alien company, the commissioner may accept a valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when the valuation complies with the minimum standard provided in this section.

(2) The provisions set forth in subsections 14 and 15 shall apply to all policies or contracts issued on or after the operative date of the valuation manual.

3. *Actuarial opinion of reserves.*

a. Actuarial opinion of reserves prior to operative date of valuation manual. This paragraph "*a*" applies to an actuarial opinion of reserves submitted prior to the operative date of the valuation manual.

(1) *General.* A life insurance company doing business in this state shall annually submit the written opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by regulation are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts, and are in compliance with applicable laws of this state. The commissioner shall define by rule the requirements and content of this opinion and add any other items deemed to be necessary.

(2) *Actuarial analysis of reserves and assets supporting such reserves.*

(a) Unless exempted by rule, a life insurance company shall also annually include in the opinion required by subparagraph (1), an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of policies and contracts specified by the commissioner by rule, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.

(b) The commissioner may provide by rule for a transition period for establishing any higher reserves which the qualified actuary may deem necessary in order to render the opinion required by this paragraph "*a*".

(3) *Requirements for opinions subject to subparagraph (2).* An opinion required by subparagraph (2) shall be governed by the following provisions:

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(a) A memorandum, in form and substance acceptable to the commissioner as specified by rule, shall be prepared to support each actuarial opinion.

(b) If the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified by rule or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the rules or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare such supporting memorandum as is required by the commissioner.

(4) *Requirement for all opinions subject to this paragraph.* An opinion required under this paragraph "*a*" is governed by the following provisions:

(a) The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after December 31, 1995.

(b) The opinion shall apply to all business in force, including individual and group health insurance plans, in form and substance acceptable to the commissioner as specified by rule.

(c) The opinion shall be based on standards adopted from time to time by the actuarial standards board and on such additional standards as the commissioner may by rule prescribe.

(d) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(e) For the purposes of this paragraph "*a*", "*qualified actuary*" means a member in good standing of the American academy of actuaries who meets the requirements of the commissioner as specified by rule.

(f) Except in cases of fraud or willful misconduct, a qualified actuary is not liable for damages to any person, other than to the insurance company and the commissioner, for any act, error, omission, decision, or conduct with respect to the actuary's opinion.

(g) Disciplinary action which may be taken by the commissioner against the company or the qualified actuary shall be defined in rules adopted by the commissioner.

(h) (i) Any memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection with the opinion, shall be kept confidential by the commissioner and shall not be made public and shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this paragraph "*a*" or by rules adopted pursuant to this paragraph "*a*". Notwithstanding this subparagraph division, the memorandum or other material may be released by the commissioner if either of the following applies:

(A) The commissioner receives the written consent of the company with which the opinion is associated.

(B) The American academy of actuaries requests that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material.

(ii) Once any portion of the confidential memorandum is cited by the company in its marketing, is cited before any governmental agency other than a state insurance department, or is released by the company to the news media, all portions of the confidential memorandum are no longer confidential.

b. Actuarial opinion of reserves on or after operative date of valuation manual. This paragraph "*b*" applies to an actuarial opinion of reserves submitted on or after the operative date of the valuation manual.

(1) *General.* Every company with outstanding life insurance policies or contracts, accident and health insurance policies or contracts, or deposit-type policies or contracts in this state and subject to regulation by the commissioner shall annually submit the opinion of the appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and comply

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with applicable laws of this state. The valuation manual shall prescribe the specifics of this opinion including any items deemed to be necessary to its scope.

(2) *Actuarial analysis of reserves and assets supporting reserves.* Every company with outstanding life insurance policies or contracts, accident and health insurance policies or contracts, or deposit-type policies or contracts in this state and subject to regulation by the commissioner, except as exempted in the valuation manual, shall annually include in the opinion required by subparagraph (1), an opinion of the same appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.

(3) *Requirements for opinions subject to subparagraph (2).* An opinion required by subparagraph (2) shall be governed by the following provisions:

(a) A memorandum, in form and substance as specified in the valuation manual, and that is acceptable to the commissioner, shall be prepared to support each actuarial opinion.

(b) If the company fails to provide a supporting memorandum at the request of the commissioner within a period specified in the valuation manual or the commissioner determines that the supporting memorandum provided by the company fails to meet the standards prescribed by the valuation manual or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting memorandum required by the commissioner.

(4) *Requirements for all opinions subject to this paragraph.* Every opinion subject to this paragraph *"b"* shall be governed by the following provisions:

(a) The opinion shall be in form and substance as specified in the valuation manual and acceptable to the commissioner.

(b) The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after the operative date of the valuation manual.

(c) The opinion shall apply to all policies and contracts subject to subparagraph (2) plus other actuarial liabilities as may be specified in the valuation manual.

(d) The opinion shall be based on standards adopted from time to time by the actuarial standards board or its successor, and on such additional standards as may be prescribed in the valuation manual.

(e) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(f) Except in cases of fraud or willful misconduct, the appointed actuary shall not be liable for damages to any person, other than the company and the commissioner, for any act, error, omission, decision, or conduct with respect to the appointed actuary's opinion.

(g) Disciplinary action by the commissioner against the company or the appointed actuary shall be defined in rules adopted by the commissioner pursuant to chapter 17A.

4. *Computations of minimum standards.* Except as otherwise provided in subsections 5, 6, and 13, the minimum standard for the valuation of all such policies and contracts issued prior to July 1, 1994, shall be that provided by the laws in effect immediately prior to such date. Except as otherwise provided in subsections 5, 6, and 13, the minimum standard for the valuation of all such policies and contracts shall be the commissioner's reserve valuation methods defined in subsections 7, 8, 11, and 12, five percent interest for group annuity and pure endowment contracts and three and one-half percent interest for all other policies and contracts, or in the case of policies and contracts, other than annuity and pure endowment contracts, issued on or after July 1, 1974, four percent interest for such policies issued prior to January 1, 1980, five and one-half percent interest for single premium life insurance policies

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and four and one-half percent interest for all other such policies issued on and after January 1, 1980, and the following tables:

a. For ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in the policies, the following:

(1) The commissioners 1941 standard ordinary mortality table for policies issued prior to the operative date of section 508.37, subsection 6, paragraph *"a"*.

(2) The commissioners 1958 standard ordinary mortality table for such policies issued on or after the operative date of section 508.37, subsection 6, paragraph *"a"*, and prior to the operative date of section 508.37, subsection 6, paragraph *"c"*, provided that for any category of policies issued on female risks, all modified net premiums and present values referred to in this section may be calculated according to an age not more than six years younger than the actual age of the insured.

(3) For policies issued on or after the operative date of section 508.37, subsection 6, paragraph *"c"*, any of the following:

(a) The commissioners 1980 standard ordinary mortality table.

(b) At the election of the company for any one or more specified plans of life insurance, the commissioners 1980 standard ordinary mortality table with ten-year select mortality factors.

(c) Any ordinary mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for such policies.

b. For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in the policies, the following:

(1) For policies issued prior to the operative date of section 508.37, subsection 6, paragraph *"b"*, the 1941 standard industrial mortality table.

(2) For policies issued on or after the operative date of section 508.37, subsection 6, paragraph *"b"*, the commissioners 1961 standard industrial mortality table, or any industrial mortality table adopted after 1980 by the national association of insurance commissioners, that is approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for such policies.

c. For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the 1937 standard annuity mortality table or, at the option of the company, the annuity mortality table for 1949, ultimate, or any modification of either of these tables approved by the commissioner.

d. For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the group annuity mortality table for 1951, or a modification of the table approved by the commissioner, or at the option of the company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

e. (1) For total and permanent disability benefits in or supplementary to ordinary policies or contracts, the following:

(a) For policies or contracts issued on or after January 1, 1966, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the society of actuaries, with due regard to the type of benefit, or any tables of disablement rates and termination rates adopted after 1980 by the national association of insurance commissioners and approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for such policies.

(b) For policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either of the tables identified under subparagraph division (a), or at the option of the company, the class (3) disability table (1926).

(c) For policies issued prior to January 1, 1961, the class (3) disability table (1926).

(2) A table used under this paragraph *"e"* shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

f. (1) For accidental death benefits in or supplementary to policies, the following:

(a) For policies issued on or after January 1, 1966, the 1959 accidental death benefits table, or any accidental death benefits table adopted after 1980 by the national association

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of insurance commissioners and approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for such policies.

(b) For policies issued on or after January 1, 1961, and prior to January 1, 1966, either of the tables identified under subparagraph division (a), or at the option of the company, the intercompany double indemnity mortality table.

(c) For policies issued prior to January 1, 1961, the intercompany double indemnity mortality table.

(2) A table used under this paragraph *"f"* shall be combined with a mortality table for calculating the reserves for life insurance policies.

g. For group life insurance, life insurance issued on the substandard basis, and other special benefits, tables approved by the commissioner.

5. *Computation for minimum standards for annuities.*

a. Except as provided in subsection 6, the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this subsection, and for all annuities and pure endowments purchased on or after the operative date of this subsection under group annuity and pure endowment contracts, shall be the commissioner's reserve valuation methods defined in subsections 7 and 8, and the following tables and interest rates:

(1) For individual annuity and pure endowment contracts issued prior to January 1, 1980, excluding any disability and accidental death benefits in such contracts, both of the following:

(a) The 1971 individual annuity mortality table, or any modification of this table approved by the commissioner.

(b) Six percent interest for single premium immediate annuity contracts, and four percent interest for all other individual annuity and pure endowment contracts.

(2) For individual single premium immediate annuity contracts issued on or after January 1, 1980, excluding any disability and accidental death benefits in such contracts, both of the following:

(a) One of the following tables:

(i) The 1971 individual annuity mortality table.

(ii) An individual annuity mortality table, adopted after 1980 by the national association of insurance commissioners and approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for such contracts.

(iii) A modification of the tables identified in subparagraph subdivisions (i) and (ii) approved by the commissioner.

(b) Seven and one-half percent interest.

(3) For individual annuity and pure endowment contracts issued on or after January 1, 1980, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts, both of the following:

(a) One of the following tables:

(i) The 1971 individual annuity mortality table.

(ii) An individual annuity mortality table adopted after 1980 by the national association of insurance commissioners and approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for such contracts.

(iii) A modification of the tables identified in subparagraph subdivisions (i) and (ii) approved by the commissioner.

(b) Five and one-half percent interest for single premium deferred annuity and pure endowment contracts and four and one-half percent interest for all other such individual annuity and pure endowment contracts.

(4) For all annuities and pure endowments purchased prior to January 1, 1980, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, both of the following:

(a) The 1971 group annuity mortality table or any modification of this table approved by the commissioner.

(b) Six percent interest.

(5) For all annuities and pure endowments purchased on or after January 1, 1980, under

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group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, both of the following:

(a) One of the following tables:

(i) The 1971 group annuity mortality table.

(ii) A group annuity mortality table adopted after 1980 by the national association of insurance commissioners and approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for such annuities and pure endowments.

(iii) A modification of the tables identified in subparagraph subdivisions (i) and (ii) approved by the commissioner.

(b) Seven and one-half percent interest.

b. After July 1, 1973, a company may file with the commissioner a written notice of its election to comply with the provisions of this subsection after a specified date before January 1, 1979, which shall be the operative date of this section for such company, provided, if a company makes no election, the effective date of this section for a company is January 1, 1979.

6. *Computation of minimum standard by calendar year of issue.*

a. Applicability of this subsection. The calendar year statutory valuation interest rates, as defined in this subsection, shall be used in determining the minimum standard for the valuation of all of the following:

(1) All life insurance policies issued in a particular calendar year, on or after the operative date of section 508.37, subsection 6, paragraph *"c"*.

(2) All individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1995.

(3) All annuities and pure endowments purchased in a particular calendar year on or after January 1, 1995, under group annuity and pure endowment contracts.

(4) The net increase, if any, in a particular calendar year on or after January 1, 1995, in amounts held under guaranteed interest contracts.

b. Calendar year statutory valuation interest rates.

(1) The calendar year statutory valuation interest rates, referred to in this paragraph as "I", shall be determined as follows and the results rounded to the nearer one-quarter of one percent:

(a) For life insurance,

$$I \text{ equals } .03 + W(R1 - .03) + (W/2) \times (R2 - .09),$$

where R1 is the lesser of R and .09, R2 is the greater of R and .09, R is the reference interest rate defined in paragraph *"d"* of this subsection, and W is the weighting factor defined in paragraph *"c"* of this subsection.

(b) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options,

$$I \text{ equals } .03 + W(R - .03),$$

where R1 is the lesser of R and .09, R2 is the greater of R and .09, R is the reference interest rate defined in paragraph *"d"* of this subsection, and W is the weighting factor defined in paragraph *"c"* of this subsection.

(c) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue-year basis, except as stated in subparagraph division (b), the formula for life insurance stated in subparagraph division (a) applies to annuities and guaranteed interest contracts with guarantee durations in excess of ten years, and the formula for single premium immediate annuities stated in subparagraph division (b) applies to annuities and guaranteed interest contracts with guarantee durations of ten years or less.

(d) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in subparagraph division (b) applies.

(e) For other annuities with cash settlement options and guaranteed interest contracts

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with cash settlement options, valued on a change-in-fund basis, the formula for single premium immediate annuities stated in subparagraph division (b) applies.

(2) However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined under subparagraph (1), subparagraph division (a), without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of one percent, the calendar year statutory valuation interest rate for the life insurance policies is equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980, using the reference interest rate defined in 1979, and shall be determined for each subsequent calendar year regardless of the operative date of section 508.37, subsection 6, paragraph *"c"*.

c. Weighting factors.

(1) The weighting factors referred to in paragraph *"b"* are given in the following tables:

(a) (i) Weighting Factors for Life Insurance:

Guarantee Duration (Years)	Weighting Factors
10 or less	.50
More than 10, but not more than 20	.45
More than 20	.35

(ii) For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy.

(b) The weighting factors for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options is .80.

(c) Weighting factors for other annuities and for guaranteed interest contracts, except as stated in subparagraph division (b), shall be as specified in subparagraph subdivisions (i), (ii), and (iii) of this subparagraph division, according to the rules and definitions in subparagraph subdivisions (iv), (v), and (vi) of this subparagraph division:

(i) For annuities and guaranteed interest contracts valued on an issue-year basis:

	Weighting Factor for Plan Type		
Guarantee Duration (Years)	A	B	C
5 or less	.80	.60	.50
More than 5, but not more than 10	.75	.60	.50
More than 10, but not more than 20	.65	.50	.45
More than 20	.45	.35	.35

(ii) For annuities and guaranteed interest contracts valued on a change-in-fund basis, the factors shown in subparagraph subdivision (i) of this subparagraph division increased by:

Plan Type		
A	B	C
.15	.25	.05

(iii) For annuities and guaranteed interest contracts valued on an issue-year basis, other than those with no cash settlement options, which do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change-in-fund basis which do not guarantee interest rates on considerations received more than twelve months beyond the valuation

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date, the factors shown in subparagraph subdivision (i) of this subparagraph division or derived in subparagraph subdivision (ii) of this subparagraph division increased by:

Plan Type		
A	B	C
.05	.05	.05

(iv) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee durations in excess of twenty years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

(v) *"Plan type"*, as used in subparagraph subdivisions (i), (ii), and (iii) of this subparagraph division, is defined as follows:

(A) *"Plan Type A"*: At any time, the policyholder may withdraw funds only with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or may withdraw funds without that adjustment but in installments over five years or more, or may withdraw funds as in immediate life annuity; or no withdrawal is permitted.

(B) *"Plan Type B"*: Before expiration of the interest rate guarantee, the policyholder may withdraw funds only with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or may withdraw funds without that adjustment but in installments over five years or more; or no withdrawal is permitted. At the end of interest rate guarantee, funds may be withdrawn without adjustment in a single sum or installments over less than five years.

(C) *"Plan Type C"*: The policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than five years either without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

(vi) A company may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue-year basis or on a change-in-fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue-year basis. As used in this section, an issue-year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and the change-in-fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

d. Reference interest rate. The reference interest rate referred to in paragraph *"b"* is defined as follows:

(1) For all life insurance, the lesser of the average over a period of thirty-six months and the average over a period of twelve months, ending on June 30 of the calendar year next preceding the year of issue, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's investors service, inc.

(2) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of twelve months, ending on June 30 of the calendar year of issue or year of purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's investors service, inc.

(3) For other annuities with cash settlement options and guaranteed interest contracts

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with cash settlement options, valued on an issue-year basis, except as stated in subparagraph (2), with guarantee duration in excess of ten years, the lesser of the average over a period of thirty-six months and the average over a period of twelve months, ending on June 30 of the calendar year of issue or purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's investors service, inc.

(4) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue-year basis, except as stated in subparagraph (2), with guarantee duration of ten years or less, the average over a period of twelve months, ending on June 30 of the calendar year of issue or purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's investors service, inc.

(5) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of twelve months, ending on June 30 of the calendar year of issue or purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's investors service, inc.

(6) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change-in-fund basis, except as stated in subparagraph (2), the average over a period of twelve months, ending on June 30 of the calendar year of the change in the fund, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's investors service, inc.

e. Alternative method for determining reference interest rates. In the event that the monthly average of the composite yield on seasoned corporate bonds is no longer published by Moody's investors service, inc., or in the event that the national association of insurance commissioners determines that the monthly average of the composite yield on seasoned corporate bonds as published by Moody's investors service, inc. is no longer appropriate for the determination of the reference interest rate, an alternative method for determination of the reference interest rate, which is adopted by the national association of insurance commissioners and approved by rule adopted by the commissioner, may be substituted.

7. *Reserve valuation method — life insurance and endowment benefits.*

a. Except as otherwise provided in subsections 8, 11, and 12, reserves calculated according to the commissioner's reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums, shall be the excess, if any, of the present value, at the date of valuation, of future guaranteed benefits provided for by such policies, over the present value, at the date of valuation, of any future modified net premiums for such policies. The modified net premiums for such policy is the uniform percentage of the respective contract premiums for the benefits such that the present value, at the date of issue of the policy, of all modified net premiums shall be equal to the sum of the present value, at the date of valuation, of such benefits provided for by the policy and the excess of the amount determined in subparagraph (1) over the amount determined in subparagraph (2), as follows:

(1) A net level annual premium equal to the present value at the date of issue, of the benefits provided for after the first policy year, divided by the present value at the date of issue, of an annuity of one per annum payable on the first, and each subsequent, anniversary of the policy on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the nineteen-year premium whole life plan for insurance of the same amount at an age one year more than the age of the insured at issue of the policy.

(2) A net one-year term premium for the benefits provided for in the first policy year.

b. (1) However, for a life insurance policy issued on or after January 1, 1998, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such additional premium and which provides an endowment benefit or a cash surrender value or a combination of such benefit or value in an amount greater than the additional premium, the reserve according to the commissioner's reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such

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additional premium shall be, except as otherwise provided in subsection 11, the greater of the reserve as of such policy anniversary calculated as described in paragraph *"a"* and the reserve as of such policy anniversary calculated as described in paragraph *"a"*, but with the following modifications:

(a) The value defined in paragraph *"a"* being reduced by fifteen percent of the amount of such excess first year premium.

(b) All present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date.

(c) The policy being assumed to mature on such date as an endowment.

(d) The cash surrender value provided on such date being considered as an endowment benefit.

(2) In making the above comparison the mortality and interest bases stated in subsections 5 and 6 shall be used.

c. Reserves according to the commissioner's reserve valuation method shall be calculated pursuant to a method consistent with this subsection for all of the following:

(1) Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums.

(2) Group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code.

(3) Disability and accidental death benefits in all policies and contracts.

(4) All other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts.

8. *Reserve valuation method — annuity and pure endowment benefits.*

a. This subsection applies to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code.

b. Reserves according to the commissioner's annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of such contract, that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate or rates, specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values.

9. *Minimum reserves.*

a. A company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after the operative date of section 508.37, shall not be less than the aggregate reserves calculated in accordance with the methods set forth in subsections 7, 8, 11, and 12, and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

b. A company's aggregate reserves for all policies, contracts, and benefits shall not be less than the aggregate reserves determined by the qualified actuary to be necessary to render the opinion required by subsection 3.

10. *Optional reserve calculation.*

a. Reserves for all policies and contracts issued prior to the operative date of section 508.37, may be calculated, at the option of the company, according to any standards which

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produce greater aggregate reserves for all such policies and contracts than the minimum reserves required prior to July 1, 1994.

b. Reserves for any category of policies, contracts, or benefits, as established by the commissioner, issued on or after the operative date of section 508.37, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard as provided in this section, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits as provided in this section.

c. A company which at any time adopts a standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard as provided in this section may adopt, with the approval of the commissioner, any lower standard of valuation, not to be lower than the minimum as provided in this section, provided, however, that, for purposes of this section, the holding of additional reserves previously determined by a qualified actuary to be necessary to render the opinion required by subsection 3 shall not be deemed to be the adoption of a higher standard of valuation.

11. *Reserve calculation — valuation net premium exceeding the gross premium charge.*

a. If in any contract year the gross premium charged by a company on a policy or contract is less than the valuation net premium for the policy or contract, as calculated by the method used in calculating the reserve for such policy or contract but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract is the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this section are those standards established in subsections 5 and 6.

b. However, for any life insurance policy issued on or after January 1, 1998, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value, or a combination of such benefit and value, in an amount greater than the excess premium, the provisions of paragraph *"a"* apply as if the method actually used in calculating the reserve for such policy is the method established in subsection 7, excluding paragraph *"b"* of that subsection. The minimum reserve of the policy at each policy anniversary shall be the greater of the minimum reserve calculated pursuant to subsection 7 and the minimum reserve calculated in accordance with this subsection.

12. *Reserve calculation — indeterminate premium plans.* In the case of any plan of life insurance which provides for future premium determination, the amounts of such premium which are to be determined by the insurance company based on estimates of future experience, or in the case of any plan of life insurance or annuity, the minimum reserves of which cannot be determined by the methods established in subsections 7, 8, and 11, the reserves which are held under the plan must be appropriate in relation to the benefits and the pattern of premiums for that plan, and shall be computed by a method which is consistent with this section, as determined by rules adopted by the commissioner.

13. *Minimum standards for accident and health insurance policies or contracts.* For accident and health insurance policies or contracts issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under subsection 2, paragraph *"b"*. For health, disability, and sickness and accident insurance policies or contracts issued on or after July 1, 1973, and prior to the operative date of the valuation manual, the minimum standard of valuation is the standard adopted by the commissioner by rule.

14. *Valuation manual for policies or contracts issued on or after operative date of valuation manual.*

a. For policies or contracts issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation

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required under subsection 2, paragraph "*b*", except as provided under paragraph "*e*" or "*g*" of this subsection.

b. The operative date of the valuation manual is January 1 of the first calendar year following the first July 1 as of which all of the following have occurred:

(1) The valuation manual has been adopted by the NAIC by an affirmative vote of at least forty-two members, or three-fourths of the members voting, whichever is greater.

(2) The standard valuation law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by states representing greater than seventy-five percent of the direct premiums written as reported in the following annual statements submitted for 2008:

(a) Life, accident, and health insurance annual statements.

(b) Health insurance annual statements.

(c) Fraternal benefit society annual statements.

(3) The standard valuation law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by at least forty-two of the following fifty-five jurisdictions: the fifty states of the United States, American Samoa, the American Virgin Islands, the District of Columbia, Guam, and Puerto Rico.

c. Unless a change in the valuation manual specifies a later effective date, changes to the valuation manual shall be effective on January 1 following the date when all of the following have occurred:

(1) The changes to the valuation manual have been adopted by the NAIC by an affirmative vote representing:

(a) At least three-fourths of the members of the NAIC voting, but not less than a majority of the total membership.

(b) Members of the NAIC representing jurisdictions totaling greater than seventy-five percent of the direct premiums written as reported in the following annual statements most recently available prior to the vote in subparagraph division (a):

(i) Life, accident, and health insurance annual statements.

(ii) Health insurance annual statements.

(iii) Fraternal benefit society annual statements.

d. The valuation manual shall specify all of the following:

(1) Minimum valuation standards for and definitions of the policies or contracts subject to subsection 2, paragraph "*b*". Such minimum valuation standards shall include all of the following:

(a) The commissioner's reserve valuation method for life insurance contracts, other than annuity contracts, subject to subsection 2, paragraph "*b*".

(b) The commissioner's annuity reserve valuation method for annuity contracts subject to subsection 2, paragraph "*b*".

(c) Minimum reserves for all other policies or contracts subject to subsection 2, paragraph "*b*".

(2) Which policies or contracts or types of policies or contracts are subject to the requirements of a principle-based valuation in subsection 15, paragraph "*a*", and the minimum valuation standards consistent with those requirements.

(3) For policies and contracts subject to a principle-based valuation under subsection 15, specify all of the following:

(a) Requirements for the format of reports to the commissioner under subsection 15 which shall include information necessary to determine if the valuation is appropriate and in compliance with this section.

(b) Assumptions that are prescribed for risks over which the company does not have significant control or influence.

(c) Procedures for corporate governance and oversight of the actuarial function, and a process for appropriate waiver or modification of such procedures.

(4) For policies or contracts not subject to a principle-based valuation under subsection 15, the minimum valuation standard shall do either of the following:

(a) Be consistent with the minimum standard of valuation prior to the operative date of the valuation manual.

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(b) Develop reserves that quantify the benefits and guarantees, and the funding, associated with the policies or contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring.

(5) Other requirements, including but not limited to those relating to reserve methods, models for measuring risk, generation of economic scenarios, assumptions, margins, use of company experience, risk measurement, disclosure, certifications, reports, actuarial opinions and memorandums, transition rules, and internal controls.

(6) The data and form of the data required under subsection 16, to whom the data must be submitted, and other specified requirements, including data analyses and reporting of analyses.

e. In the absence of a specific valuation requirement or if a specific valuation requirement in the valuation manual is not, in the opinion of the commissioner, in compliance with this subsection, then the company shall, with respect to such requirements, comply with minimum valuation standards prescribed by the commissioner by rule.

f. The commissioner may engage a qualified actuary, at the expense of the company, to perform an actuarial examination of the company and opine on the appropriateness of any reserve assumption or method used by the company, or to review and opine on a company's compliance with any requirements set forth in this section. The commissioner may rely upon the opinion, regarding provisions contained in this section, of a qualified actuary engaged by the commissioner of another state, district, or territory of the United States. As used in this paragraph, *"engage"* includes employment of and contracting with a qualified actuary.

g. The commissioner may require a company to change any assumption or method that in the opinion of the commissioner is necessary in order to comply with the requirements of the valuation manual or this section and the company shall adjust the reserves as required by the commissioner. The commissioner may take other disciplinary action as authorized pursuant to section 505.8.

15. *Requirements of principle-based valuation.*

a. A company shall establish reserves using a principle-based valuation that meets all of the following conditions for policies or contracts as specified in the valuation manual:

(1) Quantifies the benefits and guarantees, and the funding, associated with the policies or contracts and the risks of the policies or contracts at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring during the lifetime of the policies or contracts. For policies or contracts with a significant tail risk, the valuation reflects conditions appropriately adverse to quantify the tail risk.

(2) Incorporates assumptions, risk analysis methods, and financial models and management techniques that are consistent with, but not necessarily identical to, those utilized within the company's overall risk assessment process, while recognizing potential differences in financial reporting structures and any prescribed assumptions or methods.

(3) Incorporates assumptions that are derived in one of the following manners:

(a) The assumption is prescribed in the valuation manual.

(b) For assumptions that are not prescribed in the valuation manual, the assumptions shall meet either of the following requirements:

(i) Be established utilizing the company's available experience, to the extent that the experience is relevant and statistically credible.

(ii) To the extent that company data is not available, relevant, or statistically credible, be established utilizing other relevant, statistically credible experience.

(4) Provides margins for uncertainty including adverse deviation and estimation error, such that the greater the uncertainty the larger the margin and resulting reserve.

b. A company using a principle-based valuation for one or more policies or contracts subject to this subsection as specified in the valuation manual shall do all of the following:

(1) Establish procedures for corporate governance and oversight of the actuarial valuation function consistent with those described in the valuation manual.

(2) Provide to the commissioner and the board of directors an annual certification of the effectiveness of the company's internal controls with respect to the principle-based valuation. Such controls shall be designed to assure that all material risks inherent in the liabilities and associated assets subject to such valuation are included in the valuation, and that the

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valuation is made in accordance with the valuation manual. The certification shall be based on the internal controls in place as of the end of the preceding calendar year.

(3) Develop, and file with the commissioner upon request, a principle-based valuation report that complies with standards prescribed in the valuation manual.

c. A principle-based valuation may include a prescribed formulaic reserve component.

16. *Experience reporting for policies or contracts in force on or after operative date of valuation manual.* A company shall submit mortality, morbidity, policyholder behavior, or expense experience and other data as prescribed in the valuation manual.

17. *Confidentiality.*

a. Definition. For purposes of this subsection, "*confidential information*" means all of the following:

(1) A memorandum in support of an opinion submitted under subsection 3 and any other documents, materials, or other information, including but not limited to all working papers, and copies thereof, created, produced, obtained by, or disclosed to the commissioner or any other person in connection with the memorandum.

(2) All documents, materials, or other information, including but not limited to all working papers, and copies thereof, created, produced, obtained by, or disclosed to the commissioner or any other person in the course of an examination made under subsection 14, paragraph "*f*"; provided, however, that if an examination report or other materials prepared in connection with an examination made under chapter 507 is not held as private and confidential information under section 507.14, an examination report or other material prepared in connection with an examination made under subsection 14, paragraph "*f*", shall not be "*confidential information*" to the same extent as if such examination report or other material had been prepared under chapter 507.

(3) Any reports, documents, materials, or other information developed by a company in support of, or in connection with, an annual certification by the company under subsection 15, paragraph "*b*", subparagraph (2), evaluating the effectiveness of the company's internal controls with respect to a principle-based valuation and any other documents, materials, or other information, including but not limited to all working papers, and copies thereof, created, produced, obtained by, or disclosed to the commissioner or any other person in connection with such reports, documents, materials, or other information.

(4) Any principle-based valuation report developed under subsection 15, paragraph "*b*", subparagraph (3), and any other documents, materials, or other information, including but not limited to all working papers, and copies thereof, created, produced, obtained by, or disclosed to the commissioner or any other person in connection with such report.

(5) Any documents, materials, data, or other information submitted by a company under subsection 16, collectively known as "experience data" or "experience materials", and any other documents, materials, data, or other information, including but not limited to all working papers, and copies thereof, created or produced in connection with such experience data, in each case that includes any potentially company-identifying or personally identifiable information, that is provided to or obtained by the commissioner, together with any "experience data" or "experience materials", and any other documents, materials, data, or other information, including but not limited to all working papers, and copies thereof, created, produced, obtained by, or disclosed to the commissioner or any other person in connection with such experience data or experience materials.

b. Privilege for, and confidentiality of, confidential information.

(1) Except as provided in this subsection, a company's confidential information is confidential by law and privileged, and shall not be subject to chapter 22, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action; provided, however, that the commissioner is authorized to use the confidential information in the furtherance of any regulatory or legal action brought against the company as a part of the commissioner's official duties.

(2) Neither the commissioner nor any person who received confidential information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning any confidential information.

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(3) In order to assist in the performance of the commissioner's duties, the commissioner may share confidential information as follows:

(a) With other state, federal, or international regulatory agencies and with the NAIC and its affiliates and subsidiaries.

(b) In the case of confidential information specified in paragraph *"a"*, subparagraphs (1) and (4) only, with the actuarial board for counseling and discipline or its successor upon request stating that the confidential information is required for the purpose of professional disciplinary proceedings, and with state, federal, and international law enforcement officials.

(c) The sharing of confidential information under subparagraph division (a) or (b) requires that the recipient of the confidential information agrees, and has the legal authority to agree to maintain the confidentiality and privileged status of such documents, materials, data, and other information in the same manner and to the same extent as required for the commissioner.

(4) The commissioner may receive documents, materials, data, and other information, including otherwise confidential and privileged documents, materials, data, or information, from the NAIC and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign or domestic jurisdictions, and from the actuarial board for counseling and discipline, or its successor, and shall maintain as confidential or privileged any documents, materials, data, 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 documents, materials, data, or other information.

(5) The commissioner may enter into agreements governing the sharing and use of information consistent with this paragraph *"b"*.

(6) No waiver of any applicable privilege or claim of confidentiality in the confidential information shall occur as a result of disclosure to the commissioner under this subsection or as a result of sharing as authorized in subparagraph (3).

(7) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established in this paragraph *"b"* shall be available and enforced in any proceeding in, and in any court of, this state.

(8) For the purposes of this subsection, *"regulatory agency"*, *"law enforcement agency"*, and the *"NAIC"*, include but are not limited to their employees, agents, consultants, and contractors.

c. Sharing of confidential information. Notwithstanding paragraph *"b"*, any confidential information specified in paragraph *"b"* may be shared as follows:

(1) May be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the related memorandum in support of an opinion submitted under subsection 3 or a principle-based valuation report developed under subsection 15, paragraph *"b"*, subparagraph (3), by reason of an action required by this section or by rules promulgated under this section.

(2) May otherwise be released by the commissioner with the written consent of the company.

(3) Once any portion of a memorandum in support of an opinion submitted under subsection 3 or a principle-based valuation report developed under subsection 15, paragraph *"b"*, subparagraph (3), is cited by a company in its marketing or is publicly volunteered to or before a governmental agency other than a state insurance department or is released by the company to the news media, all portions of such memorandum or report shall no longer be confidential information.

18. *Single state exemption.*

a. The commissioner may exempt specific product forms or product lines of a domestic company that is licensed and doing business only in this state from the requirements of subsection 14 provided that all of the following have occurred:

(1) The commissioner has issued an exemption in writing to the company and has not subsequently revoked the exemption in writing.

(2) The company computes reserves using assumptions and methods used prior to the operative date of the valuation manual in addition to any requirements established by the commissioner and promulgated by rule.

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b. For any company granted an exemption under this subsection, subsections 3 through 13 shall be applicable. With respect to any company applying this exemption, any reference to subsection 14 found in subsections 3 through 13 shall not be applicable.

[C73, §1169; C97, §1774; C24, 27, 31, 35, 39, §**8654;** C46, 50, 54, 58, 62, §508.12; C66, 71, 73, 75, 77, 79, 81, §508.36; 82 Acts, ch 1072, §1, 2]

94 Acts, ch 1176, §7, 8; 95 Acts, ch 67, §36; 2009 Acts, ch 41, §148 – 156; 2012 Acts, ch 1023, §104, 157; 2013 Acts, ch 30, §121 – 123; 2014 Acts, ch 1020, §1 – 9, 15; 2014 Acts, ch 1141, §23, 24; 2021 Acts, ch 76, §124

Referred to in §508.33A, 508.37, 521B.105, 521J.101

508.37 Standard nonforfeitures — life insurance.

This section shall be known as the *"Standard Nonforfeiture Law for Life Insurance"*.

1. As used in this section, *"operative date of the valuation manual"* means the same as provided in section 508.36, subsection 14.

2. In the case of policies issued on or after the operative date of this section as defined in subsection 12, a policy of life insurance shall not, except as stated in subsection 11, be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the defaulting or surrendering policyholder as the following provisions and are essentially in compliance with subsection 10:

a. That, in the event of default in any premium payment, the company will grant, upon proper request not later than sixty days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of the due date of the premium in default, and of an amount as specified in this section. In lieu of the stipulated paid-up nonforfeiture benefit, the company may substitute, upon proper request not later than sixty days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit which provides a greater amount or longer period of death benefits or, if applicable, a greater amount or earlier payment of endowment benefits.

b. That, upon surrender of the policy within sixty days after the due date of any premium payment in default after premiums have been paid for at least three full years in the case of ordinary insurance or five full years in the case of industrial insurance, the company will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of an amount as may be specified in this section.

c. That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make an election elects another available option not later than sixty days after the due date of the premium in default.

d. That, if the policy has become paid up by completion of all premium payments or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the company will pay, upon surrender of the policy within thirty days after any policy anniversary, a cash surrender value of an amount as specified in this section.

e. In the case of policies which cause on a basis guaranteed in the policy unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, a statement of the mortality table, interest rate, and method used in calculating cash surrender values and the paid-up nonforfeiture benefits available under the policy. In the case of all other policies, a statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary, either during the first twenty policy years or during the term of the policy, whichever is shorter, the values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the company on the policy.

f. A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or

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pursuant to the insurance law of the state in which the policy is delivered; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the company on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated in the policy, a statement that the method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

3. Any of the provisions or portions of provisions set forth in subsection 2 which are not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy. The company shall reserve the right to defer the payment of any cash surrender value for a period of six months after demand with surrender of the policy.

4. *a.* Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by subsection 2, shall be an amount not less than the excess, if any, of the present value, on that anniversary, of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions, if there had been no default, over the sum of the then present value of the adjusted premiums as defined in subsections 6 and 7, corresponding to premiums which would have fallen due on and after that anniversary, plus the amount of any indebtedness to the company on the policy.

b. However, for a policy issued on or after the operative date of subsection 7 as defined in paragraph "*k*" of that subsection, which provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value referred to in paragraph "*a*" shall be an amount not less than the sum of the cash surrender value as defined in that paragraph for an otherwise similar policy issued at the same age without such rider or supplemental policy provision and the cash surrender value as defined in that paragraph for a policy which provides only the benefits otherwise provided by such rider or supplemental policy provision.

c. Provided further that for a family policy issued on or after the operative date of subsection 7 as defined in paragraph "*k*" of that subsection, which defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse's age seventy-one, the cash surrender value referred to in paragraph "*a*" shall be an amount not less than the sum of the cash surrender value as defined in paragraph "*a*" for an otherwise similar policy issued at the same age without term insurance on the life of the spouse and the cash surrender value as defined in paragraph "*a*" for a policy which provides only the benefits otherwise provided by the term insurance on the life of the spouse.

d. Any cash surrender value available within thirty days after any policy anniversary under any policy paid up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefit, whether or not required by subsection 2, shall be an amount not less than the present value, on the anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the company on the policy.

5. Any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due on any policy anniversary shall be such that its present value as of that anniversary shall be at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the condition that premiums shall have been paid for at least a specified period.

6. *a.* (1) This subsection does not apply to policies issued on or after the operative date of subsection 7 as defined in paragraph "*k*" of that subsection. Except as provided in paragraph "*c*", the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding any extra premiums charged because of impairments or special hazards, that

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the present value, at the date of issue of the policy, of all such adjusted premiums is equal to the sum of the following:

(a) The then present value of the future guaranteed benefits provided for by the policy.

(b) Two percent of the amount of the insurance, if the insurance is uniform in amount, or of the equivalent uniform amount, as defined in paragraph *"b"*, if the amount of insurance varies with duration of the policy.

(c) Forty percent of the adjusted premium for the first policy year.

(d) Twenty-five percent of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less.

(2) However, in applying the percentages specified in subparagraph (1), subparagraph divisions (c) and (d), no adjusted premium shall be deemed to exceed four percent of the amount of insurance or an equivalent uniform amount. The date of issue of a policy for the purpose of this subsection is the date as of which the rated age of the insured is determined.

b. In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount for the purpose of this subsection shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy, provided that in the case of a policy providing a varying amount of insurance issued on the life of a child under age ten, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten were the amount provided by the policy at age ten.

c. The adjusted premiums for a policy providing term insurance benefits by rider or supplemental policy provision shall be equal to (1) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased during the period for which premiums for such term insurance benefits are payable, by (2) the adjusted premiums for such term insurance, the foregoing items (1) and (2) being calculated separately and as specified in paragraphs *"a"* and *"b"* of this subsection except that, for the purposes of paragraph *"a"*, subparagraph (1), subparagraph divisions (b), (c), and (d), the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in item (2) in this paragraph shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in item (1) in this paragraph.

d. (1) All adjusted premiums and present values referred to in this section shall for policies of ordinary insurance be calculated on the basis of the commissioners 1958 standard ordinary mortality table, provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than six years younger than the actual age of the insured. The calculations for all policies of industrial insurance issued before January 1, 1968, shall be made on the basis of the 1941 standard industrial mortality table, except that a company may file with the commissioner a written notice of its election that the adjusted premiums and present values shall be calculated on the basis of the commissioners 1961 standard industrial mortality table, after a specified date before January 1, 1968. Whether or not any election has been made, the commissioners 1961 standard industrial mortality table shall be the basis for these calculations as to all policies of industrial insurance issued on or after January 1, 1968. All calculations shall be made on the basis of the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that the rate of interest shall not exceed three and one-half percent per annum, except that a rate of interest not exceeding four percent per annum may be used for policies issued on or after July 1, 1974, and prior to January 1, 1980, and a rate of interest not exceeding five and one-half percent per annum may be used for policies issued on or after January 1, 1980.

(2) However, in calculating the present value under subparagraph (1) of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit,

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the rates of mortality assumed in the case of policies of ordinary insurance, may be not more than those shown in the commissioners 1958 extended term insurance table, and in the case of policies of industrial insurance, may be not more than one hundred thirty percent of the rates of mortality according to the 1941 standard industrial mortality table, except that when the commissioners 1961 standard industrial mortality table becomes applicable as specified in this paragraph, the rates of mortality assumed may be not more than those shown in the commissioners 1961 industrial extended term insurance table. In addition, for insurance issued on a substandard basis, the calculation under subparagraph (1) of adjusted premiums and present values may be based on any other table of mortality that is specified by the company and approved by the commissioner.

7. *a.* (1) This subsection applies to all policies issued on or after the operative date of this subsection, as defined in paragraph *"k"*. Except as provided in paragraph *"g"*, the adjusted premiums for a policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums is equal to the sum of the following:

(a) The then present value of the future guaranteed benefits provided for by the policy.

(b) One percent of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years.

(c) One hundred twenty-five percent of the nonforfeiture net level premium, as defined in paragraph *"b"*. However, in applying this percentage a nonforfeiture net level premium shall not be deemed to exceed four percent of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years.

(2) The date of issue of a policy for the purpose of this subsection is the date as of which the rated age of the insured is determined.

b. The nonforfeiture net level premium shall be equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one per annum payable on the date of issue of the policy and on each anniversary of the policy on which a premium falls due.

c. In the case of policies which on a basis guaranteed in the policy cause unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of a change in the benefits or premiums, the future adjusted premiums, nonforfeiture net level premiums, and present values shall be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

d. Except as otherwise provided in paragraph *"g"*, the recalculated future adjusted premiums for a policy shall be such uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums, of all future adjusted premiums is equal to the excess of the sum of the then present value of the then future guaranteed benefits provided for by the policy plus the additional expense allowance, if any, over the then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.

e. The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of one percent of the excess, if positive, of the average amount of insurance at the beginning of each of the first ten policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of

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each of the first ten policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy, plus one hundred twenty-five percent of the increase, if positive, in the nonforfeiture net level premium.

f. The recalculated nonforfeiture net level premium shall be equal to the result obtained by dividing the amount described in subparagraph (1) by the amount described in subparagraph (2), where subparagraph (1) and subparagraph (2) are as follows:

(1) The sum of the nonforfeiture net level premium applicable prior to the change times the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred, plus the present value of the increase in future guaranteed benefits provided for by the policy.

(2) The present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.

g. Notwithstanding any contrary provision of this subsection, in the case of a policy issued on a substandard basis which provides reduced graded amounts of insurance so that, in each policy year, the policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis which provides higher uniform amounts of insurance, adjusted premiums and present values for the substandard policy may be calculated as if it were issued to provide those higher uniform amounts of insurance on the standard basis.

h. Adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of either the commissioners 1980 standard ordinary mortality table or, at the election of the company for any one or more specified plans of life insurance, the commissioners 1980 standard ordinary mortality table with ten-year select mortality factors; shall for all policies of industrial insurance be calculated on the basis of the commissioners 1961 standard industrial mortality table; and shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in paragraph "*i*" for policies issued in that calendar year. However:

(1) At the option of the company, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in paragraph "*i*", for policies issued in the immediately preceding calendar year.

(2) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by subsection 2, shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of the paid-up nonforfeiture benefit and paid-up dividend additions, if any.

(3) A company may calculate the amount of any guaranteed paid-up nonforfeiture benefit including any paid-up additions under the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.

(4) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners 1980 extended term insurance table for policies of ordinary insurance and not more than the commissioners 1961 industrial extended term insurance table for policies of industrial insurance.

(5) For insurance issued on a substandard basis, the calculation of adjusted premiums and present values may be based on appropriate modifications of the tables referred to in this paragraph.

(6) For policies issued prior to the operative date of the valuation manual, any commissioners standard ordinary mortality tables adopted after 1980 by the national association of insurance commissioners and approved by rule adopted by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the commissioners 1980 standard ordinary mortality table with or without ten-year select mortality factors or for the commissioners 1980 extended term insurance table.

(7) For policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the commissioners standard mortality table for use in determining the minimum forfeiture standard that may be substituted for the commissioners 1980

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standard ordinary mortality table with or without ten-year select mortality factors or for the commissioners 1980 extended term insurance table. If the commissioner approves by rule the commissioners standard ordinary mortality table adopted by the national association of insurance commissioners for use in determining the minimum nonforfeiture standard for policies or contracts issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

(8) Any industrial mortality tables adopted after 1980 by the national association of insurance commissioners and approved by rule adopted by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the commissioners 1961 standard industrial mortality table or the commissioners 1961 industrial extended term insurance table.

(9) For policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the commissioners standard ordinary mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the commissioners 1961 standard industrial mortality table or the commissioners 1961 industrial extended term insurance table. If the commissioner approves by rule any commissioners standard industrial mortality table adopted by the national association of insurance commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

i. The nonforfeiture interest rate is defined as follows:

(1) For policies issued prior to the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to one hundred twenty-five percent of the calendar year statutory valuation interest rate for the policy as defined in section 508.36, rounded to the nearest one quarter of one percent, provided, however, that the nonforfeiture interest rate shall not be less than four percent.

(2) For policies issued on or after the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be provided by the valuation manual.

j. Notwithstanding any contrary provision of the insurance laws of this state, any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values shall not require refiling of any other provisions of that policy form.

k. After the effective date of this subsection, a company may file with the commissioner a written notice of its election to comply with this subsection after a specified date before January 1, 1989, which shall be the operative date of this subsection for that company. If a company makes no election, the operative date of this subsection for the company is January 1, 1989.

8. In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance which is of such a nature that minimum values cannot be determined by the methods described in subsection 2, 3, 4, 5, 6, or 7, then all of the following conditions must be met:

a. The commissioner must be satisfied that the benefits provided under the plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by subsection 2, 3, 4, 5, 6, or 7.

b. The commissioner must be satisfied that the benefits and the pattern of premiums of that plan are not misleading to prospective policyholders or insureds.

c. The cash surrender values and paid-up nonforfeiture benefits provided by the plan must not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of this section, as determined by rules adopted by the commissioner.

9. Any cash surrender value and any paid-up nonforfeiture benefit, available under the

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policy in the event of default in a premium payment due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subsections 4, 5, 6, and 7 may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the amounts used to provide the additions. Notwithstanding subsection 4, additional benefits payable in the event of death or dismemberment by accident or accidental means, or in the event of total and permanent disability, or as reversionary annuity or deferred reversionary annuity benefits, or as term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply, or as term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if the term insurance expires before the child's age is twenty-six, is uniform in amount after the child's age is one, and has not become paid up by reason of the death of a parent of the child, or as other policy benefits additional to life insurance and endowment benefits, and the premiums for all of these additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and none of these additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

10. *a.* This subsection, in addition to all other applicable subsections of this section, applies to all policies issued on or after January 1, 1985. Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary shall be in an amount which does not differ by more than two-tenths of one percent of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years, from the sum of the greater of zero and the basic cash value specified in paragraph "*b*" plus the present value of any existing paid-up additions less the amount of any indebtedness to the company under the policy.

b. The basic cash value shall be equal to the present value, on the anniversary, of the future guaranteed benefits which would have been provided for by the policy, excluding any existing paid-up additions and before deduction of any indebtedness to the company, if there had been no default, less the then present value of the nonforfeiture factors, as defined in paragraph "*c*", corresponding to premiums which would have fallen due on and after the anniversary. However, the effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in subsection 4 or 6, whichever is applicable, shall be the same as the effects specified in subsection 4 or 6, whichever is applicable, on the cash surrender values defined in that subsection.

c. (1) The nonforfeiture factor for each policy year shall be an amount equal to a percentage of the adjusted premium for the policy year, as defined in subsection 6 or 7, whichever is applicable. Except as is required by subparagraph (2) of this paragraph, this percentage must satisfy both of the following requirements:

(a) It must be the same percentage for each policy year between the second policy anniversary and the later of the fifth policy anniversary or the first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid-up additions and before deducting any indebtedness, of at least two-tenths of one percent of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years.

(b) It must be such that no percentage after the later of the two policy anniversaries specified in division (a) of this subparagraph may apply to fewer than five consecutive policy years.

(2) A basic cash value shall not be less than the value which would be obtained if the adjusted premiums for the policy, as defined in subsection 6 or 7, whichever is applicable, were substituted for the nonforfeiture factors in the calculation of the basic cash value.

d. Adjusted premiums and present values referred to in this subsection shall for a particular policy be calculated on the same mortality and interest bases as are used in demonstrating the policy's compliance with the other subsections of this section. The

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cash surrender values referred to in this subsection shall include any endowment benefits provided for by the policy.

e. Any cash surrender value available other than in the event of default in a premium payment due on a policy anniversary, and the amount of any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment, shall be determined in manners consistent with the manners specified for determining the analogous minimum amounts in subsections 2, 3, 4, 5, 7, and 9. The amounts of any cash surrender values and of any paid-up nonforfeiture benefits granted in connection with additional benefits such as those described in subsection 8 shall conform with the principles of this subsection.

11. *a.* This section does not apply to any of the following:

(1) Reinsurance.

(2) Group insurance.

(3) Pure endowment contracts.

(4) Annuity or reversionary annuity contracts.

(5) A term policy of uniform amount which provides no guaranteed nonforfeiture or endowment benefits, or a renewal thereof of twenty years or less expiring before age seventy-one, for which uniform premiums are payable during the entire term of the policy.

(6) A term policy of decreasing amount, which provides no guaranteed nonforfeiture or endowment benefits, on which each adjusted premium, calculated as specified in subsections 6 and 7, is less than the adjusted premium so calculated, on a term policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial amount of insurance and for a term of twenty years or less expiring before age seventy-one, for which uniform premiums are payable during the entire term of the policy.

(7) A policy, which provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit, at the beginning of any policy year, calculated as specified in subsections 4, 5, 6, and 7, exceeds two and one-half percent of the amount of insurance at the beginning of the same policy year.

(8) A policy delivered outside this state through an agent or other representative of the company issuing the policy.

b. For purposes of determining the applicability of this section, the age at expiry for a joint term life insurance policy shall be the age at expiry of the oldest life.

12. After July 4, 1963, a company may file with the commissioner a written notice of its election to comply with this section after a specified date before January 1, 1966. The date specified by the company in the notice shall be the operative date of this section for the company, and this section shall apply to policies issued after that date by the company. If a company makes no election, the operative date of this section for the company is January 1, 1966.

[C66, 71, 73, 75, 77, 79, 81, §508.37; 82 Acts, ch 1072, §3 – 7]

2012 Acts, ch 1023, §105, 157; 2012 Acts, ch 1138, §72; 2014 Acts, ch 1020, §10 – 15; 2014 Acts, ch 1141, §25; 2016 Acts, ch 1011, §89 – 91; 2017 Acts, ch 29, §144

Referred to in §508.36, 508A.5

508.38 Standard nonforfeitures — deferred annuities.

This section shall be known as the *"Standard Nonforfeiture Law for Individual Deferred Annuities"*.

1. *a.* This section shall not apply to any reinsurance, group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the United States Internal Revenue Code, as amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which is delivered outside this state through an agent or other representative of the company issuing the contract.

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b. Subsections 2 through 7 shall not apply to contingent deferred annuities, except that the commissioner may prescribe by rules adopted pursuant to chapter 17A nonforfeiture benefits for contingent deferred annuities that the commissioner deems equitable to policyholders, appropriate for the risks insured, and, to the extent possible, consistent with the general intent of this section.

2. *a.* In the case of contracts issued on or after the operative date of this section as defined in subsection 11, no contract of annuity, except as stated in subsection 1, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions that in the opinion of the commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract:

(1) That upon cessation of payment of considerations under a contract or upon the written request of the contract owner, the company shall grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections 4, 5, 6, 7, and 9.

(2) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company shall pay in lieu of a paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections 4, 5, 7, and 9. The company may reserve the right to defer the payment of such cash surrender benefit for a period not to exceed six months after demand therefore with surrender of the contract after making written request and receiving written approval of the commissioner. The request shall address the necessity and equitability to all policyholders of the deferral.

(3) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits.

(4) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract.

b. Notwithstanding the requirements of this subsection 2, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than twenty dollars monthly, the company may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

3. The minimum values as specified in subsections 4, 5, 6, 7, and 9 of any paid-up annuity, cash surrender, or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

a. (1) The minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at rates of interest as indicated in paragraph *"b"* of the net considerations, as hereinafter defined, paid prior to such time, decreased by the sum of all of the following:

(a) Any prior withdrawals from or partial surrenders of the contract accumulated at rates of interest as indicated in paragraph *"b"*.

(b) An annual contract charge of fifty dollars, accumulated at rates of interest as indicated in paragraph *"b"*.

(c) The amount of any indebtedness to the company on the contract, including interest due and accrued.

(2) The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount equal to eighty-seven and one-half percent of the gross considerations credited to the contract during the contract year.

b. (1) The interest rate used in determining minimum nonforfeiture amounts shall be an

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annual rate of interest determined as the lesser of three percent per annum and all of the following, which shall be specified in the contract if the interest rate will be reset:

(a) The five-year constant maturity treasury rate reported by the federal reserve as of a date, or average over a period, rounded to the nearest one-twentieth of one percent, specified in the contract no longer than fifteen months prior to the contract issue date or redetermination date under subparagraph division (d).

(b) The result of subparagraph division (a) shall be reduced by one hundred twenty-five basis points.

(c) The resulting interest guarantee shall not be less than fifteen hundredths percent.

(d) The interest rate shall apply for an initial period and may be redetermined for additional periods. The redetermination date, basis, and period, if any, shall be stated in the contract. The basis is the date or average over a specified period that produces the value of the five-year constant maturity treasury rate to be used at each redetermination date.

(2) During the period or term that a contract provides substantive participation in an equity indexed benefit, it may increase the reduction described in subparagraph (1), subparagraph division (b), by up to an additional one hundred basis points to reflect the value of the equity index benefit. The present value at the contract issue date and at each redetermination date thereafter of the additional reduction shall not exceed the market value of the benefit. The commissioner may require a demonstration that the present value of the reduction does not exceed the market value of the benefit. Lacking such a demonstration that is acceptable to the commissioner, the commissioner may disallow or limit the additional reduction.

(3) The commissioner may adopt rules to implement the provisions of subparagraph (1), subparagraph division (d), and to provide for further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive participation in an equity index benefit and for other contracts that the commissioner determines adjustments are justified.

4. Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and the interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

5. For contracts which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate not more than one percent higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

6. For contracts which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited by the company to the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, such present values shall be calculated on the basis of such interest rate and the mortality table specified in the contract for determining

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the maturity value of the paid-up annuity benefit. However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

7. For the purpose of determining the benefits calculated under subsections 5 and 6, in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

8. Any contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

9. Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

10. *a.* For any contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subsections 4, 5, 6, 7, and 9, additional benefits shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this section, if the additional benefits are payable:

(1) In the event of total and permanent disability.

(2) As reversionary annuity or deferred reversionary annuity benefits.

(3) As other policy benefits additional to life insurance, endowment, and annuity benefits, and considerations for all such additional benefits.

b. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

11. After July 1, 2003, a company may elect either to apply the provisions of this section as it existed prior to July 1, 2003, or to apply the provisions of this section as amended by 2003 Iowa Acts, ch. 91, §8 – 10, to annuity contracts on a contract form-by-form basis before July 1, 2005. In all other instances, this section shall become operative with respect to annuity contracts issued by the company two years after July 1, 2003.

[C81, §508.38]

2002 Acts, ch 1111, §10; 2003 Acts, ch 91, §8 – 10; 2004 Acts, ch 1086, §103, 107; 2004 Acts, ch 1101, §70; 2012 Acts, ch 1023, §106, 157; 2013 Acts, ch 90, §151; 2014 Acts, ch 1026, §143; 2015 Acts, ch 29, §71; 2016 Acts, ch 1011, §92; 2021 Acts, ch 181, §5; 2026 Acts, ch 1011, §1

Subsection 1 amended

508.39 Dividends.

The directors or managers of a stock company, incorporated under the laws of this state, shall make no dividends except from the earned profits arising from their business, which shall not include contributed capital or contributed surplus.

88 Acts, ch 1112, §603

508.40 through 508.100 Reserved.

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SUBCHAPTER II

FINANCIAL EXPLOITATION OF ELIGIBLE ADULTS

508.101 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Disbursement"* means an attempt to withdraw money or access a benefit from a life insurance policy, an annuity, or any other policy, contract, or account, irrespective of whether the request is classified as a surrender, loan, withdrawal, partial withdrawal, accelerated benefit, or otherwise.

2. *"Eligible adult"* means the same as defined in section 502.801.

3. *"Financial exploitation"* means the same as defined in section 502.801.

4. *"Permissible third party"* means any of the following:

a. An individual the eligible adult previously designated who may be contacted about the eligible adult's policy, contract, or account.

b. A person otherwise permitted pursuant to any state or federal law or rule to receive the notification described in section 508.103.

5. *"Qualified individual"* means any of the following:

a. An insurance producer who has completed at least two hours of continuing education focused on how to identify suspected or attempted exploitation of an eligible adult, including common signs indicating the financial exploitation of an eligible adult, and how to provide notification regarding the suspected or attempted exploitation of an eligible adult.

b. An individual who has completed training pursuant to section 508.105.

2026 Acts, ch 1017, §4
NEW section

508.102 Notification to commissioner.

1. If an insurer or qualified individual reasonably believes financial exploitation of an eligible adult has occurred, was attempted, or is being attempted, the insurer or qualified individual may notify the commissioner when the insurer or qualified individual makes a determination that financial exploitation may have occurred, been attempted, or is being attempted.

2. An insurer or qualified individual who, acting reasonably and in good faith, makes a disclosure of information to the commissioner pursuant to this chapter or under chapter 507E shall be immune from administrative or civil liability that might otherwise arise from such disclosure or from a failure to notify the eligible adult of the disclosure. This section shall not abrogate or modify any existing statutory or common law privileges or immunities.

2026 Acts, ch 1017, §5
NEW section

508.103 Notification to permissible third party.

1. If an insurer or qualified individual reasonably believes financial exploitation of an eligible adult has occurred, was attempted, or is being attempted, the insurer or qualified individual may notify a permissible third party. Notification to a permissible third party is not required prior to the insurer's, qualified individual's, commissioner's, or other relevant agency's review or investigation into financial exploitation.

2. An insurer or qualified individual shall not notify a permissible third party if the insurer or qualified individual reasonably suspects such permissible third party of financial exploitation or other abuse of the eligible adult.

3. An eligible adult may voluntarily provide to an insurer contact information for the eligible adult's permissible third parties. An insurer or qualified individual shall not be held administratively or civilly liable for failing to request the contact information for the eligible adult's permissible third parties. An insurer or qualified individual who, acting reasonably and in good faith, complies with this section shall be immune from administrative or civil

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liability that may arise from disclosing the eligible adult's information to a permissible third party.

2026 Acts, ch 1017, §6
Referred to in §508.101
NEW section

508.104 Disbursements or transactions — delay.

1. If an insurer or qualified individual reasonably believes a disbursement or transaction is likely to result in, or contribute to, the financial exploitation of an eligible adult, the insurer or qualified individual may initiate an internal review of the requested disbursement or transaction.

2. An insurer may delay a disbursement or transaction from an eligible adult's policy, contract, or account, or a policy, contract, or account on which an eligible adult is a beneficiary, if all of the following apply:

a. The insurer or qualified individual reasonably believes, after initiating an internal review under subsection 1, that the requested disbursement or transaction will likely result in or contribute to the financial exploitation of the eligible adult.

b. Immediately, but in no event more than seven business days after the disbursement or transaction is delayed, the insurer provides written notification of the delay and the reason for the delay to all persons authorized to transact business on the policy, contract, or account. An insurer or qualified individual shall not notify a person authorized to transact business on the policy, contract, or account if the insurer or qualified individual reasonably believes the person has committed financial exploitation, attempted financial exploitation, committed or attempted insurance fraud, or committed or attempted other abuse of the eligible adult.

c. Within seven business days after the disbursement or transaction is delayed, the insurer notifies the commissioner of the delay and provides to the commissioner the reason for the delay, including the status of the internal review initiated under subsection 1.

d. The insurer continues the internal review of the suspected or attempted financial exploitation of the eligible adult, as necessary, and provides the commissioner with updates upon request.

3. Any delay of a disbursement or transaction authorized by this section will expire upon the first to occur of any of the following:

a. A final determination by the insurer that the disbursement or transaction will not result in or contribute to financial exploitation of the eligible adult.

b. Fifteen business days after the date on which the insurer first delayed disbursement of the funds or the transaction, unless extended pursuant to paragraph "*c*".

c. Provided the internal review under subsection 2, paragraph "*d*", continues to support the insurer or qualified individual's reasonable belief that the disbursement or transaction will likely result in or contribute to the financial exploitation of an eligible adult, the insurer may extend the delay beyond the initial delay under paragraph "*b*" for no more than twenty-five business days after the date on which the insurer first delayed disbursement of the funds or the transaction, unless extended pursuant to paragraph "*d*".

d. Provided the internal review under subsection 2, paragraph "*d*", continues to support the insurer or qualified individual's reasonable belief that the disbursement or transaction will likely result in or contribute to the financial exploitation of an eligible adult, the insurer may extend the delay beyond the delay under paragraph "*c*" for no more than fifty-five business days after the date on which the insurer first delayed disbursement of the funds or transaction.

4. Notwithstanding subsection 3, upon petition of the commissioner, the insurer who initiated a delay pursuant to this section, or another interested party, a court of competent jurisdiction may enter an order terminating, extending, or modifying the delay of the disbursement or transaction and may order any other protective relief deemed necessary.

5. The commissioner may adopt rules pursuant to chapter 17A regarding the form and manner of notifications under this section.

6. An insurer or qualified individual who, acting reasonably and in good faith, complies with the requirements of this section or chapter 507E shall be immune from administrative or

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civil liability that may arise from a delay in a disbursement or transaction initiated pursuant to this section.

2026 Acts, ch 1017, §7
NEW section

508.105 Training requirements.

1. An insurer shall provide training to supervisors and employees employed by the insurer who handle or advise on complaints, possible fraud, and investigations no later than June 30, 2027. The training shall include instruction on all of the following:

a. Identifying suspected or attempted exploitation of an eligible adult, including common signs indicating financial exploitation of an eligible adult and how to provide notification regarding the suspected or attempted exploitation of an eligible adult.

b. Privacy and confidentiality requirements.

2. An insurer shall provide the training required under subsection 1 as soon as reasonably practicable after the date a supervisor or employee begins employment with or becomes affiliated or associated with the insurer, but no later than one year after that date.

3. An insurer shall not be required to provide training under this section to a qualified individual employed by the insurer.

4. The commissioner may adopt rules pursuant to chapter 17A specifying the content and method of training required under this section.

2026 Acts, ch 1017, §8
Referred to in §508.101
NEW section

508.106 Records.

An insurer shall provide access to or copies of records that are relevant to the suspected or attempted financial exploitation of an eligible adult to the commissioner and to law enforcement, either as part of a referral to the commissioner or law enforcement, or upon the request of the commissioner or law enforcement pursuant to an investigation. The records may include historical records as well as records relating to the most recent transactions and disbursement requests from the policies, contracts, or accounts that may indicate financial exploitation of an eligible adult. All records made available to the commissioner or law enforcement pursuant to this section shall be considered confidential public records under chapter 22 and shall not be available for examination by the public pursuant to section 22.2. This section shall not be construed to limit or otherwise impede the authority of the commissioner to access or examine the books and records of insurers as otherwise provided by law.

2026 Acts, ch 1017, §9
NEW section

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CHAPTER 508A

VARIABLE ANNUITIES AND LIFE INSURANCE

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 510.11, 669.14, 670.7

508A.1 Basic requirements.
508A.2 Statement of variables.
508A.3 License requirements.
508A.4 Authority of commissioner.
508A.5 Other provisions applicable.

508A.1 Basic requirements.

A domestic life insurance company organized under chapter 508 may establish one or more separate accounts, and may allocate to such accounts amounts, including without limitation proceeds applied under optional modes of settlement or under dividend options, to provide for life insurance or annuities, and benefits incidental to such life insurance or annuities,

payable in fixed or variable amounts or both, and may hold and accumulate funds pursuant to funding agreements, subject to the following:

1. The income, gains and losses, realized or unrealized, from assets allocated to a separate account shall be credited to or charged against the account, without regard to other income, gains or losses of the company.

2. Except as may be provided with respect to reserves for guaranteed benefits and funds referred to in subsection 3:

a. Amounts allocated to any separate account and accumulations thereon may be invested and reinvested without regard to any requirements or limitations prescribed by the laws of this state governing the investments of such life insurance companies; and

b. The investments in such separate account or accounts shall not be taken into account in applying the investment limitations otherwise applicable to the investments of such company.

3. Except with the approval of the commissioner of insurance and under such conditions as to investments and other matters as the commissioner may prescribe, which shall recognize the guaranteed nature of the benefits provided, reserves for benefits guaranteed as to dollar amount and duration and funds guaranteed as to principal amount or stated rate of interest shall not be maintained in a separate account.

4. Unless otherwise approved by the commissioner of insurance, assets allocated to a separate account shall be valued at their market value on the date of valuation, or if there is no readily available market, then as provided under the terms of the contract or the rules or other written agreement applicable to such separate account; however, unless otherwise approved by the commissioner of insurance, the portion, if any, of the assets of such separate account equal to the company's reserve liability with regard to the guaranteed benefits and funds referred to in subsection 3 shall be valued in accordance with the rules otherwise applicable to the company's assets.

5. Amounts allocated to a separate account in the exercise of the power granted by this chapter shall be owned by the company, and the company shall not be, nor hold itself out to be, a trustee with respect to such amounts. Unless it is provided to the contrary under the applicable contracts, that portion of the assets of any such separate account equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the company may conduct.

6. No sale, exchange or other transfer of assets may be made by such company between any of its separate accounts or between any other investment account and one or more of its separate accounts unless, in case of a transfer into a separate account, such transfer is made solely to establish the account or to support the operation of the contracts with respect to the separate account to which the transfer is made, and unless such transfer, whether into or from a separate account, is made by a transfer of cash, or by a transfer of securities having a readily determinable market value, provided that such transfer of securities is approved by the commissioner of insurance. The commissioner of insurance may approve other transfers among such accounts if, in the commissioner's opinion, such transfers would not be inequitable.

7. To the extent such company deems it necessary to comply with any applicable federal or state laws, such company, with respect to any separate account, including without limitation any separate account which is a management investment company or a unit investment trust, may provide for persons having an interest therein appropriate voting and other rights and special procedures for the conduct of the business of such account, including without limitation special rights and procedures relating to investment policy, investment advisory services, selection of independent public accountants, and the selection of a committee, the members of which need not be otherwise affiliated with such company, to manage the business of such account.

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

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contract, then claims for the unsatisfied portions of the insurer's obligations shall be class 2 claims under section 507C.42, subsection 2.

[C75, 77, 79, 81, §508A.1]

98 Acts, ch 1057, §5; 2006 Acts, ch 1117, §32

Referred to in §507C.2, 507C.42, 508.31A, 508.32, 508.32A

508A.2 Statement of variables.

Any contract providing benefits payable in variable amounts delivered or issued for delivery in this state shall contain a statement of the essential features of the procedures to be followed by the insurance company in determining the dollar amount of such variable benefits. Any such contract under which the benefits vary to reflect investment experience, including a group contract and any certificate in evidence of variable benefits issued thereunder, shall state that such dollar amount will so vary and shall contain on its first page a statement to the effect that the benefits thereunder are on a variable basis.

[C75, 77, 79, 81, §508A.2]

508A.3 License requirements.

No company shall deliver or issue for delivery within this state variable contracts unless it is licensed or organized to do a life insurance or annuity business in this state, and the commissioner of insurance is satisfied that its condition or method of operation in connection with the issuance of such contracts will not render its operation hazardous to the public or its policyholders in this state. In this connection, the commissioner of insurance shall consider among other things:

1. The history and financial condition of the company;
2. The character, responsibility and fitness of the officers and directors of the company; and
3. The law and regulation under which the company is authorized in the state of domicile to issue variable contracts. The state of entry of an alien company shall be deemed its place of domicile for that purpose. If the company is a subsidiary of an admitted life insurance company, or affiliated with such company through common management or ownership, it may be deemed by the commissioner of insurance to have met the provisions of this section if either it or the parent or the affiliated company meets the requirements hereof.

[C75, 77, 79, 81, §508A.3]

508A.4 Authority of commissioner.

Notwithstanding any other provision of law, the commissioner of insurance shall have sole authority to regulate the issuance and sale of variable contracts, and to issue such reasonable rules and regulations as may be appropriate to carry out the purposes and provisions of this chapter.

[C75, 77, 79, 81, §508A.4]

508A.5 Other provisions applicable.

Except for section 508.37 and section 509.2, subsection 1, and except as otherwise provided in this chapter, all pertinent provisions of chapters 508, 509, 511, and 522B shall apply to separate accounts and contracts relating thereto. Any individual variable life insurance contract, delivered or issued for delivery in this state, shall contain nonforfeiture provisions appropriate to such a contract. Any group variable life insurance contract, delivered or issued for delivery in this state, shall contain a grace provision appropriate to such a contract. The reserve liability for variable contracts shall be established in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

[C75, 77, 79, 81, §508A.5]

2001 Acts, ch 16, §7, 37

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CHAPTER 508B

CONVERSION FROM MUTUAL COMPANY TO STOCK COMPANY

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 521.2, 521A.14, 521J.11, 669.14, 670.7

Applies to plans of conversion established after July 1, 1985;
85 Acts, ch 127, §16

508B.1 Definitions.
508B.2 Mutual company becoming stock company — authorization.
508B.3 Conversion plans to be fair and equitable — alternative procedures and requirements.
508B.4 Eligible policyholders participation.
508B.5 Appointment of consultant.
508B.6 Approval of plan by policyholders — notice of election — effective date.
508B.7 Review of plan by commissioner — hearing authorized — approval.
508B.8 Payment of fees, salaries and costs.
508B.9 Act of conversion — continuation of company.
508B.10 Continuation of officers.
508B.11 Rules.
508B.12 Amendments — withdrawal.
508B.13 Prohibitions on certain offers to acquire shares.
508B.14 Limitation of actions — security for attorney fees.
508B.15 Duties of secretary of state.

508B.1 Definitions.

As used in this chapter, unless the context clearly indicates otherwise:

1. *"Commissioner"* means the commissioner of insurance.

2. *"Mutual life insurance company"* or *"mutual company"* means a level premium and natural premium life insurance company authorized under chapter 508 upon the mutual plan and includes a domestic company which meets the requirements of section 508.12.

3. *a. "Plan of conversion"* or *"conversion plan"* means a plan authorized by section 508B.3 and, in the case of plans authorized by section 508B.3, subsections 1 and 3, includes a procedure by which the mutual company's participating policies and contracts in force on the effective date of the conversion plan are operated by the reorganized company as a closed block of participating business for the exclusive benefit of the policies and contracts included, for dividend purposes only; to which are allocated assets of the mutual company in an amount which together with anticipated revenue from the business is reasonably expected to be sufficient to support the business; and which includes, but is not limited to, provisions for payment of claims and reasonable expenses, and provisions for continuation of current payable dividend scales if the experience underlying the scales continues, and a procedure for appropriate adjustments in the scales if the experience changes. However, at the option of the mutual company, some or all classes of group policies and contracts shall not be placed in the closed block but shall continue to be eligible to receive dividends based on the experience of the class or classes.

b. If any amount of the policyholders' consideration as specified in section 508B.3, subsection 3, paragraph *"b"*, for certain classes of policies or contracts is to be paid in the form of increased annual dividends to the policyholders in those classes, that amount is to be added to the assets allocated as provided in paragraph *"a"* and is to be paid to those classes.

4. *"Policyholder"* means a person, determined by the mutual company, who is the holder of a policy or annuity contract for the purposes of section 508B.3, subsection 1, 2, or 3.

5. *"Policyholders' membership interest"* means all policyholders' rights as members of the mutual company including, but not limited to, rights to vote and participate in any distribution of surplus whether or not incident to liquidation of the mutual company.

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

7. *"Stock life insurance company"* or *"stock company"* means a life insurance company authorized under chapter 508 upon the stock plan and includes a domestic company which meets the requirements of section 508.12.

85 Acts, ch 127, §1; 86 Acts, ch 1237, §30; 90 Acts, ch 1234, §7; 99 Acts, ch 165, §2

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508B.2 Mutual company becoming stock company — authorization.

1. A mutual life insurance company may become a stock life insurance company pursuant to a plan of conversion established and approved in the manner provided by this chapter.

2. A plan of conversion may provide that a mutual company may convert into a domestic stock company, convert and merge, or convert and consolidate with a domestic stock company, as provided in chapter 490 or 491, whichever is applicable. However, the mutual company is not required to comply with sections 491.102 through 491.105 or sections 490.1102 and 490.1104 relating to approval of merger or consolidation plans by boards of directors and shareholders, if at the time of approval of the plan of conversion the board of directors approves the merger or consolidation and if at the time of approval of the plan by policyholders as provided in section 508B.6, the policyholders approve the merger or consolidation. This chapter supersedes any conflicting provisions of chapters 521 and 521A. A mutual company may convert, merge, or consolidate as part of a plan of conversion in which a majority or all of the common shares of the stock company are acquired by another corporation, which may be a corporation organized for that purpose, or in which the new stock company consolidates with a stock company to form another stock company.

3. In lieu of selecting a plan of conversion provided for in this chapter, a mutual company may convert to a stock company pursuant to a plan approved by the commissioner. The commissioner or the mutual company may use any provisions or combination of provisions provided for a plan in this chapter and may adopt any other provisions which are not unfair or inequitable to the policyholders of the mutual company. If a mutual company selects this procedure for conversion purposes, the mutual company shall reimburse the state for expenses incurred by the division in connection with the conversion plan except for expenses that are normal operating expenses of the division.

85 Acts, ch 127, §2; 86 Acts, ch 1237, §31; 90 Acts, ch 1205, §35; 90 Acts, ch 1234, §8; 2002 Acts, ch 1154, §108, 125; 2018 Acts, ch 1041, §127

508B.3 Conversion plans to be fair and equitable — alternative procedures and requirements.

A plan of conversion shall be fair and equitable to policyholders. A plan of conversion is fair and equitable if it satisfies the conditions of subsection 1, 2, or 3. The commissioner may determine whether any other plan proposed by a mutual company is fair and equitable to its policyholders.

1. Subject to paragraph *"b"*, a plan of conversion under this subsection shall provide all of the following:

a. The policyholders' membership interest shall be exchanged, in a manner which takes into account the estimated proportionate contribution of surplus of each class of participating policies and contracts, for all of the common shares of the reorganized company or its parent company, if any, or for either or a combination of the common shares of the reorganized company or its parent company, if any, and consideration equal to the proceeds of the sale of the common shares by the issuer or by a trust or other entity existing for the exclusive benefit of policyholders and established solely for the purpose of effecting the conversion, to which trust or other entity the common shares, or the options to acquire or securities convertible into the common shares, shall be issued by the issuer on the effective date of the conversion. The consideration shall be distributed to policyholders during a process of conversion specified in the plan which shall not last more than ten years after the effective date of conversion or until the death of the policyholder, whichever occurs first.

b. Unless the anticipated issuance within a shorter period is disclosed, the issuer of common shares shall not, within two years after the effective date of reorganization, issue either of the following:

(1) Any of its common shares or any securities convertible with or without consideration into the common shares or carrying any warrant to subscribe to or purchase common shares.

(2) Any warrant, right or option to subscribe to or purchase the common shares or other securities described in subparagraph (1), except for the issue of common shares to or for the benefit of policyholders pursuant to the plan of conversion and the issue of stock in anticipation of options for the purchase of common shares being granted to officers

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or employees of the reorganized company or its parent company, if any, pursuant to this chapter.

c. Unless the common shares have a public market when issued, the issuer shall use its best efforts to encourage and assist in the establishment of a public market for the common shares within two years of the effective date of the conversion or a longer period as disclosed in the plan of conversion. Within one year after the offering of stock other than the initial distribution, but no later than six years after the effective date of the conversion, the reorganized company shall offer to make available to policyholders who received and retained shares of stock with minimal values on conversion, a procedure to dispose of those shares of stock at market value without brokerage commissions or similar fees.

2. A plan of conversion under this subsection shall provide all of the following:

a. The mutual company's participating business, comprised of its participating policies and contracts in force on the effective date of the conversion, shall be operated by the reorganized insurer as a closed block of participating business. However, at the option of the mutual company, group policies and group contracts may be omitted from the closed block.

b. Assets of the mutual company shall be allocated to the closed block of participating business in an amount equal to the reserves and liabilities for the mutual life insurer's participating policies and contracts in force on the effective date of the conversion.

c. The consideration to be given in exchange for the policyholders' membership interest consists of aggregate consideration in a form or forms selected by the mutual company having a value equal to the amount of the statutory surplus of the mutual life insurer.

d. The consideration is allocated among the policyholders in a manner which is fair and equitable to the policyholders.

e. The reorganized company or its parent corporation shall issue and sell shares of one or more classes having a total price equal to the estimated value in the market on the initial offering date of the shares.

f. The estimated value shall take into account all of the following:

(1) The consideration to be given to policyholders pursuant to paragraph "*c*".

(2) The proceeds of the sale of the shares.

(3) Any additional value attributable to the shares as a result of a purchaser or a group of purchasers who acted in concert to obtain shares in the initial offering, attaining, through such purchase, control of the reorganized company or its parent corporation.

g. If a purchaser or a group of purchasers acting in concert is to attain such control in the initial offering, the mutual company shall not, directly or indirectly, pay for any of the costs or expenses of conversion of the mutual company, whether or not the conversion is effected.

h. The reorganized company may share in the profits of the closed block of participating business for the benefit of stockholders.

3. A plan of conversion under this subsection shall satisfy all of paragraphs "*a*" through "*j*" and may add or substitute, as applicable, the options provided in paragraphs "*k*" and "*l*".

a. The reorganized company or its parent corporation shall issue and sell shares of one or more classes having a total price equal to the estimated market value on the initial offering taking into account the value to be given to participating policyholders pursuant to paragraph "*b*" and the proceeds of the sale.

b. The participating policyholders' consideration shall be based on the latest annual statement, updated to the effective date of the conversion plan, and filed prior to the effective date of the adoption by the board of directors of the plan of conversion. The policyholders' consideration shall be equal to the sum of the total amount of assets allocated to the participating business and an amount equal to reserves and other liabilities attributable to any group participating policies and contracts not included in the closed block of participating business.

c. The consideration to be given in exchange for the policyholders' membership interest shall consist of the participating policyholders' consideration and nontransferable preemptive subscription rights to purchase all of the common shares of the issuer and the establishment of a liquidation account for the benefit of the policyholders in the event of a subsequent complete liquidation of the reorganized company having the terms described in paragraph "*j*".

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d. The consideration and the preemptive subscription rights to purchase the common shares shall be allocated among the participating policyholders in a manner determined by the reorganized company which takes into account the estimated contribution of each class of participating policies and contracts to the total amount of the policyholders' consideration.

e. The number of the common shares which any person, together with any affiliates or group of persons acting in concert, may subscribe for or purchase in the reorganization shall be limited to not more than five percent of the common shares. For this purpose, neither the members of the board of directors of the reorganized company nor of its parent corporation, if any, shall be deemed to be affiliates or a group of persons acting in concert solely by reason of their board membership.

f. Unless the common shares have a public market when issued, officers and directors of the issuer and their affiliates shall not, for at least ninety days after the date of conversion, purchase common shares of the issuer, except in negotiated transactions involving more than ten percent of the outstanding common shares.

g. Unless the common shares have a public market when issued, the issuer shall use its best efforts to encourage and assist in the establishment of a public market for the common shares.

h. The issuer shall not, for at least three years following the conversion, repurchase any of its common shares except pursuant to a pro rata tender offer to all shareholders.

i. Until the liquidation account has been reduced to zero, the issuer shall not declare or pay a cash dividend on, or repurchase any of, its common shares in an amount in excess of its cumulative earned surplus generated after the conversion determined in accordance with generally accepted accounting principles, if the effect would be to cause the amount of the statutory surplus of the reorganized company to be reduced below the then amount of the liquidation account.

j. The liquidation account referred to in paragraph "*c*" must be equal to the excess of the total amount of the assets of the mutual company as of the effective date of the conversion over the sum of the total amount of assets allocated to the closed block of participating business and the policyholders' consideration and other reserves and liabilities attributed to policies and contracts not included in the amount attributable to policies and contracts in force on that effective date. The determinations shall be based on the latest annual statement of the mutual company, updated to the effective date, and filed before the effective date of the conversion plan. The function of the liquidation account is solely to establish a priority on liquidation and its existence does not restrict the use or application of the surplus of the reorganized company except as specified in paragraph "*i*". The liquidation account shall be allocated equally as of the effective date of conversion among the then participating policyholders. The amount allocated to a policy or contract shall not increase and shall be reduced to zero when the policy or contract terminates. In the event of a complete liquidation of the reorganized company, the policyholders among which the liquidation account is allocated are entitled to receive a liquidation distribution in the then amount of the liquidation account before any liquidation distribution is made with respect to shares.

k. At the option of the mutual company, the consideration to be given in exchange for the policyholders' membership interests may consist of cash, securities of the reorganized company, securities of another institution, a certificate of contribution, additional life insurance, annuity benefits, increased dividends, or other consideration or any combination of forms of consideration. The consideration, if any, given to a class or category of policyholders may differ from the consideration given to another class or category of policyholders. The certificate of contribution shall be repayable in ten years, equal to one hundred percent of the value of the policyholders' membership interest, and bear interest at the highest rate charged by the reorganized company for policy loans on the effective date of the conversion.

l. At the option of the mutual company, a plan may provide that any shares of the stock of the reorganized company or its parent corporation included in the policyholders' consideration shall be placed on the effective date of the conversion in a trust or other entity existing for the exclusive benefit of the participating policyholders and established solely for the purpose of effecting the reorganization. Under this option, the shares placed in trust

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shall be sold over a period of not more than ten years and the proceeds of the shares shall be distributed using the distribution priorities prescribed in the plan.

85 Acts, ch 127, §3; 90 Acts, ch 1234, §9 – 14; 2000 Acts, ch 1023, §8, 60
Referred to in §508B.1, 508B.5, 508B.13

508B.4 Eligible policyholders participation.

The policyholders who are entitled to notice of and to vote upon approval of a plan of conversion and entitled to notice of a public hearing are the policyholders whose policies or contracts are in force on the date of adoption of the plan of conversion. Each policyholder whose policy has been in force for at least one year prior to the date is entitled to the consideration, if any, provided for the policyholder in the plan based on the policyholder's membership interest determined pursuant to this chapter, but only if the policyholder's membership interest arose from a policy or contract in force on the effective date of the conversion and such membership interest has been held continuously for at least one year prior to the date of adoption of the plan. For this purpose, any changes in status of, or premiums in excess of, those required on the policies or contracts occurring or made after the date one year prior to the date of adoption of the plan shall be disregarded.

85 Acts, ch 127, §4; 2000 Acts, ch 1023, §9

508B.5 Appointment of consultant.

1. A plan may provide for the appointment by the mutual company of a person as defined in section 4.1, subsection 20, who is qualified to act as a consultant. The appointment of the consultant shall be reviewed by the commissioner and unless the commissioner finds the consultant unqualified, the consultant shall carry out the duties required by the mutual company and this chapter.

2. The consultant may assist in determining the equity of the policyholders or value of the mutual company. The consultant may consider the value of the consideration to be given to the participating policyholders in exchange for their membership interests and may consider the valuations necessary to carry out the plans provided for in section 508B.3. Valuations shall be made taking into account the latest filed annual statement of the mutual company, updated to the effective date of the conversion plan, and any significant developments occurring subsequent to the date of the statement.

3. The findings of the consultant may be modified by the mutual company at any time so long as the results are not unfair or inequitable to policyholders.

4. If it can be shown by the mutual company to the commissioner that an underwriter of the shares is a qualified person, the underwriter may be appointed as the consultant.

85 Acts, ch 127, §5; 90 Acts, ch 1234, §15; 2018 Acts, ch 1041, §127

508B.6 Approval of plan by policyholders — notice of election — effective date.

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

85 Acts, ch 127, §6; 99 Acts, ch 165, §3
Referred to in §508B.2

508B.7 Review of plan by commissioner — hearing authorized — approval.

The commissioner of insurance shall review the plan. The commissioner shall approve the plan if the commissioner finds the plan complies with all provisions of law, the plan is fair and equitable to the mutual company and its policyholders, and that the reorganized

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company will have the amount of capital and surplus deemed by the commissioner to be reasonably necessary for its future solvency. The commissioner may order a hearing on the fairness and equity of the terms of the plan after giving written notice of the hearing to the mutual company, its policyholders, and other interested persons, all of whom have the right to appear at the hearing. Costs incurred in connection with the notice shall be paid by the company.

85 Acts, ch 127, §7; 90 Acts, ch 1234, §16; 2000 Acts, ch 1023, §10, 60
Referred to in §505.23, 511.8(4)(f)

508B.8 Payment of fees, salaries and costs.

A director, officer, agent or employee of the mutual company shall not receive a fee, commission or other valuable consideration, other than regular salary and compensation, for aiding, promoting or assisting in the conversion except as set forth in the plan approved by the commissioner. This section does not prohibit the payment of reasonable fees and compensation to a consultant, attorneys at law, accountants, actuaries or other persons specifically employed for services performed in the practice of their professions while completing the plan of conversion, even if these persons are directors of the mutual company.

85 Acts, ch 127, §8

508B.9 Act of conversion — continuation of company.

1. When the commissioner and the policyholders approve the conversion plan as provided in this chapter, the commissioner shall issue a new certificate of authority to the reorganized company effective on the effective date of the conversion as provided in the plan. The reorganized company is a continuation of the mutual life insurance company and the conversion shall not annul or modify any of the mutual company's existing suits, contracts, or liabilities except as provided in the approved conversion plan. All rights, franchises, and interests of the mutual company in and to property, assets, and other interests shall be transferred to and shall vest in the reorganized company and the reorganized company shall assume all obligations and liabilities of the mutual company.

2. The reorganized company shall exercise all rights and powers and perform all duties conferred or imposed by law on life insurance companies writing the classes of insurance written by it, and shall retain the rights and contracts existing before conversion, subject to provisions of the plan.

85 Acts, ch 127, §9; 86 Acts, ch 1237, §32; 2000 Acts, ch 1023, §11; 2018 Acts, ch 1041, §127

508B.10 Continuation of officers.

The directors and officers of the mutual company shall serve the reorganized company until new directors and officers are elected and qualify pursuant to the articles of incorporation and bylaws of the reorganized company.

85 Acts, ch 127, §10

508B.11 Rules.

The commissioner shall issue rules pursuant to chapter 17A to carry out the provisions of this chapter.

85 Acts, ch 127, §11

508B.12 Amendments — withdrawal.

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

85 Acts, ch 127, §12; 99 Acts, ch 165, §4

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508B.13 Prohibitions on certain offers to acquire shares.

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

85 Acts, ch 127, §13; 90 Acts, ch 1234, §17; 99 Acts, ch 165, §5; 2002 Acts, ch 1154, §110, 125

508B.14 Limitation of actions — security for attorney fees.

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

2. An action challenging the validity of a conversion plan, or any part of a conversion plan, shall not be commenced more than thirty days following the date of approval by the commissioner, unless an application for rehearing is filed pursuant to section 17A.16, subsection 2. If an application for rehearing is filed, then such action must be filed within thirty days after that application is denied or deemed denied or, if the application is granted, within thirty days after the issuance of the commissioner's final decision on rehearing.

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

85 Acts, ch 127, §14; 90 Acts, ch 1234, §18; 99 Acts, ch 165, §6; 2000 Acts, ch 1023, §12; 2018 Acts, ch 1041, §127

508B.15 Duties of secretary of state.

After approval of the conversion plan by the commissioner and the policyholders, the secretary of state shall accept for filing a verified copy of the amended articles of incorporation.

85 Acts, ch 127, §15; 86 Acts, ch 1237, §33

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CHAPTER 508C

IOWA LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 507C.2, 508D.3, 514B.25A, 515I.4A, 669.14, 670.7

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508C.1 Title.

This chapter shall be cited as the *"Iowa Life and Health Insurance Guaranty Association Act"*.

87 Acts, ch 223, §1

508C.2 Purpose.

1. The purpose of this chapter is to protect, subject to certain limitations, the persons specified in section 508C.3, subsection 1, against failure in the performance of contractual obligations under life, health, and annuity policies, plans, or contracts specified in section 508C.3, subsection 2, because of the impairment or insolvency of the member insurer which issued the policies, plans, or contracts.

2. To provide this protection, an association of member insurers is created to enable the guaranty of payments of benefits and continuation of coverages as limited by this chapter. Members of the association are subject to assessment to provide funds to carry out the purpose of this chapter.

87 Acts, ch 223, §2; 2019 Acts, ch 12, §2, 35, 36

Referred to in §508C.4

508C.3 Scope.

1. This chapter shall provide coverage under the policies and contracts specified in subsection 2 to all of the following:

a. Persons, regardless of where they reside, except for nonresident certificate holders under group policies or contracts, who are the beneficiaries, assignees, or payees, including health care providers rendering services covered under health insurance policies, contracts, or certificates, of the persons covered under paragraph *"b"*.

b. Persons who are owners of or certificate holders or enrollees under the policies or contracts specified in subsection 2, other than unallocated annuity contracts and structured settlement annuities, or are enrollees, insureds, or annuitants under the policies or contracts, and who are either of the following:

(1) Residents of this state.

(2) Nonresidents of this state if all of the following conditions are met:

(a) The state in which the person resides has an association similar to the association created in this chapter.

(b) The person is not eligible for coverage by an association described in subparagraph division (a) in any other state due to the fact that the insurer or the health maintenance organization was not licensed in the state at the time specified in that state's guaranty association law.

(c) The member insurer that issued the policy or contract is domiciled in this state.

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c. Persons who are the owners of unallocated annuity contracts if the contracts are issued to or in connection with a specific benefit plan whose plan sponsor has its principal place of business in this state.

d. (1) A payee, or the beneficiary of a payee if the payee is deceased, of a structured settlement annuity, if the payee or beneficiary of the structured settlement annuity is either of the following:

(a) The payee or beneficiary of the structured settlement annuity is a resident of this state regardless of where the owner of the structured settlement annuity resides.

(b) The payee or beneficiary of the structured settlement annuity is not a resident of this state and either of the following conditions is met:

(i) The owner of the structured settlement annuity is a resident of this state.

(ii) The owner of the structured settlement annuity is not a resident of this state and both of the following are applicable:

(A) The insurer that issued the structured settlement annuity is domiciled in this state.

(B) The state in which the owner of the structured settlement annuity resides has an association similar to the association created by this chapter.

(2) Subparagraph (1), subparagraph division (b) shall not be applicable if either the payee or beneficiary of the payee if the payee is deceased, or the owner of the structured settlement annuity is eligible for coverage by the association of the state in which the payee, beneficiary, or owner resides.

e. A person who is a resident of this state and, only in special circumstances, to a nonresident. In order to avoid duplicate coverage, if a person who would otherwise receive coverage under this chapter is provided coverage under the laws of any other state, that person shall not be provided coverage under this chapter. In determining the application of the provisions of this paragraph in a situation where a person could be provided coverage by the association of more than one state, whether as an owner, payee, enrollee, beneficiary, or assignee, this chapter shall be construed in conjunction with other state laws to result in coverage by the association of only one state.

2. This chapter shall provide coverage to the persons specified in subsection 1 under policies or contracts of direct life insurance, health insurance, or annuities, supplemental contracts, certificates under group policies or contracts, and unallocated annuity contracts issued by member insurers. For purposes of this chapter, health insurance shall include without limitation health maintenance organization subscriber contracts and certificates, long-term care insurance, and disability insurance policies.

3. Coverage under this chapter shall not be provided to any of the following:

a. A person who is a payee, or a beneficiary of a payee if the payee is deceased, of a contract owner who is a resident of this state, if the payee or the beneficiary of the payee is provided any coverage by the association of another state.

b. A person who is covered pursuant to subsection 1, paragraph "*c*", if that person is provided any coverage by the association of another state.

c. A person who acquires rights to receive payments through a structured settlement factoring transaction as defined in 26 U.S.C. §5891(c)(3)(A), regardless of when the transaction occurred.

4. This chapter does not apply to any of the following:

a. Except for a portion of a policy or contract, including a rider, that provides coverage for long-term care or any health insurance benefits, any portion of a policy or contract to the extent that the rate of interest on which it is based or the interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract and employed in calculating returns or changes in value, averaged over the period of four years prior to the date on which the association becomes obligated with respect to the policy or contract, exceeds a rate of interest determined by subtracting two percentage points from Moody's corporate bond yield average for the same four-year period or over such lesser period if the policy or contract was issued less than four years before the association became obligated; and on or after the date on which the association becomes obligated with respect to the policy or contract, exceeds the rate of interest determined by subtracting three percentage points from Moody's corporate bond yield average as most recently available.

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b. That portion or part of a policy or contract not guaranteed by the member insurer, or under which the risk is borne by the policy or contract holder.

c. A policy or contract or part of a policy or contract assumed by the impaired or insolvent insurer under a contract of reinsurance, other than reinsurance for which assumption certificates have been issued.

d. An unallocated annuity contract issued to or in connection with an employee benefit plan protected under the federal pension benefit guaranty corporation, regardless of whether the federal pension benefit guaranty corporation has yet become liable to make any payments with respect to the benefit plan.

e. A portion of an unallocated annuity contract which is not issued to or in connection with a specific employee, union, or association of natural persons, or any portion of a financial guarantee.

f. A policy or contract issued by a company which is licensed under chapter 509A, 512A, 512B, 514, 518, 518A, or 520, or under section 514B.33.

g. Except for a policy issued pursuant to section 515.48, subsection 5, paragraph *"a"*, a policy or contract issued by a company which is licensed under chapter 515.

h. A charitable gift annuity under chapter 508F.

i. An annuity contract issued to a government lottery.

j. A funding agreement under section 508.31A.

k. An obligation that does not arise under the express written terms of a covered policy or contract issued by the member insurer to the enrollee, certificate holder, policy owner, or contract owner including without limitation all of the following:

(1) A claim based on marketing materials.

(2) A claim based on side letters, riders, or other documents that were issued by the member insurer without meeting applicable policy or contract form filing or approval requirements.

(3) A claim based on misrepresentation of or misrepresentation regarding policy or contract benefits.

(4) An extra-contractual claim.

(5) A claim for penalties, consequential damages, or incidental damages.

l. A contractual agreement that establishes a member insurer's obligations to provide a book value accounting guaranty for defined contribution benefit plan participants by reference to a portfolio of assets that is owned by the benefit plan or its trustee, which in each case is not an affiliate of the member insurer.

m. A portion of a covered policy to the extent it provides for interest or other changes in value to be determined by the use of an index or other external reference stated in the covered policy, but which have not been credited to the covered policy, or as to which the covered policy owner's rights are subject to forfeiture, as of the date the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier. If a covered policy's interest or changes in value are credited less frequently than annually, then for purposes of determining the values that have been credited and are not subject to forfeiture under the covered policy, the interest or change in value determined by using the procedures defined in the covered policy will be credited as if the contractual date of crediting interest or changing values was the date of impairment or insolvency, whichever is earlier, and the crediting interest or changing value shall not be subject to forfeiture.

n. A policy or contract issued in this state by a member insurer at a time the insurer was not licensed or did not have a certificate of authority to issue the policy or contract in this state.

o. A portion of a policy or contract issued to a plan or program of an employer, association, or other person to provide life, health, or annuity benefits to employees, members, or others, to the extent that the plan or program is self-funded or uninsured, including but not limited to benefits payable by an employer, association, or other person under any of the following:

(1) A multiple employer welfare arrangement as defined in section 3 of the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. §1002, paragraph 40.

(2) A minimum premium group insurance plan.

(3) A stop-loss group insurance plan.

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(4) An administrative services-only contract.

p. A portion of a policy or contract to the extent that it provides for any of the following:

(1) Dividends or experience rating credits.

(2) Voting rights.

(3) Payment of any fees or allowances to any person, including the policy or contract owner, in connection with service to or administration of the policy or contract.

q. A portion of a policy or contract to the extent that the assessments authorized by section 508C.9 with respect to the policy or contract are preempted by federal or state law.

r. A policy or contract providing any hospital, medical, prescription drug, or other health care benefits pursuant to any of the following:

(1) 42 U.S.C. ch. 7, subch. XVIII, Part C or Part D, commonly known as Medicare Part C and D, or any regulations issued pursuant thereto.

(2) 42 U.S.C. ch. 7, subch. XIX, commonly known as Medicaid, or any regulations issued pursuant thereto.

s. Structured settlement annuity benefits to which a payee or beneficiary has transferred the payee's or beneficiary's rights in a structured settlement factoring transaction as defined in 26 U.S.C. §5891(c)(3)(A).

5. *a.* The benefits that the association may become obligated to cover shall in no event exceed the lesser of either of the following:

(1) The contractual obligations for which the member insurer is liable or would have been liable if the member insurer were not an impaired or insolvent insurer.

(2) Any of the following:

(a) With respect to one life, regardless of the number of policies or contracts:

(i) Three hundred thousand dollars in life insurance death benefits, but not more than one hundred thousand dollars in net cash surrender and net cash withdrawal values for life insurance.

(ii) Five hundred thousand dollars for health benefit plans; three hundred thousand dollars for health insurance benefits which are disability income protection coverage as defined by the commissioner by rule pursuant to section 514D.4; three hundred thousand dollars for long-term care insurance as defined in section 514G.103; or one hundred thousand dollars for other health insurance benefits including any net cash surrender and net cash withdrawal values.

(iii) Two hundred fifty thousand dollars in the present value of annuity benefits, including net cash surrender and net cash withdrawal values.

(iv) With respect to each payee of a structured settlement annuity, or the beneficiary or beneficiaries of the payee if the payee is deceased, two hundred fifty thousand dollars in present value annuity benefits, in the aggregate, including net cash surrender and net cash withdrawal values.

(b) (i) With respect to each individual participating in a retirement benefit plan established under section 401, 403(b), or 457 of the United States Internal Revenue Code, or each unallocated annuity contract account, excluding a plan established under section 401, 403(b), or 457 of the United States Internal Revenue Code, not more than two hundred fifty thousand dollars in the aggregate, in present value annuity benefits, including net cash surrender and net cash withdrawal values for the beneficiaries of the deceased individual.

(ii) However, the association shall not in any event be obligated to cover more than an aggregate of three hundred fifty thousand dollars in benefits with respect to any one life under subparagraph division (a) and this subparagraph division (b), except with respect to benefits for health benefit plans under subparagraph division (a), subparagraph subdivision (ii), in which case the aggregate liability of the association shall not exceed five hundred thousand dollars with respect to any one individual, or more than five million dollars in benefits to one owner of multiple nongroup policies of life insurance regardless of whether the policy or contract owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, and regardless of the number of policies and contracts held by the owner.

(c) With respect to a plan sponsor whose plan owns, directly or in trust, one or more unallocated annuity contracts not included under subparagraph division (b), not more than

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five million dollars in benefits, regardless of the number of contracts held by the plan sponsor. However, where one or more such unallocated annuity contracts are covered contracts under this chapter and are owned by a trust or other entity for the benefit of two or more plan sponsors, the association shall provide coverage if the largest interest in the trust or entity owning the contract is held by a plan sponsor whose principal place of business is in the state but in no event shall the association be obligated to cover more than five million dollars in benefits in the aggregate with respect to all such unallocated contracts.

b. The limitations on the association's obligation to cover benefits that are set forth under this subsection do not take into account the association's subrogation and assignment rights or the extent to which such benefits could be provided out of the assets of the impaired or insolvent insurer attributable to covered policies. The cost of the association's obligations under this chapter may be met by the use of assets attributable to covered policies or reimbursed to the association pursuant to the association's subrogation and assignment rights.

c. For purposes of this chapter, benefits provided by a long-term care rider to a life insurance policy or annuity contract shall be considered the same type of benefits as the base life insurance policy or annuity contract to which the long-term rider relates.

6. In performing its obligations to provide coverage under this chapter, the association shall not be required to guarantee, assume, reinsure, reissue, or perform, or cause to be guaranteed, assumed, reinsured, reissued, or performed, the contractual obligations of an insolvent or impaired insurer under a covered policy or contract that do not materially affect the economic values or economic benefits of the covered policy or contract.

87 Acts, ch 223, §3; 88 Acts, ch 1135, §1 – 3; 89 Acts, ch 83, §67; 92 Acts, ch 1162, §6, 7; 98 Acts, ch 1057, §6; 2000 Acts, ch 1023, §13; 2008 Acts, ch 1123, §14; 2010 Acts, ch 1063, §1 – 7; 2010 Acts, ch 1193, §60; 2014 Acts, ch 1092, §111 – 114; 2019 Acts, ch 12, §3 – 6, 35, 36; 2020 Acts, ch 1063, §274

Referred to in §508C.2, 508C.5, 508C.8

508C.4 Construction.

This chapter shall be liberally construed to effect its purpose as provided under section 508C.2.

87 Acts, ch 223, §4

508C.5 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Account"* means any of the four accounts created under section 508C.6.

2. *"Association"* means the Iowa life and health insurance guaranty association created in section 508C.6.

3. *"Authorized assessment"*, or the term *"authorized"* when used in the context of an assessment, means that a resolution has been passed by the board of directors of the association whereby an assessment will be called immediately or in the future from member insurers for a specified amount. An assessment is authorized when the resolution is passed.

4. *"Benefit plan"* means a specific employee, union, or association of natural persons benefit plan.

5. *"Called assessment"*, or the term *"called"* when used in the context of an assessment, means that a notice has been issued by the association to member insurers requiring that an authorized assessment be paid within the time frame set forth within the notice. An authorized assessment becomes a called assessment when notice is mailed by the association to member insurers.

6. *"Commissioner"* means the commissioner of insurance.

7. *"Contractual obligation"* means an obligation under a covered policy or contract or a certificate under a group policy or contract, or a portion thereof for which coverage is provided under section 508C.3.

8. *"Covered policy"* or *"covered contract"* means a policy or contract, or a portion of a policy or contract, for which coverage is provided under section 508C.3.

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9. *"Extra-contractual claim"* means, without limitation, a claim relating to bad faith in the payment of claims, punitive or exemplary damages, or attorney fees and costs.

10. *"Health benefit plan"* means any hospital or medical expense policy or certificate, or health maintenance organization subscriber contract or any other similar health contract. *"Health benefit plan"* does not include any of the following:

a. Accident-only insurance.

b. Credit insurance.

c. Dental-only insurance.

d. Vision-only insurance.

e. Medicare supplement insurance.

f. Benefits for long-term care, home health care, community-based care, or any combination thereof.

g. Disability income insurance.

h. Coverage for an onsite medical clinic.

i. Specified disease, hospital confinement indemnity, or limited benefit health insurance if the specific type of coverage does not provide coordination of benefits and is provided under a separate policy or certificate.

11. *"Impaired insurer"* means a member insurer which is not an insolvent insurer and is placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

12. *"Insolvent insurer"* means a member insurer which is placed under an order of liquidation with a finding of insolvency by a court of competent jurisdiction.

13. *"Member insurer"* means an insurer or health maintenance organization which is licensed or which holds a certificate of authority to transact in this state any kind of insurance or health maintenance business for which coverage is provided under section 508C.3, and including an insurer or health maintenance organization whose license or certificate of authority in this state has been suspended, revoked, not renewed, or voluntarily withdrawn but does not include any of the following:

a. An entity which is a licensed company specified in section 508C.3, subsection 4, paragraph *"f"* or *"g"*.

b. A mandatory state pooling plan.

c. A mutual assessment company or other person which operates on an assessment basis.

d. An insurance exchange.

e. An entity which issues a charitable gift annuity under chapter 508F.

f. An entity whose only business in this state is operating as a managed care organization. For purposes of this paragraph, *"managed care organization"* means an entity that is under contract with the department of health and human services to provide services to Medicaid recipients and that also meets the definition of *"health maintenance organization"* in section 514B.1.

g. An entity similar to any of the entities enumerated in this subsection.

14. *"Moody's corporate bond yield average"* means the monthly average corporate bond yields published by Moody's investors service, inc., or any successor thereto.

15. *"Owner"* of a policy of contract, *"policy holder"*, *"policy owner"*, or *"contract owner"* means the person who is identified as the legal owner of a policy or contract under the terms of the policy or contract or who is otherwise vested with legal title to the policy or contract through a valid assignment completed in accordance with the terms of the policy or contract and properly recorded as the owner on the books of the member insurer. *"Owner"*, *"policy holder"*, *"policy owner"*, or *"contract owner"* does not include a person with a mere beneficial interest in a policy or contract.

16. *"Person"* means an individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.

17. *"Plan sponsor"* means any of the following:

a. The employer in the case of a benefit plan established or maintained by a single employer.

b. The employee organization in the case of a benefit plan established or maintained by an employee organization.

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c. In the case of a benefit plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan.

18. *"Premium"* means amounts or consideration, by whatever name called, received on covered policies or contracts less returned premiums, considerations, and deposits and less dividends and experience credits. *"Premium"* does not include amounts for consideration received for policies or contracts or for the portions of policies or contracts for which coverage is not provided under section 508C.3, subsection 4, except that assessable premium shall not be reduced on account of the provisions of section 508C.3, subsection 4, paragraph *"a"*, relating to interest limitations and section 508C.3, subsection 5, paragraph *"a"*, subparagraph (2), subparagraph division (a), relating to limitations with respect to one individual, one participant, and one policy or contract owner. *"Premium"* shall not include any of the following:

a. Premiums in excess of five million dollars on an unallocated annuity contract not issued under a governmental retirement plan, or its trustee, established under section 401, 403(b), or 457 of the United States Internal Revenue Code.

b. With respect to multiple nongroup policies of life insurance owned by one owner, whether the policy or contract owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, premiums in excess of five million dollars with respect to those polices or contracts, regardless of the number of policies or contracts held by the owner.

19. *"Principal place of business"* of a plan sponsor or a person other than a natural person means the single state in which the natural persons who establish policy for the direction, control, and coordination of the operations of the entity as a whole primarily exercise that function as determined pursuant to section 508C.8A.

20. *"Receivership court"* means a court in an insolvent or impaired insurer's state having jurisdiction over the conservation, rehabilitation, or liquidation of the insolvent or impaired insurer.

21. *"Resident"* means a person to whom a contractual obligation is owed and who resides in a state on the date of entry of a court order that determines a member insurer is an impaired insurer or a court order that determines a member insurer is an insolvent insurer. A person may be a resident of only one state, which in the case of a person other than a natural person shall be the state of that person's principal place of business. A citizen of the United States who is a resident of a foreign country, or is a resident of a United States possession, territory, or protectorate that does not have an association similar to the association created by this chapter, shall be deemed a resident of the state or domicile of the member insurer that issued the policy or contract.

22. *"State"* means a state, the District of Columbia, Puerto Rico, or a United States possession, territory, or protectorate.

23. *"Structured settlement annuity"* means an annuity purchased in order to fund periodic payments for a plaintiff or other claimant in payment for or with respect to personal injuries suffered by the plaintiff or other claimant.

24. *"Supplemental contract"* means a written agreement entered into for the distribution of proceeds under a life, health, or annuity policy or contract.

25. *"Unallocated annuity contract"* means a guaranteed investment contract, deposit administration contract, or any other annuity contract which is not issued to and owned by an individual, except to the extent of any annuity benefits guaranteed to an individual by an insurer under such a contract or certificate.

87 Acts, ch 223, §5; 88 Acts, ch 1135, §4 – 6; 90 Acts, ch 1234, §19, 20; 98 Acts, ch 1057, §7; 2010 Acts, ch 1063, §8 – 15; 2011 Acts, ch 70, §8 – 11; 2019 Acts, ch 12, §7, 8, 35, 36; 2023 Acts, ch 19, §1185

Referred to in §507A.4, 513D.1

508C.6 Creation of association.

1. A nonprofit legal entity is created to be known as the Iowa life and health insurance

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guaranty association. All member insurers shall be and shall remain members of the association as a condition of their authority to transact insurance or health maintenance organization business in this state. The association shall perform its functions under the plan of operation established and approved under section 508C.10 and shall exercise its powers through the board of directors established in section 508C.7. For purposes of administration and assessment, the association shall maintain all of the following accounts:

a. A health account.

b. A life insurance account.

c. An annuity account, which shall include annuity contracts owned by a governmental retirement plan, or the plan's trustee, established under section 401, 403(b), or 457 of the United States Internal Revenue Code, but shall otherwise exclude unallocated annuities.

d. An unallocated annuity contract account, which shall exclude contracts owned by a governmental retirement benefit plan, or the plan's trustee, established under section 401, 403(b), or 457 of the United States Internal Revenue Code.

2. The association is subject to the immediate supervision of the commissioner and the applicable provisions of the insurance laws of this state.

87 Acts, ch 223, §6; 88 Acts, ch 1135, §7, 8; 2008 Acts, ch 1123, §15; 2019 Acts, ch 12, §9, 35, 36

Referred to in §508C.5, 508C.9

508C.7 Board of directors.

1. The board of directors of the association shall consist of not less than seven nor more than eleven member insurers serving terms as established in the plan of operation. The members of the board shall be selected by member insurers, subject to the approval of the commissioner. Vacancies on the board shall be filled for the remaining period of the term by a majority vote of the remaining board members, subject to the approval of the commissioner. To select the initial board of directors, and initially organize the association, the commissioner shall give notice to all member insurers of the time and place of the organizational meeting. In determining voting rights at the organizational meeting, each member insurer shall be entitled to one vote in person or by proxy. If the board of directors is not selected within sixty days after notice of the organizational meeting, the commissioner may appoint the initial members.

2. In approving selections or in appointing members to the board, the commissioner shall consider, among other factors, whether all member insurers, including member insurers that primarily write life insurance, annuity contracts, or health benefit plans, are fairly represented.

3. At the option of the association, members of the board may be reimbursed from the assets of the association for expenses incurred by them as members of the board of directors. However, members of the board shall not otherwise be compensated by the association for their services.

87 Acts, ch 223, §7; 2019 Acts, ch 12, §10, 35, 36

Referred to in §508C.6, 508C.10

508C.8 Powers and duties of association.

1. If a member insurer is an impaired insurer, the association, subject to conditions imposed by the association and approved by the impaired insurer and the commissioner, may take any of the following actions:

a. Guarantee, assume, reissue, reinsure, or cause to be guaranteed, assumed, reissued, or reinsured, any or all of the covered policies or contracts of the impaired insurer.

b. Provide moneys, pledges, notes, guarantees, or other means as proper to effectuate paragraph *"a"* and assure payment of the contractual obligations of the impaired insurer pending action under paragraph *"a"*.

c. Loan money to the impaired insurer and guarantee borrowings by the impaired insurer, provided the association has concluded, based on reasonable assumptions, that there is a likelihood of repayment of the loan and a probability that unless a loan is made the association would incur substantial liabilities under subsection 2.

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2. If a member insurer is an insolvent insurer, the association may in its discretion do any of the following:

a. The association may do either of the following:

(1) Guarantee, assume, reissue, or reinsure, or cause to be guaranteed, assumed, reissued, or reinsured the covered policies or contracts of an insolvent insurer.

(2) Assure payment of the contractual obligations of the insolvent insurer.

b. Provide moneys, pledges, notes, guarantees, or other means as reasonably necessary to discharge the association's duties described in this subsection.

c. Provide benefits and coverages in accordance with all of the following provisions:

(1) With respect to policies and contracts, assure payment of benefits that would have been payable under the policies or contracts of the insolvent insurer for claims incurred as follows:

(a) With respect to group policies and contracts, not later than the earlier of the next renewal date under those policies or contracts or forty-five days, but in no event less than thirty days, after the date on which the association becomes obligated with respect to the policies or contracts.

(b) With respect to nongroup policies or contracts not later than the earlier of the next renewal date, if any, under those policies or contracts or one year, but in no event less than thirty days, from the date on which the association becomes obligated with respect to the policies or contracts.

(2) Make diligent efforts to provide all known insureds, enrollees, or annuitants, for nongroup policies or contracts, or group policy or contract owners, with respect to group policies or contracts, thirty days' notice of the termination, pursuant to subparagraph (1), of the benefits provided.

(3) With respect to nongroup policies and contracts covered by the association, make available to each known insured, enrollee, or annuitant, or owner if other than the insured or annuitant, and with respect to an individual formerly an insured, enrollee, or annuitant under a group policy or contract who is not eligible for replacement group coverage, substitute coverage on an individual basis in accordance with the provisions of subparagraph (4), if the insureds, enrollees, or annuitants had a right under law or under the terminated policy, contract, or annuity to convert coverage to individual coverage or to continue an individual policy, contract, or annuity in force until a specified age or for a specified time, during which the member insurer had no right to unilaterally make changes in any provision of the policy, contract, or annuity or had a right only to make changes in premium by class.

(4) In providing the substitute coverage required under subparagraph (3), the association may offer either to reissue the terminated coverage or to issue an alternative policy or contract at actuarially justified rates.

(a) Reissued or alternative policies or contracts shall be offered without requiring evidence of insurability, and shall not provide for any waiting period or exclusion that would not have applied under the terminated policy or contract.

(b) The association may reinsure any reissued or alternative policy or contract.

(5) Alternative policies or contracts adopted by the association shall be subject to the approval of the commissioner. The association may adopt alternative policies or contracts of various types for future issuance without regard to any particular impairment or insolvency.

(a) Alternative policies or contracts shall contain at least the minimum statutory provisions required in this state and shall provide benefits that are not unreasonable in relation to the premium charged. The association shall set the premium in accordance with a table of rates that the association shall adopt. The premium shall reflect the amount of insurance to be provided and the age and class of risk of each insured, but shall not reflect any changes in the health of the insured after the original policy or contract was last underwritten.

(b) Any alternative policy or contract issued by the association shall provide coverage of a type similar to that of the policy or contract issued by the impaired or insolvent insurer, as determined by the association.

(6) If the association elects to reissue terminated coverage at a premium rate different from that charged under the terminated policy or contract, the premium shall be actuarially

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justified and set by the association in accordance with the amount of insurance or coverage provided and the age and class of risk, subject to approval of the commissioner.

(7) The association's obligations with respect to coverage under any policy or contract of the impaired or insolvent insurer or under any reissued or alternative policy or contract, shall cease on the date the coverage, policy, or contract is replaced by another similar policy or contract by the policy or contract owner, the insured, the enrollee, or the association.

(8) When proceeding under this paragraph *"c"* with respect to a policy or contract carrying guaranteed minimum interest rates, the association shall assure the payment or crediting of a rate of interest consistent with section 508C.3, subsection 4, paragraph *"a"*.

(9) Nonpayment of premiums within thirty-one days after the date required under the terms of any guaranteed, assumed, alternative, or reissued policy, contract, or substitute coverage shall terminate the association's obligations under the policy, contract, or coverage under this chapter with respect to the policy, contract, or coverage, except with respect to any claims incurred or any net cash surrender value which may be due under this chapter.

(10) Premiums due for coverage after entry of an order of liquidation of an insolvent insurer shall belong to the association and be payable at the direction of the association. If the liquidator of an insolvent insurer requests, the association shall provide a report to the liquidator regarding the premiums collected by the association. The association shall be liable for unearned premiums due to policy or contract owners arising after the entry of the order of liquidation.

(11) The protection provided by this chapter shall not apply where any guaranty protection is provided to a resident of this state by the laws of the domiciliary state or by jurisdiction of the impaired or insolvent insurer by an entity other than this state.

3. *a.* In carrying out its duties under subsection 2, permanent policy liens or contract liens may be imposed in connection with a guarantee, assumption, or reinsurance agreement, if the court does both of the following:

(1) Finds either that the amounts which can be assessed under this chapter are less than the amounts needed to assure full and prompt performance of the insolvent insurer's contractual obligations, or that the economic or financial conditions as they affect member insurers are sufficiently adverse to the public interest to justify the imposition of policy or contract liens.

(2) Approves the specific policy liens or contract liens to be used.

b. Before being obligated under subsection 2, the association may request the imposition of a temporary moratorium, not exceeding three years, or liens on payments of cash values, termination values, and policy loans in addition to any contractual provisions for deferral of cash values, termination values, or policy loans. The temporary moratoriums and liens may be imposed by the court as a condition of the association's liability with respect to the insolvent insurer.

c. The obligations of the association under subsection 2 regarding a covered policy shall be reduced to the extent that the person entitled to the obligations has received payment of all or any part of the contractual benefits payable under the covered policy from any other source.

d. The association may offer modifications to the owners of policies or contracts or classes of policies or contracts issued by the insolvent insurer, if the association finds that under the policies or contracts the benefits provided, provisions pertaining to renewal, or the premiums charged or which may be charged are not reasonable. If the owner of a policy or contract to be modified fails or refuses to accept the modification as approved by the court, the association may terminate the policy or contract as of a date not less than one hundred eighty days after the modification is sent to the owner. The association shall have no liability under the policy or contract for any claim incurred or continuing beyond the termination date. However, this paragraph does not apply to interest adjustments made pursuant to section 508C.3, subsection 4, paragraph *"a"*.

4. If the association fails to act within a reasonable period of time as provided in subsection 2, the commissioner shall have the powers and duties of the association under this chapter with respect to insolvent insurers.

5. Upon request the association may give assistance and advice to the commissioner

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concerning the rehabilitation, payment of claims, continuance of coverage, or the performance of other contractual obligations of an impaired or insolvent insurer.

6. *a.* The association shall have standing to appear or intervene before any court or agency in this state with jurisdiction over an impaired or insolvent insurer concerning which the association is or may become obligated under this chapter or with jurisdiction over any person or property against which the association may have rights through subrogation or otherwise. Standing shall extend to all matters germane to the powers and duties of the association including but not limited to proposals for reinsuring, reissuing, modifying, or guaranteeing the covered policies or contracts of the impaired or insolvent insurer and the determination of the covered policies or contracts and contractual obligations. The association shall also have the right to appear or intervene before any court or agency in another state with jurisdiction over an impaired or insolvent insurer for which the association is or may become obligated or with jurisdiction over any person or property against whom the association may have rights through subrogation or otherwise.

b. As a creditor of an impaired or insolvent insurer as provided under section 508C.13, subsection 3, and consistent with the provisions of section 507C.34, the association and similar associations shall be entitled to receive a disbursement of assets out of the marshaled assets, from time to time as the assets become available to reimburse the association or similar associations, as a credit against contractual obligations under this chapter. If the liquidator has not, within one hundred twenty days of a final determination of insolvency of a member insurer by the receivership court, made an application to the court for the approval of a proposal to disburse assets out of marshaled assets to guaranty associations having obligations because of the insolvency, the association or similar associations shall be entitled to make application to the receivership court for approval of the association's or the similar association's proposal to disburse the assets.

7. *a.* A person receiving benefits under this chapter is deemed to have assigned the rights under, and any causes of action against any person for losses arising under, resulting from or otherwise relating to, the covered policy or contract to the association to the extent of the benefits received under this chapter, whether the benefits are payments of contractual obligations or on account of contractual obligations, a continuation of coverage, or provision of substitute or alternative policies, contracts, or coverages. The association may require an assignment to the association of the rights and causes of action by any enrollee, payee, policy or contract owner, beneficiary, insured, or annuitant as a condition precedent to the receipt of any right or benefits conferred by this chapter upon the person. The association shall be subrogated to the rights of any enrollee, payee, policy or contract holder, beneficiary, insured, or annuitant against the assets of the impaired or insolvent insurer.

b. The subrogation rights of the association under this subsection have the same priority against the assets of the impaired or insolvent insurer as that possessed by the person entitled to receive benefits under this chapter.

c. In addition to the rights pursuant to paragraphs *"a"* and *"b"*, the association shall have all common law rights of subrogation and any other equitable or legal remedy which would have been available to the impaired insurer, insolvent insurer, owner, beneficiary, enrollee, or payee of a covered policy or covered contract with respect to the covered policy or covered contract, including without limitation, in the case of a structured settlement annuity, any rights of the owner, beneficiary, or payee of the annuity, to the extent of benefits received pursuant to this chapter, against a person originally or by succession responsible for the losses arising from the personal injury relating to the annuity or payment for the annuity, excepting any such person responsible solely by reason of serving as an assignee in respect of a qualified assignment under section 130 of the Internal Revenue Code.

d. If the provisions of paragraphs *"a"* through *"c"* are invalid or ineffective with respect to any person or claim for any reason, the amount payable by the association with respect to the related covered obligations shall be reduced by the amount realized by any other person with respect to the person or claim that is attributable to the policies or contracts, or portion thereof, covered by the association.

e. If the association has provided benefits with respect to a covered obligation and a person recovers amounts as to which the association has rights as described in paragraphs

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"a" through *"d"*, the person shall pay to the association the portion of the recovery attributable to the policies or contracts, or portion thereof, covered by the association.

8. The association has no obligation to issue a group conversion policy of any nature to a person or to continue a group coverage in force for more than sixty days following the date the member insurer was adjudicated to be insolvent.

9. The association may do any of the following:

a. Enter into contracts as necessary or proper to carry out this chapter.

b. Sue or be sued, including taking any legal actions necessary or proper for recovery of any unpaid assessments under section 508C.9.

c. Borrow money to effect the purposes of this chapter. Any notes or other evidence of indebtedness of the association held by domestic insurers and not in default qualify as investments eligible under section 511.8.

d. Employ or retain persons as necessary to handle the financial transactions of the association, and to perform other functions as necessary or proper under this chapter.

e. Negotiate and contract with a liquidator, rehabilitator, conservator, or ancillary receiver to carry out the powers and duties of the association.

f. Take legal action as necessary to avoid payment of improper claims.

g. For the purposes of this chapter and to the extent approved by the commissioner, exercise the powers of a domestic life insurer, health insurer, or health maintenance organization, but the association shall not issue policies or contracts other than those issued to perform the association's obligations under this chapter.

h. Join an organization of one or more other state associations of similar purposes to further the purposes and administer the powers and duties of the association.

i. Unless prohibited by law, in accordance with the terms and conditions of the policy or contract, file for actuarially justified rate or premium increases for any policy or contract for which the association provides coverage under this chapter.

j. Take other necessary or appropriate action to discharge the association's duties and obligations under this chapter or to exercise the association's powers under this chapter.

10. *a.* (1) At any time within one hundred eighty days of the date of an order of liquidation, the association may elect to succeed to the rights and obligations of a ceding member insurer that relate to policies or contracts covered, in whole or in part, by the association in each case under any reinsurance contract entered into by the insolvent insurer and its reinsurers, selected by the association. Any such assumption of rights and obligations shall be effective as of the date of the order of liquidation. The election shall be effected by the association or by the national organization of life and health insurance guaranty associations on its behalf by sending written notices, return receipt requested, to the affected reinsurers. As used in this subsection, *"date of election"* means the date of the election of the association to succeed to the rights and obligations of the ceding member insurer as provided in this subparagraph.

(2) To facilitate the earliest practicable decision about whether to assume any of the contracts of reinsurance of the ceding member insurer, and in order to protect the financial position of the state, the receiver and each reinsurer of the ceding member insurer shall make available upon request to the association, or to the national organization of life and health insurance guaranty associations on its behalf, as soon as possible after commencement of formal delinquency proceedings all of the following:

(a) Copies of in-force contracts of reinsurance and all related files and records relevant to the determination of whether such contracts should be assumed.

(b) Notices of any defaults under the reinsurance contracts or any known event or condition which with the passage of time could become a default under the reinsurance contract.

(3) The following provisions shall apply to reinsurance contracts so assumed by the association:

(a) The association shall be responsible for all unpaid premiums due under the reinsurance contracts for periods both before and after the date of the order of liquidation and shall be responsible for the performance of all other obligations to be performed after the date of the order of liquidation, in each case which relate to policies or contracts covered,

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in whole or in part, by the association. The association may charge policies or contracts covered in part by the association, through reasonable allocation methods, the cost for reinsurance in excess of the obligations of the association and shall provide notice and an accounting of these charges to the liquidator.

(b) The association shall be entitled to any amounts payable by the reinsurer under the reinsurance contracts with respect to losses or events that occur in periods after the date of the order of liquidation and that relate to policies or contracts covered, in whole or in part, by the association, provided that, upon receipt of any such amounts, the association shall be obliged to pay to the beneficiary under the policy or contract on account of which the amounts were paid, a portion of the amount equal to the lesser of any of the following:

(i) The amount received by the association.

(ii) The excess of the amount received by the association over the amount equal to the benefits paid by the association on account of the policy or contract less the retention of the insurer applicable to the loss or event.

(c) Within thirty days following the date of election, the association and each reinsurer under reinsurance contracts assumed by the association shall calculate the net balance due to or from the association under each reinsurance contract as of the date of election with respect to policies or contracts covered, in whole or in part, by the association, which calculation shall give full credit to all items paid by either the member insurer or its receiver or the reinsurer prior to the date of election. The reinsurer shall pay the receiver any amounts due for losses or events prior to the date of the order of liquidation, subject to any setoff for premiums unpaid for periods prior to the date of the order for liquidation, and the association or reinsurer shall pay any remaining balance due the other, in each case within five days of the completion of the aforementioned calculation. Any dispute over the amounts due to either the association or the reinsurer shall be resolved by arbitration pursuant to the terms of the affected reinsurance contract or, if the contract does not contain an arbitration clause, as otherwise provided by law. If the receiver has received any amounts due the association pursuant to subparagraph division (b), the receiver shall remit the same amounts to the association as promptly as practicable.

(d) If the association or receiver, on the association's behalf, within sixty days of the date of election, pays the unpaid premiums due for periods both before and after the date of election that relate to policies or contracts covered, in whole or in part, by the association, the reinsurer shall not be entitled to terminate the reinsurance contracts for failure to pay premiums insofar as the reinsurance contracts relate to policies or contracts covered, in whole or in part, by the association, and shall not be entitled to set off any unpaid amounts due under other policies or contracts, or unpaid amounts due from parties other than the association, against amounts due the association.

b. During the period from the date of the order of liquidation, until the date of election or, if the association does not elect to succeed to the rights and obligations of the ceding member insurer as provided in paragraph "*a*", subparagraph (1), until one hundred eighty days after the date of the order of liquidation all of the following provisions are applicable:

(1) The association and the reinsurer shall not have any rights or obligations under reinsurance contracts that the association has the right to assume under paragraph "*a*", whether for periods prior to or after the date of liquidation.

(2) The reinsurer, the receiver, and the association shall, to the extent practicable, provide each other with data and records reasonably requested.

(3) Once the association elects to assume a reinsurance contract, the parties' rights and obligations shall be governed by the provisions of paragraph "*a*".

c. If the association does not elect to assume the rights and obligations under a reinsurance contract, the association shall have no rights or obligations in each case for periods both before and after the date of the order of liquidation, with respect to the reinsurance contract.

d. When policies or contracts, or covered obligations with respect thereto, are transferred to an assuming insurer, reinsurance on the policies or contracts may also be transferred by the association, in the case of rights and obligations under reinsurance contracts assumed under paragraph "*a*", subject to the following provisions:

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(1) Unless the reinsurer and the assuming insurer agree otherwise, the reinsurance contracts transferred shall not cover any new policies or contracts of insurance in addition to those transferred.

(2) The obligations described in paragraph *"a"* shall no longer apply with respect to matters arising after the effective date of the transfer.

(3) Notice shall be given in writing, return receipt requested, by the transferring party to the affected reinsurer not less than thirty days prior to the effective date of the transfer.

e. This subsection shall supersede the provisions of any state law or of any affected reinsurance contract that provides for or requires any payment of reinsurance proceeds, on account of losses or events that occur in periods after the date of the order of liquidation, to the receiver of the insolvent insurer or any other person. The receiver shall remain entitled to any amounts payable by the reinsurer under the reinsurance contract with respect to losses or events that occur in periods prior to the date of the order of liquidation, subject to applicable setoff provisions.

f. Except as otherwise provided in this subsection, this subsection shall not be construed to do any of the following:

(1) Alter or modify the terms and conditions of any reinsurance contract.

(2) Abrogate or limit any rights of any reinsurer to claim that the reinsurer is entitled to rescind a reinsurance contract.

(3) Give a policyholder, contract holder, enrollee, certificate holder, or beneficiary an independent cause of action against a reinsurer that is not otherwise set forth in the reinsurance contract.

(4) Limit or affect the association's rights as a creditor of the state against the assets of this state.

(5) Apply to reinsurance agreements covering property or casualty risks.

11. The board of directors of the association shall have discretion and may exercise reasonable business judgment to determine the means by which the association will provide the benefits of this chapter in an economical and efficient manner.

12. Where the association has arranged or offered to provide the benefits of this chapter to a covered person under a plan or arrangement that fulfills the association's obligations under this chapter, the person shall not be entitled to benefits from the association in addition to or other than those provided under the plan or arrangement.

13. Venue in a suit against the association arising under this chapter shall be in the district court of Polk county. The association shall not be required to give an appeal bond in an appeal that relates to a cause of action arising under this chapter.

14. In carrying out its duties in connection with guaranteeing, assuming, reissuing, or reinsuring policies or contracts under subsections 1 and 2, the association may issue substitute coverage for a policy or contract that provides an interest rate, crediting rate, or similar factor determined by the use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value by issuing an alternative policy or contract in accordance with the following provisions:

a. In lieu of the index or other external reference provided for in the original policy or contract the alternative policy or contract provides for one of the following:

(1) A fixed interest rate.

(2) Payment of dividends with minimum guarantees.

(3) A different method for calculating interest or changes in value.

b. There is no requirement for evidence of insurability, waiting period, or other exclusion that would not have applied under the replaced policy or contract.

c. The alternative policy or contract is substantially similar to the replaced policy or contract in all other material terms.

87 Acts, ch 223, §8; 88 Acts, ch 1135, §9; 90 Acts, ch 1234, §21, 22; 91 Acts, ch 26, §37; 92 Acts, ch 1162, §8; 2008 Acts, ch 1123, §16, 17; 2009 Acts, ch 41, §157, 158; 2010 Acts, ch 1063, §16 – 22; 2019 Acts, ch 12, §11 – 19, 35, 36; 2020 Acts, ch 1063, §275; 2023 Acts, ch 36, §4

Referred to in §508C.9, 508C.10, 508C.13

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508C.8A Principal place of business — determination.

1. The principal place of business of a plan sponsor or a person other than a natural person shall be determined by the association in its reasonable judgment by considering all of the following factors:

a. The state in which the primary executive and administrative headquarters of the entity is located.

b. The state in which the principal office of the chief executive officer of the entity is located.

c. The state in which the board of directors or similar governing person or persons of the entity conducts the majority of its meetings.

d. The state in which the executive or management committee of the board of directors or similar governing person or persons of the entity conducts the majority of its meetings.

e. The state from which the management of the overall operations of the entity is directed.

2. In the case of a benefit plan sponsored by affiliated companies comprising a consolidated corporation, the principal place of business of the entity shall be deemed to be the state in which the holding company or controlling affiliate has its principal place of business as determined by the association using the factors enumerated in subsection 1. However, if more than fifty percent of the participants in the benefit plan are employed in a single state, that state shall be determined to be the principal place of business of the entity.

3. In the case of a benefit plan established or maintained by two or more employers, or jointly by one or more employers and one or more employee organizations, the principal place of business of the entity shall be deemed to be the principal place of business of the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan. In lieu of a specific or clear designation of the principal place of business of the entity under this subsection, the principal place of business of the entity shall be deemed to be the principal place of business of the employer or employee organization that has the largest investment in the benefit plan in question.

2011 Acts, ch 70, §12
Referred to in §508C.5

508C.9 Assessments.

1. For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers, separately for each account established pursuant to section 508C.6, at the time and for the amounts the board finds necessary. An assessment is due not less than thirty days after prior written notice has been sent to the member insurers and accrues interest at ten percent per annum commencing on the due date.

2. There are two classes of assessments as follows:

a. Class A assessments shall be authorized and called for the purpose of meeting administrative and legal costs and other expenses. Class A assessments may be authorized and called whether or not related to a particular impaired or insolvent insurer.

b. Class B assessments shall be authorized and called to the extent necessary to carry out the powers and duties of the association under section 508C.8 with regard to an impaired or an insolvent insurer.

3. *a.* The amount of a class A assessment shall be determined by the board and may be authorized and called on a pro rata or non-pro rata basis. If pro rata, the board may provide that the assessment be credited against future class B assessments.

b. The amount of a class B assessment, except for assessments related to long-term care insurance, shall be allocated for assessment purposes among the accounts pursuant to an allocation formula which may be based on the premiums or the reserves of the impaired or insolvent insurer or any other standard deemed by the board in its sole discretion as being fair and reasonable under the circumstances.

c. The amount of the class B assessment for long-term care insurance written by the impaired or insolvent insurer shall be allocated according to a methodology included in the plan of operation pursuant to section 508C.10, and as approved by the commissioner. The

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methodology shall provide for fifty percent of the assessment to be allocated to accident and health member insurers and fifty percent to be allocated to life and annuity member insurers.

d. Class B assessments against member insurers for each account shall be in the proportion that the average of the aggregate premiums received on business in this state by each assessed member insurer on policies or contracts covered by each account for the three most recent calendar years for which information is available, preceding the year in which the member insurer became insolvent, or, in the case of an assessment with respect to an impaired insurer, the three most recent calendar years for which information is available preceding the year in which the member insurer became impaired, bears to premiums received on business in this state for those calendar years by all assessed member insurers.

e. Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer shall not be authorized or called until necessary to implement the purposes of this chapter. Classification of assessments under subsection 2 and computation of assessments under this subsection shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible. The association shall notify each member insurer of its anticipated pro rata share of an authorized assessment not yet called within one hundred eighty days after the assessment is authorized.

4. The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. If an assessment against a member insurer is abated or deferred, in whole or in part, the amount by which the assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section. Once the conditions that caused an abatement or deferral have been removed or rectified, the member insurer shall pay all assessments that were abated or deferred pursuant to a repayment plan approved by the association.

5. *a.* (1) Subject to the provisions of subparagraph (2) of this paragraph *"a"*, the total of all assessments authorized by the association with respect to a member insurer for each of the accounts established pursuant to section 508C.6, and designated as the health account, the life insurance account, the annuity account, and the unallocated annuity contract account, shall not in any one calendar year exceed two percent of that member insurer's average annual premiums received in this state on the policies and contracts covered by the account during the three calendar years preceding the year in which the member insurer becomes impaired or insolvent.

(2) If two or more assessments are authorized in one calendar year with respect to member insurers that become impaired or insolvent in different calendar years, the average annual premiums for purposes of the aggregate assessment percentage limitation referred to in subparagraph (1) of this paragraph *"a"* shall be equal and limited to the higher of the three-year average annual premiums for the applicable account as calculated pursuant to this section.

(3) If the maximum assessment, together with the other assets of the association in the account, does not provide in one year in either account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed for the account in succeeding years as soon as permitted by this chapter.

b. The board may provide in its plan of operation a method of allocating funds among claims, whether relating to one or more impaired or insolvent insurers, when the maximum assessment will be insufficient to cover anticipated claims.

c. If the maximum assessment for either the life insurance account, the annuity account, or the unallocated annuity contract account in one year does not provide an amount sufficient to carry out the responsibilities of the association, the board, pursuant to subsection 3, paragraph *"b"*, shall access any of the other said accounts for the necessary additional amount, subject to the maximum assessments stated in paragraph *"a"* of this subsection.

6. By an equitable method as established in the plan of operation, the board may refund to member insurers, in proportion to the contribution of each member insurer to that account, the amount by which the assets of the account, including assets accruing from assignment,

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subrogation, net realized gains, and income from investments, exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that account. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the association and for future losses claims.

7. In determining its premium rates and policy owner dividends as to any kind of insurance or health maintenance organization business within the scope of this chapter, it is proper for a member insurer to consider the amount reasonably necessary to meet its assessment obligations under this chapter.

8. The association shall issue to each member insurer paying a class B assessment under this chapter, a certificate of contribution in a form prescribed by the commissioner for the amount of the assessment so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the member insurer in its financial statement as an asset in the form, for the amount, and for a period of time as the commissioner may approve.

9. *a.* A member insurer that wishes to protest all or part of an assessment shall pay when due the full amount of the assessment as set forth in the notice provided by the association. The payment shall be made available to meet association obligations during the pendency of the protest or any subsequent appeal. The payment shall be accompanied by a statement in writing that the payment is made under protest and setting forth a brief statement of the grounds for the protest.

b. Within sixty days following the payment of an assessment under protest by a member insurer, the association shall either notify the protesting member insurer in writing of its determination with respect to the protest or notify the protesting member insurer that additional time is required to resolve the issues raised by the protest.

c. Within thirty days after a final decision has been made, the association shall notify the protesting member insurer in writing of that final decision. Within sixty days of receipt of notice of the final decision, the protesting member insurer may appeal that final decision to the commissioner.

d. As an alternative to rendering a final decision with respect to a protest of an assessment, the association may refer the protest to the commissioner for a final decision, with or without a recommendation from the association.

e. If a protest or subsequent appeal of an assessment is upheld in favor of the protesting member insurer, the amount paid in error or the excess shall be refunded to the member insurer. Interest on a refund due a protesting member insurer shall be paid at the rate actually earned by the association during the pendency of the protest or any subsequent appeal.

10. The association may request information from member insurers in order to aid in the exercise of the association's power under this section, and the member insurers shall promptly comply with such a request.

87 Acts, ch 223, §9; 88 Acts, ch 1135, §10; 90 Acts, ch 1234, §23 – 25; 92 Acts, ch 1162, §9, 10; 2000 Acts, ch 1023, §14; 2011 Acts, ch 70, §13, 14; 2019 Acts, ch 12, §20 – 22, 35, 36

Referred to in §508C.3, 508C.8, 508C.10, 508C.19

508C.10 Plan of operation.

1. *a.* The association shall submit to the commissioner a plan of operation and any amendments to the plan of operation necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation and any amendments to the plan are effective upon the commissioner's written approval.

b. If the association fails to submit a suitable plan of operation or if at any time the association fails to submit suitable amendments to the plan, the commissioner shall, after notice and hearing, adopt rules pursuant to chapter 17A as necessary or advisable to effectuate this chapter. The rules shall continue in force until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner.

2. All member insurers shall comply with the plan of operation.

3. In addition to other requirements established in this chapter the plan of operation shall establish all of the following:

a. Procedures for handling the assets of the association.

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b. The amount and method of reimbursing members of the board of directors under section 508C.7.

c. Regular places and times for meetings of the board of directors.

d. Procedures for records to be kept of all financial transactions of the association, its agents, and the board of directors.

e. Procedures for selecting the board of directors and submitting the selections to the commissioner.

f. Any additional procedures for assessments under section 508C.9.

g. Additional provisions necessary or proper for the execution of the powers and duties of the association.

4. The plan of operation may provide that any powers and duties of the association, except those under section 508C.8, subsection 9, paragraph *"c"*, and section 508C.9 are delegated to a corporation, association, or other organization which performs or will perform functions similar to those of this association, or its equivalent, in two or more states. Such a corporation, association, or organization shall be reimbursed for any payments made on behalf of the association and shall be paid for its performance of any function of the association. A delegation under this subsection shall take effect only with the approval of both the board of directors and the commissioner. The delegation shall be made only to a corporation, association, or organization which extends protection at least as favorable and effective as that provided by this chapter.

87 Acts, ch 223, §10; 2019 Acts, ch 12, §23, 35, 36
Referred to in §508C.6, 508C.9

508C.11 Duties and powers of commissioner.

1. The commissioner shall:

a. Upon request of the board of directors, provide the association with a statement of the premiums for each member insurer.

b. When an impairment is declared and the amount of the impairment is determined, serve a demand upon the impaired insurer to make good the impairment within a reasonable time. Notice to the impaired insurer constitutes notice to its shareholders, if any. The failure of the impaired insurer to promptly comply with the demand shall not excuse the association from the performance of its powers and duties under this chapter.

2. After notice and hearing, the commissioner may suspend or revoke the certificate of authority to transact business in this state of a member insurer which fails to pay an assessment when due, or fails to comply with the plan of operation. As an alternative, the commissioner may levy an administrative penalty on any member insurer which fails to pay an assessment when due. The administrative penalty shall not exceed five percent of the unpaid assessment per month. However, an administrative penalty shall not be less than one hundred dollars per month.

3. A final action of the board of directors or the association may be appealed to the commissioner by a member insurer if the appeal is taken within sixty days of the member insurer's receipt of notice of the final action being appealed. A final action or order of the commissioner is subject to judicial review pursuant to chapter 17A in a court of competent jurisdiction.

4. The liquidator, rehabilitator, or conservator of an impaired insurer may notify all interested persons of the effect of this chapter.

87 Acts, ch 223, §11; 88 Acts, ch 1112, §203; 2011 Acts, ch 70, §15, 16; 2019 Acts, ch 12, §24, 35, 36

508C.12 Prevention of insolvencies.

1. To aid in the detection and prevention of member insurer insolvencies or impairments the commissioner shall:

a. (1) Notify the commissioners or insurance departments of other states or territories of the United States and the District of Columbia when any of the following actions against a member insurer is taken:

(a) A license is revoked.

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(b) A license is suspended.

(c) A formal order is made that a member insurer restrict its premium writing, obtain additional contributions to surplus, withdraw from the state, reinsure all or any part of its business, or increase capital, surplus, or any other account for the security of policyholders, contract owners, certificate holders, or creditors.

(2) Notice shall be mailed to the commissioners or departments within thirty days following the earlier of when the action was taken or the date on which the action occurs. This subparagraph does not supersede section 507C.9, subsection 5.

b. Report to the board of directors when the commissioner has taken any of the actions set forth in paragraph *"a"* or has received a report from any other commissioner indicating that such action has been taken in another state. Reports to the board of directors shall contain all significant details of the action taken or the report received from another commissioner.

c. Report to the board of directors when there is reasonable cause to believe from an examination, whether completed or in process, of a member insurer that the insurer may be an impaired or insolvent insurer.

d. Furnish to the board of directors the national association of insurance commissioners' insurance regulatory information system ratios, and listing of insurers not included in the ratios, developed by the national association of insurance commissioners, and the board may use the information in carrying out its duties and responsibilities under this section. The report and the information contained in the report shall be kept confidential by the board of directors until such time as it is made public by the commissioner or other lawful authority.

2. The commissioner may seek the advice and recommendations of the board of directors concerning any matter affecting the commissioner's duties and responsibilities regarding the financial condition of member insurers, and insurers or health maintenance organizations seeking admission to transact insurance business in this state.

3. The board of directors may upon majority vote make reports and recommendations to the commissioner upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of a member insurer or germane to the solvency of an insurer or health maintenance organization seeking to transact business in this state. These reports and recommendations are not public records pursuant to chapter 22.

4. Upon majority vote, the board of directors shall notify the commissioner of any information indicating that a member insurer may be an impaired or insolvent insurer.

5. Upon majority vote, the board of directors may request that the commissioner order an examination of a member insurer which the board in good faith believes may be an impaired or insolvent insurer. The examination may be conducted as a national association of insurance commissioners examination or may be conducted by persons designated by the commissioner. The cost of the examination shall be paid by the association and the examination report shall be treated as are other examination reports. The examination report shall not be released to the board of directors prior to its release to the public, but this shall not preclude the commissioner from complying with subsection 1. The commissioner shall notify the board of directors when the examination is completed. The request for an examination shall be kept on file by the commissioner but it is not a public record pursuant to chapter 22 until the release of the examination report to the public.

6. Upon majority vote, the board of directors may make recommendations to the commissioner for the detection and prevention of member insurer insolvencies.

87 Acts, ch 223, §12; 88 Acts, ch 1112, §204; 2011 Acts, ch 70, §17 – 19; 2012 Acts, ch 1023, §107; 2019 Acts, ch 12, §25 – 27, 35, 36

Referred to in §22.7(23)

508C.13 Miscellaneous provisions.

1. This chapter does not reduce the liability for unpaid assessments of the insureds on an impaired or insolvent insurer operating under a plan with assessment liability other than the plan of this chapter.

2. Records shall be kept of all negotiations and meetings in which the association or its representatives are involved to discuss the activities of the association in carrying out its powers and duties under section 508C.8. Records of the negotiations or meetings shall be

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made public pursuant to chapter 22 only upon the termination of a liquidation, rehabilitation, or conservation proceeding involving the impaired or insolvent insurer, upon the termination of the impairment or insolvency of the insurer, or upon the order of a court of competent jurisdiction. This subsection does not limit the duty of the association to render a report of its activities under section 508C.14.

3. For the purpose of carrying out its obligations under this chapter, the association shall be deemed to be a creditor of the impaired or insolvent insurer to the extent of assets attributable to covered policies or contracts reduced by any amounts to which the association is entitled pursuant to its subrogation rights under section 508C.8, subsection 7. Assets of the impaired or insolvent insurer attributable to covered policies or contracts shall be used to continue all covered policies or contracts and pay all contractual obligations of the impaired or insolvent insurer as required by this chapter. As used in this subsection,*"assets attributable to covered policies or contracts"* means that proportion of the assets which the reserves that should have been established for the policies or contracts bear to the reserves that should have been established for all policies of insurance or health benefit plans written by the impaired or insolvent insurer.

4. *a.* Prior to the termination of a liquidation, rehabilitation, or conservation proceeding, the court may take into consideration the contributions of the respective parties, including the association, the shareholders, contract owners, certificate holders, enrollees, and policy owners of the insolvent insurer, and any other party with a bona fide interest, in making an equitable distribution of the ownership rights of the insolvent insurer. When considering the contributions, consideration shall be given to the welfare of the contract owners, certificate holders, enrollees, and policy owners of the continuing or successor member insurer.

b. A distribution to stockholders, if any, of an impaired or insolvent insurer shall not be made until the total amount of valid claims of the association and of similar associations of other states for funds expended in carrying out its powers and duties under section 508C.8 with respect to the member insurer have been fully recovered by the association and the similar associations.

5. *a.* Subject to the limitations of paragraphs *"b"*, *"c"*, and *"d"*, if an order for liquidation or rehabilitation of a member insurer domiciled in this state has been entered, the receiver appointed under the order may recover, on behalf of the member insurer, from any affiliate that controlled it, the amount of distributions other than stock dividends paid by the member insurer on its capital stock, made at any time during the five years preceding the petition for liquidation or rehabilitation.

b. Distributions are not recoverable if the member insurer shows that when paid the distributions were lawful and reasonable and that the member insurer did not know and could not reasonably have known that the distributions might adversely affect the ability of the member insurer to fulfill its contractual obligations.

c. A person who was an affiliate that controlled the member insurer at the time the distributions were paid shall be liable up to the amount of distributions received. A person who was an affiliate that controlled the member insurer at the time the distributions were declared shall be liable up to the amount of distributions that would have been received if the distributions had been paid immediately. If two or more persons are liable with respect to the same distributions, the persons are jointly and severally liable.

d. The maximum amount recoverable under this subsection is the amount needed in excess of all other available assets of the insolvent insurer to pay the contractual obligations of the insolvent insurer.

e. If a person liable under paragraph *"c"* is insolvent, all its affiliates that controlled it at the time the dividend was paid are jointly and severally liable for a resulting deficiency in the amount recovered from the insolvent affiliate.

87 Acts, ch 223, §13; 90 Acts, ch 1234, §26; 2019 Acts, ch 12, §28, 29, 35, 36; 2020 Acts, ch 1063, §276

Referred to in §22.7(23), 508C.8

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508C.14 Examination of association — annual report.

The association is subject to examination and regulation by the commissioner. The board of directors shall submit to the commissioner by May 1 of each year, a financial report for the preceding calendar year and a report of its activities during the preceding calendar year. The financial report shall be in a form approved by the commissioner.

87 Acts, ch 223, §14
Referred to in §508C.13

508C.15 Tax exemptions.

The association is exempt from payment of all fees and all taxes levied by this state or any of its subdivisions except taxes levied on the association's real property.

87 Acts, ch 223, §15

508C.16 Immunity — indemnification.

1. A member insurer and its agents and employees, the association and its agents and employees, members of the board of directors, and the commissioner and the commissioner's representatives are not liable for any action taken by them or omission by them while acting within the scope of their employment and in the performance of their powers and duties under this chapter and such immunity granted under this section shall extend to their participation in any organization of one or more state associations of similar purposes and to that organization and its agents and employees.

2. Sections 490.850 through 490.859 apply to the association.

87 Acts, ch 223, §16; 88 Acts, ch 1170, §9; 91 Acts, ch 97, §55; 2002 Acts, ch 1154, §111, 125; 2011 Acts, ch 70, §20

508C.17 Stay of proceedings — reopening default judgments.

Proceedings in which the insolvent insurer is a party in a court in this state shall be stayed one hundred eighty days from the date an order of liquidation, rehabilitation, or conservation is final to permit proper legal action by the association on matters germane to its powers or duties. The association may apply to have a judgment under a decision, order, verdict, or finding based on default, set aside by the same court that entered the judgment, and shall be permitted to defend against the suit on the merits.

87 Acts, ch 223, §17; 2011 Acts, ch 70, §21

508C.18 Prohibited advertisements.

A person, including a member insurer, agent, or affiliate of a member insurer, shall not make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, or placed before the public in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over a radio station or television station, or in any other way, an advertisement, announcement, or statement, written or oral, which uses the existence of the insurance guaranty association of this state for the purpose of sales, solicitation, or inducement to purchase any form of insurance or other coverage covered by this chapter. However, this section does not apply to the association or any other entity which does not sell or solicit insurance or coverage by a health maintenance organization.

87 Acts, ch 223, §18; 2011 Acts, ch 70, §22; 2019 Acts, ch 12, §30, 35, 36

508C.18A Notice to policyholders — summary of chapter and disclosure.

1. *a.* A member insurer shall not deliver a policy or contract in Iowa to the policy owner, contract owner, certificate holder, or enrollee unless a summary document describing the general purposes and current provisions of this chapter and containing a disclosure in compliance with subsection 2 is delivered to the policy owner, contract owner, certificate holder, or enrollee at the same time.

b. The summary document shall also be available upon request by a policy owner, contract owner, certificate holder, or enrollee.

c. The distribution, delivery, contents, or interpretation of the summary document does

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not guarantee that either the policy or contract, or the policy owner, the contract owner, certificate holder, or enrollee, is covered in the event of the impairment or insolvency of a member insurer.

d. The summary document shall be revised by the association and approved by the commissioner as amendments to this chapter may require. Failure to receive a summary document does not give the insurance policy or contract owner, certificate holder, enrollee, or insured any greater rights than those stated in this chapter.

2. The summary document prepared pursuant to this section shall contain a clear and conspicuous disclosure on its face. The commissioner shall establish the form and content of the disclosure which shall do all of the following:

a. State the name and address of the association and the Iowa insurance division.

b. Prominently warn the policy or contract owner, certificate holder, or enrollee that the association may not cover the policy or contract or, if coverage is available, it will be subject to substantial limitations and exclusions and conditioned on continued residence in this state.

c. State the types of insurance policies and contracts for which the association will provide coverage.

d. State that the member insurer and the member insurer's agents are prohibited by law from using the existence of the association for the purpose of sales, solicitation, or inducement to purchase any form of insurance or health maintenance organization coverage.

e. State that the policy owner, contract owner, certificate holder, or enrollee should not rely on coverage from the association when selecting an insurer or health maintenance organization.

f. Explain rights available and procedures for filing a complaint to allege a violation of any provisions of this chapter.

g. Provide other information as directed by the commissioner, including but not limited to sources for information about the financial condition of a member insurer provided that the information is not proprietary and is subject to disclosure under chapter 22.

3. A member insurer shall retain evidence of compliance with the provisions of this section for as long as the policy or contract for which the notice is given remains in effect.

2011 Acts, ch 70, §23; 2019 Acts, ch 12, §31 – 33, 35, 36

508C.19 Credits for assessments paid.

1. An insurer may offset an assessment made pursuant to section 508C.9 against its premium tax liability pursuant to chapter 432 or health care-related tax liability pursuant to chapter 432B to the extent of twenty percent of the amount of the assessment for each of the five calendar years following the year in which the assessment was paid. If an insurer ceases doing business, all uncredited assessments may be credited against its premium or health care-related tax liability for the year it ceases doing business.

2. Sums acquired by refund from the association which have been written off by contributing insurers and offset against premium taxes or health care-related taxes as provided in subsection 1 and are not then needed for purposes of this chapter shall be paid by the association to the commissioner. The commissioner shall remit the moneys to the treasurer of state to deposit in the state general fund.

87 Acts, ch 223, §19; 2026 Acts, ch 1003, §7, 15, 16

2026 amendment applies retroactively to January 1, 2026, for tax years beginning on or after that date; 2026 Acts, ch 1003, §16

Section amended

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CHAPTER 508D

MULTISTATE LIFE AND HEALTH INSURANCE RESOLUTION FACILITY

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

508D.1 Title.
508D.2 Purpose.
508D.3 Definitions.
508D.4 Facility established.
508D.5 Board of directors.
508D.6 Powers and duties of the facility.
508D.7 Plan of operation.
508D.8 Costs and assessments.
508D.9 Miscellaneous provisions.

508D.1 Title.

This chapter shall be cited as the *"Multistate Life and Health Insurance Resolution Facility Act"*.

94 Acts, ch 1011, §1

508D.2 Purpose.

The purpose of this chapter is to authorize the formation of an entity by one or more state life and health insurance guaranty associations for the purpose of administering and disposing of the business of impaired or insolvent insurance companies assumed by or assigned to the entity by its member guaranty associations, or by impaired or insolvent insurers through the impaired or insolvent insurer's duly appointed receiver, liquidator, or rehabilitator, and to establish the conditions under which such an entity shall do business.

94 Acts, ch 1011, §2

Referred to in §508D.3, 508D.4

508D.3 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Facility"* means the multistate life and health insurance resolution facility created pursuant to section 508D.4 as a legal entity domiciled in Iowa with its principal place of business and other business offices either within or without the state of Iowa as the board of directors may designate or as the business of the entity may require and established for the purpose set out in section 508D.2.

2. *"Member guaranty association"* means the Iowa life and health insurance guaranty association created pursuant to chapter 508C or any other state life and health insurance guaranty association which is or becomes a member of the facility pursuant to the plan of operation.

3. *"Oversight organization"* means the Iowa commissioner of insurance and the state insurance commissioner, or other state official charged with the responsibility of regulating the insurance industry in the same or similar manner as the Iowa commissioner of insurance, from the state of domicile of each member guaranty association.

94 Acts, ch 1011, §3

508D.4 Facility established.

The facility may be created by one or more life and health insurance guaranty associations for the purpose set out in section 508D.2. The name of the facility shall be the multistate life and health insurance resolution facility. A life and health insurance guaranty association or other entity as approved by the board may elect to become a member of the association. The facility shall perform its functions under a plan of operation established and approved under section 508D.7 and shall exercise its powers through a board of directors established under section 508D.5. Only one facility shall be established pursuant to this chapter.

94 Acts, ch 1011, §4

Referred to in §508D.3

508D.5 Board of directors.

1. The members of the board of directors shall be selected by the member guaranty associations. The number of members of the board and their terms shall be established in the plan of operation. Vacancies on the board shall be filled for the remaining period of the

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term by a majority vote of the remaining board members. In determining voting rights, each member guaranty association shall be entitled to one vote in person or by proxy.

2. The initial board of directors of the facility shall be established by the Iowa life and health insurance guaranty association and shall consist of not less than five nor more than nine members. The initial board of directors shall adopt a plan of operation for the facility as provided in section 508D.7.

3. Members of the board of directors are entitled to reasonable compensation for expenses incurred in attending meetings of the board or while on business conducted on behalf of the facility. Members of the board may also be compensated by the facility for their services provided as members of the board as provided in the plan of operation.

94 Acts, ch 1011, §5
Referred to in §508D.4

508D.6 Powers and duties of the facility.

1. The facility shall perform those duties of the member guaranty associations which are delegated to the facility as permitted under the enabling legislation of each member guaranty association and which are consistent with the plan of operation.

2. Except as otherwise provided in this chapter, the facility is granted specific authority to exercise the powers of a domestic life or health insurer.

3. The facility is not authorized to solicit, advertise, market, sell, underwrite, issue, insure, administer, or reinsure new insurance business or insurance business of insurance companies which are not impaired or insolvent according to the laws of their state of domicile.

4. The board of directors of the facility may enter into agreements with any interstate compact organization established for the purpose of administering impaired or insolvent insurance companies in this or any other state.

5. An activity involving the authority of the facility derived from chapter 507C or other law related to insurer supervision, rehabilitation, and liquidation shall be performed in compliance with the requirements of such law.

6. The facility established under this chapter is not subject to any insurance licensing requirements and an employee of the facility is not subject to any insurance licensing requirements for activities performed within the employee's scope of duties. All regulatory oversight of the facility shall be conducted by the oversight organization.

94 Acts, ch 1011, §6
Referred to in §508D.9

508D.7 Plan of operation.

1. The facility shall submit to the oversight organization a plan of operation and any amendments to the plan of operation necessary or suitable to assure the fair, reasonable, and equitable administration of the facility's business. The plan of operation and any amendments to the plan are effective upon the oversight organization's written approval.

2. The plan of operation, in addition to other requirements established in this chapter, shall establish all of the following:

a. Procedures for administering the assets under the control of the facility.

b. Regular places and times for meetings of the board of directors.

c. Procedures for records to be kept of all financial transactions engaged in by the facility, the agents of the facility, and the board of directors.

d. Procedures for selecting the board of directors and submitting the selections to the oversight organization.

e. Procedures for permitting life and health insurance guaranty associations to become members of the facility.

f. Procedures for the assumption of the insurance business or the assignment of the insurance business to the facility by member guaranty associations.

g. Procedures for determining and making assessments against member guaranty associations by the board of directors.

h. Additional provisions necessary and proper for the execution of the powers and duties of the facility.

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i. A description of staffing requirements and qualifications for positions within the facility.

3. The plan of operation may provide that any powers and duties of the facility, except the power to borrow money and the power to make assessments, may be delegated to a corporation, association, or other organization or individual which performs or will perform those functions. Such corporation, association, or other organization or individual shall be reimbursed for any payments made on behalf of the facility and shall be compensated for the performance of any permissible function, as directed by the facility. A delegation of any power or duty pursuant to this subsection takes effect only with the approval of the board of directors.

94 Acts, ch 1011, §7
Referred to in §508D.4, 508D.5

508D.8 Costs and assessments.

1. Costs of administration shall be recorded separately for each impaired or insolvent company and those costs shall be reimbursed from the assets of such company.

2. The board of directors of the facility shall assess the member guaranty associations at the time and for the amounts the board finds necessary to reimburse the facility for any additional costs not reimbursed from assets managed by the facility. Assessments made pursuant to this subsection shall be allocated among member guaranty associations pursuant to a formula adopted by the board and consistent with each individual guaranty association's liability for the facility's insurance business which is the subject of the assessment. An assessment is due not less than ninety days after prior written notice has been sent to the member guaranty association and accrues interest at ten percent per annum commencing on the due date.

3. The total of all assessments upon a member guaranty association shall not exceed in any one calendar year the limit set by the enabling legislation of the member guaranty association's state of domicile for assessments against insurance companies. If a maximum assessment in any one year does not provide an amount sufficient to carry out the responsibilities of the facility, the necessary additional funds shall be assessed in succeeding years as soon as permitted by this chapter and by the enabling legislation of the member guaranty association's state of domicile.

4. Notwithstanding subsection 3, the Iowa life and health insurance guaranty association shall levy additional assessments not to exceed one hundred dollars per company per year if necessary to fund organizational expenses of the facility.

94 Acts, ch 1011, §8

508D.9 Miscellaneous provisions.

1. Records shall be kept of all negotiations and meetings in which the facility or the facility's representatives are involved to discuss the activities of the facility in carrying out the powers and duties set out under section 508D.6. Records of negotiations or meetings shall be made public pursuant to chapter 22 only upon the termination of a liquidation, rehabilitation, or conservation proceeding involving the impaired or insolvent insurance company whose business was assumed by or assigned to the facility, upon the termination of the impairment or insolvency of the insurance company, or upon the order of a court of competent jurisdiction. This subsection does not limit the duty of the association to render a report of its activities under subsection 2.

2. The facility is subject to examination and regulation by the oversight organization. The board of directors shall submit to the oversight organization by June 1 of each year a financial report for the preceding calendar year and a report of its activities during the preceding calendar year. The financial report shall be in a form approved by the oversight organization.

3. The facility is exempt from payment of all fees and taxes levied by this state or any of its subdivisions on insurance companies, except taxes levied on the real property of the facility.

4. A member guaranty association and its agents and employees, the facility and its agents and employees, members of the board of directors, and the oversight organization and its representatives are not liable for any acts or omissions while acting within the scope of their employment and in the performance of their powers and duties under this chapter, except

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for acts or omissions not in good faith which involve intentional misconduct or which involve a knowing violation of law.

94 Acts, ch 1011, §9

CHAPTER 508E

VIATICAL SETTLEMENT CONTRACTS

Referred to in §87.4, 296.7, 331.301, 364.4, 502.201, 505.28, 505.29, 507B.3, 669.14, 670.7

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508E.4 License revocation and denial.
508E.5 Approval of viatical settlement contracts and disclosure statements.
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508E.11 Prohibited practices.
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508E.15 Fraud prevention and control.
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508E.17 Unfair trade practices.
508E.18 Criminal penalties.
508E.19 Authority to promulgate rules.
508E.20 Public records.

508E.1 Short title.

This chapter may be cited as the *"Viatical Settlements Act"*.

2008 Acts, ch 1155, §1, 21; 2026 Acts, ch 1040, §102

Section amended

508E.1A Authority of the commissioner.

The commissioner shall regulate, but not prohibit, the sale of viatical settlements as provided in this chapter.

2000 Acts, ch 1147, §35

C2001, §508E.1

2008 Acts, ch 1155, §21

C2009, §508E.1A

508E.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Advertising"* means any written, electronic, or printed communication or any communication by means of recorded telephone messages or transmitted on radio, television, the internet, or similar communications media, including film strips, motion pictures, and videos, published, disseminated, circulated, or placed directly before the public in this state, for the purpose of creating an interest in or inducing a person to sell, assign, devise, bequest, or transfer the death benefit or ownership of a life insurance policy pursuant to a viatical settlement contract.

2. *"Business of viatical settlements"* means an activity involved in but not limited to the offering, soliciting, negotiating, procuring, effectuating, purchasing, investing, financing, monitoring, tracking, underwriting, selling, transferring, assigning, pledging, hypothecating, or in any other manner acquiring an interest in a life insurance policy by means of a viatical settlement contract.

3. *"Chronically ill"* means any of the following:

a. Being unable to perform or maintain at least two activities of daily living, including but not limited to eating, toileting, transferring, bathing, dressing, or continence.

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b. Requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment.

c. Having a level of disability similar to that described in paragraph *"a"* as determined by the United States secretary of health and human services.

4. *"Commissioner"* means the commissioner of insurance.

5. *a. "Financing entity"* means an underwriter, placement agent, lender, purchaser of securities, purchaser of a policy or certificate from a viatical settlement provider, credit enhancer, or any entity that has a direct ownership in a policy or certificate that is the subject of a viatical settlement contract, but subject to all of the following:

(1) Whose principal activity related to the transaction is providing funds to effect the viatical settlement or purchase of one or more viaticated policies.

(2) Who has an agreement in writing with one or more licensed viatical settlement providers to finance the acquisition of viatical settlement contracts.

b. "Financing entity" does not include a nonaccredited investor or a viatical settlement purchaser.

6. *"Fraudulent viatical settlement act"* includes any of the following:

a. An act or omission committed by any person who, knowingly or with intent to defraud, for the purpose of depriving another of property or for pecuniary gain, commits or permits its employees or its agents to engage in acts including any of the following:

(1) Presenting, causing to be presented, or preparing with knowledge or belief that it will be presented to or by a viatical settlement provider, viatical settlement broker, viatical settlement purchaser, financing entity, insurer, insurance producer, or any other person, false material information, or concealing material information, as part of, in support of, or concerning a fact material to one or more of the following:

(a) An application for the issuance of a viatical settlement contract or insurance policy.

(b) The underwriting of a viatical settlement contract or insurance policy.

(c) A claim for payment or benefit pursuant to a viatical settlement contract or insurance policy.

(d) Premiums paid on an insurance policy.

(e) Payments and changes in ownership or beneficiary made in accordance with the terms of a viatical settlement contract or insurance policy.

(f) The reinstatement or conversion of an insurance policy.

(g) In the solicitation, offer, effectuation, or sale of a viatical settlement contract or insurance policy.

(h) The issuance of written evidence of viatical settlement contract or insurance policy.

(i) A financing transaction.

(2) Employing any plan, financial structure, device, scheme, or artifice to defraud related to viaticated policies.

(3) Entering into any practice or plan which involves stranger-originated life insurance.

(4) Failing to disclose to the insurer when requested by the insurer that the prospective insured has undergone a life expectancy evaluation by any person or entity other than the insurer or its authorized representative in connection with the issuance of the policy.

b. In the furtherance of a fraud or to prevent the detection of a fraud to do, or permit an employee or agent to do, any of the following:

(1) Remove, conceal, alter, destroy, or sequester from the commissioner the assets or records of a licensee or other person engaged in the business of viatical settlements.

(2) Misrepresent or conceal the financial condition of a licensee, financing entity, insurer, or other person.

(3) Transact the business of viatical settlements in violation of laws requiring a license, certificate of authority, or other legal authority for the transaction of the business of viatical settlements.

(4) File with the commissioner or the equivalent chief insurance regulatory official of another jurisdiction a document containing false information or otherwise conceal information about a material fact from the commissioner.

c. Embezzlement, theft, misappropriation, or conversion of moneys, funds, premiums,

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credits, or other property of a viatical settlement provider, insurer, insured, viator, insurance policyowner, or any other person engaged in the business of viatical settlements or insurance.

d. Recklessly entering into, negotiating, brokering, or otherwise dealing in a viatical settlement contract, the subject of which is a life insurance policy that was obtained by presenting false information concerning any fact material to the policy or by concealing, for the purpose of misleading another, information concerning any fact material to the policy, where the person or the persons intended to defraud the policy's issuer, the viatical settlement provider, or the viator. As used in this paragraph, "*recklessly*" means engaging in the conduct in conscious and clearly unjustifiable disregard of a substantial likelihood of the existence of the relevant facts or risks, such disregard involving a gross deviation from acceptable standards of conduct.

e. Facilitating the change of state of ownership of a policy or certificate or the state of residency of a viator to a state or jurisdiction that does not have a law similar to this chapter for the express purposes of evading or avoiding the provisions of this chapter.

f. Attempting to commit, assisting, aiding or abetting in the commission of, or conspiracy to commit the acts or omissions specified in this subsection.

7. "*Life insurance producer*" means any person licensed in this state as a resident or nonresident insurance producer who has received qualification or authority for life insurance coverage or a life line of coverage pursuant to chapter 522B.

8. "*Person*" means a natural person or a legal entity, including, without limitation, an individual, partnership, limited liability company, association, trust, or corporation.

9. "*Policy*" means an individual or group policy, group certificate, contract, or arrangement of life insurance owned by a resident of this state, regardless of whether delivered or issued for delivery in this state.

10. "*Related provider trust*" means a titling trust or other trust established by a licensed viatical settlement provider or a financing entity for the sole purpose of holding the ownership or beneficial interest in purchased policies in connection with a financing transaction. The trust shall have a written agreement with the licensed viatical settlement provider under which the licensed viatical settlement provider is responsible for ensuring compliance with all statutory and regulatory requirements and under which the trust agrees to make all records and files related to viatical settlement transactions available to the commissioner as if those records and files were maintained directly by the licensed viatical settlement provider.

11. "*Special purpose entity*" means a corporation, partnership, trust, limited liability company, or other similar entity formed solely to provide either directly or indirectly access to institutional capital markets for or in connection with any of the following:

a. For a financing entity or licensed viatical settlement provider.

b. (1) In connection with a transaction in which the securities in the special purpose entity are acquired by the viator or by qualified institutional buyers as defined in 17 C.F.R. §230.144 promulgated by the United States securities and exchange commission under the federal Securities Act of 1933, as amended, 15 U.S.C. §77a et seq.

(2) In connection with a transaction in which the securities pay a fixed rate of return commensurate with established asset-backed institutional capital markets.

12. "*Stranger-originated life insurance*" means a practice or an act to initiate a life insurance policy for the benefit of a third-party investor who, at the time of policy origination, has no insurable interest in the insured.

a. Stranger-originated life insurance practices include cases in which life insurance is purchased with resources or guarantees from or through a person or entity who, at the time of the policy inception, could not lawfully initiate the policy by the person or entity, and where, at the time of the policy's inception, there is an arrangement or agreement, whether verbal or written, to directly or indirectly transfer the ownership of the policy or the policy benefits to a third party. Trusts that are created to give the appearance of an insurable interest, and are used to initiate policies for investors, violate insurable interest laws and the prohibition against wagering on life.

b. Stranger-originated life insurance arrangements do not include those practices set forth in subsection 15, paragraph "*d*".

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13. *"Terminally ill"* means having an illness or sickness that can reasonably be expected to result in death in twenty-four months or less.

14. *"Viatical settlement broker"* means a person, including a life insurance producer, who, working exclusively on behalf of a viator and for a fee, commission, or other valuable consideration, offers or attempts to negotiate viatical settlement contracts between a viator and one or more viatical settlement providers or one or more viatical settlement brokers. Notwithstanding the manner in which the viatical settlement broker is compensated, a viatical settlement broker is deemed to represent only the viator, and not the insurer or the viatical settlement provider, and owes a fiduciary duty to the viator to act according to the viator's instructions and in the best interest of the viator. *"Viatical settlement broker"* does not include an attorney, certified public accountant, or a financial planner accredited by a nationally recognized accreditation agency who is retained to represent the viator and whose compensation is not paid directly or indirectly by the viatical settlement provider or purchaser.

15. *a. "Viatical settlement contract"* means a written agreement entered into between a viator and a viatical settlement provider or any affiliate of the viatical settlement provider establishing the terms under which compensation or anything of value is or will be paid, which compensation or value is less than the expected death benefits of the policy in return for the viator's present or future assignment, transfer, sale, devise, or bequest of the death benefit or ownership of any portion of the insurance policy or certificate of insurance.

b. "Viatical settlement contract" includes a premium finance loan made for a life insurance policy by a lender to a viator on, before, or after the date of issuance of the policy where any of the following applies:

(1) The viator or the insured receives on the date of the premium finance loan a guarantee of a future viatical settlement value of the policy.

(2) The viator or the insured agrees on the date of the premium finance loan to sell the policy or any portion of its death benefit on any date following the issuance of the policy.

c. "Viatical settlement contract" also includes the transfer for compensation or value of ownership or beneficial interest in a trust or other entity that owns a life insurance policy if the trust or other entity was formed or availed of for the principal purpose of acquiring one or more life insurance policies, which life insurance policy insures the life of a person residing in this state.

d. "Viatical settlement contract" does not include any of the following:

(1) A policy loan or accelerated death benefit made by the insurer pursuant to the policy's terms.

(2) Loan proceeds that are used solely to pay any of the following:

(a) Premiums for the policy.

(b) The costs of the loan, including, without limitation, interest, arrangement fees, utilization fees and similar fees, closing costs, legal fees and expenses, trustee fees and expenses, and third-party collateral provider fees and expenses, including fees payable to letter of credit issuers.

(3) A loan made by a bank or other licensed financial institution in which the lender takes an interest in a life insurance policy solely to secure repayment of a loan or, if there is a default on the loan and the policy is transferred, the transfer of such a policy by the lender, provided that neither the default itself nor the transfer of the policy in connection with such default is pursuant to an agreement or understanding with any other person for the purpose of evading regulation under this chapter.

(4) A loan made by a lender that does not violate insurance premium finance law, provided that the premium finance loan is not described in paragraph *"b"*.

(5) An agreement where all the parties are closely related to the insured by blood or law; have a lawful substantial economic interest in the continued life, health, and bodily safety of the person insured; or are trusts established primarily for the benefit of such parties.

(6) Any designation, consent, or agreement by an insured who is an employee of an employer in connection with the purchase by the employer, or trust established by the employer, of life insurance on the life of the employee.

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(7) A bona fide business succession planning arrangement between one or more of the following:

(a) Shareholders in a corporation or between a corporation and one or more of its shareholders or one or more trusts established by its shareholders.

(b) Partners in a partnership or between a partnership and one or more of its partners or one or more trusts established by its partners.

(c) Members in a limited liability company or between a limited liability company and one or more of its members or one or more trusts established by its members.

(8) An agreement entered into by a service recipient, or a trust established by the service recipient, and a service provider, or a trust established by the service provider, who performs significant services for the service recipient's trade or business.

(9) Any other contract, transaction, or arrangement exempted from the definition of viatical settlement contract by the commissioner based on a determination that the contract, transaction, or arrangement is not of the type intended to be regulated by this chapter.

16. *a.* *"Viatical settlement provider"* means a person, other than a viator, that enters into or effectuates a viatical settlement contract with a viator resident in this state.

b. *"Viatical settlement provider"* does not include any of the following:

(1) A bank, savings bank, savings and loan association, credit union, or other licensed lending institution that takes an assignment of a life insurance policy solely as collateral for a loan.

(2) The issuer of the life insurance policy.

(3) An authorized or eligible insurer that provides stop-loss coverage or financial guaranty insurance to a viatical settlement provider, purchaser, financing entity, special purpose entity, or related provider trust.

(4) A natural person who enters into or effectuates no more than one agreement in a calendar year for the transfer of life insurance policies for any value less than the expected death benefit.

(5) A financing entity.

(6) A special purpose entity.

(7) A related provider trust.

(8) A viatical settlement purchaser.

(9) Any other person that the commissioner determines is not the type of person intended to be covered by the definition of viatical settlement provider.

17. *a.* *"Viatical settlement purchaser"* means a person who provides a sum of money as consideration for a life insurance policy or an interest in the death benefits of a life insurance policy, or a person who owns or acquires or is entitled to a beneficial interest in a trust that owns a viatical settlement contract or is the beneficiary of a life insurance policy that has been or will be the subject of a viatical settlement contract, for the purpose of deriving an economic benefit.

b. *"Viatical settlement purchaser"* does not include any of the following:

(1) A licensee under this chapter.

(2) An accredited investor or qualified institutional buyer as defined, respectively, in 17 C.F.R. §230.501(a) or 17 C.F.R. §230.144A as promulgated by the United States securities and exchange commission under the federal Securities Act of 1933, as amended, 15 U.S.C. §77a et seq.

(3) A financing entity.

(4) A special purpose entity.

(5) A related provider trust.

18. *"Viaticated policy"* means a life insurance policy or certificate that has been acquired by a viatical settlement provider pursuant to a viatical settlement contract.

19. *a.* *"Viator"* means the owner of a life insurance policy or a certificate holder under a group policy who resides in this state and enters or seeks to enter into a viatical settlement contract. *"Viator"* includes but is not limited to an owner of a life insurance policy or a certificate holder under a group policy insuring the life of an individual with a terminal or chronic illness or condition except where specifically addressed. If there is more than one viator on a single policy and the viators are residents of different states, the transaction

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shall be governed by the law of the state in which the viator having the largest percentage ownership resides or, if the viators hold equal ownership, the state of residence of one viator agreed upon in writing by all the viators.

b. *"Viator"* does not include any of the following:

(1) A licensee under this chapter, including a life insurance producer acting as a viatical settlement broker pursuant to this chapter.

(2) A qualified institutional buyer as defined in 17 C.F.R. §230.144-144A as promulgated by the United States securities and exchange commission under the federal Securities Act of 1933, as amended, 15 U.S.C. §77a et seq.

(3) A financing entity.

(4) A special purpose entity.

(5) A related provider trust.

2000 Acts, ch 1147, §36; 2008 Acts, ch 1155, §2; 2021 Acts, ch 181, §6
Referred to in §508E.12

508E.3 License requirements.

1. *a.* A person shall not operate as a viatical settlement provider or viatical settlement broker without first obtaining a license from the commissioner of the state of residence of the viator.

b. An insurer that issued a policy being viaticated shall not be responsible for any act or omission of a viatical settlement broker or viatical settlement provider arising out of or in connection with the viatical settlement transaction, unless the insurer receives compensation for the placement of a viatical settlement contract from the viatical settlement provider or viatical settlement broker in connection with the viatical settlement contract.

c. A person licensed as an attorney, certified public accountant, or financial planner accredited by a nationally recognized accreditation agency who is retained to represent a viator, whose compensation is not paid directly or indirectly by the viatical settlement provider, may negotiate a viatical settlement contract on behalf of the viator without having to obtain a license as a viatical settlement broker.

2. An application for a viatical settlement provider or viatical settlement broker license shall be made to the commissioner by the applicant on a form prescribed by the commissioner, and the application shall be accompanied by a fee of not more than one hundred dollars as provided by rules adopted by the commissioner.

3. A viatical settlement provider or viatical settlement broker license term shall be three years and the license may be renewed upon payment of a renewal fee of not more than one hundred dollars as provided by rules adopted by the commissioner. A failure to pay the fee by the renewal date shall result in expiration of the license.

4. An applicant shall provide information on forms required by the commissioner and shall meet all requirements pursuant to section 522B.5A if required by the commissioner. The commissioner shall have the authority to require an applicant to fully disclose the identity of all stockholders, partners, officers, members, and employees. The commissioner may, in the commissioner's discretion, refuse to issue a license to such applicant if not satisfied that any officer, employee, stockholder, partner, member, or employee who may materially influence the applicant's conduct meets the standards of this chapter.

5. Upon filing of an application and the payment of the license fee, the commissioner shall investigate each applicant and issue a license if the commissioner finds that the applicant complies with all of the following:

a. If a viatical settlement provider, has provided a detailed plan of operation.

b. Is competent and trustworthy and intends to act in good faith in the capacity involved by the license applied for.

c. Has a good business reputation and has had experience, training, or education so as to be qualified in the business for which the license is applied for.

d. If a viatical settlement provider or viatical settlement broker, has provided an antifraud plan pursuant to section 508E.15, subsection 7.

6. The commissioner shall not issue a license to a nonresident applicant unless a written designation of an agent for service of process is filed and maintained with the commissioner

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or the applicant has filed with the commissioner the applicant's written irrevocable consent that any action against the applicant may be commenced against the applicant by service of process on the commissioner. If an applicant files such consent, service of process made on the commissioner as the agent for service of process shall be made as provided in section 505.30.

7. A viatical settlement provider or viatical settlement broker shall provide to the commissioner new or revised information about officers, ten-percent-or-more stockholders, partners, directors, members, or designated employees within thirty days of the change.

8. An individual licensed as a viatical settlement broker shall complete on a triennial basis running concurrent with the license term twenty credits of training related to viatical settlements and viatical settlement transactions, as required by the commissioner. Any person failing to meet the requirements of this subsection shall be subject to the penalties imposed by the commissioner.

9. Fees collected pursuant to this section shall be deposited as provided in section 505.7.

2000 Acts, ch 1147, §37; 2008 Acts, ch 1155, §3; 2009 Acts, ch 145, §6, 7; 2009 Acts, ch 181, §69; 2018 Acts, ch 1018, §4; 2020 Acts, ch 1016, §5

Referred to in §508E.7, 508E.10, 508E.18

508E.3A Immunity from liability. Repealed by 2008 Acts, ch 1155, §22. See §508E.15.

508E.4 License revocation and denial.

1. The commissioner may refuse to issue, suspend, revoke, or refuse to renew the license of a viatical settlement provider or viatical settlement broker if the commissioner finds that any of the following applies:

a. There was any material misrepresentation in the application for the license.

b. The licensee or any officer, partner, member, or key management personnel has been convicted of fraudulent or dishonest practices, is subject to a final administrative action, or is otherwise shown to be untrustworthy or incompetent.

c. The viatical settlement provider demonstrates a pattern of unreasonable payments to viators.

d. The licensee or any officer, partner, member, or key management personnel has been found guilty of, or has pleaded guilty or nolo contendere to, any felony, or to a misdemeanor involving fraud or moral turpitude, regardless of whether a judgment of conviction has been entered by the court.

e. The viatical settlement provider has entered into any viatical settlement contract form that has not been approved pursuant to this chapter.

f. The viatical settlement provider has failed to honor contractual obligations set out in a viatical settlement contract.

g. The licensee no longer meets the requirements for initial licensure.

h. The viatical settlement provider has assigned, transferred, or pledged a viaticated policy to a person other than a viatical settlement provider licensed in this state, viatical settlement purchaser, an accredited investor, or qualified institutional buyer as defined respectively in 17 C.F.R. §230.501(a) or 17 C.F.R. §230.144A as promulgated by the United States securities and exchange commission under the federal Securities Act of 1933, as amended, 15 U.S.C. §77a et seq., a financing entity, special purpose entity, or related provider trust.

i. The licensee or any officer, partner, member, or key management personnel has violated any provision of this chapter.

2. The commissioner may suspend, revoke, or refuse to renew the license of a viatical settlement broker or a life insurance producer operating as a viatical settlement broker pursuant to this chapter if the commissioner finds that the viatical settlement broker or life insurance producer has violated the provisions of this chapter or has otherwise engaged in bad faith conduct with one or more viators.

3. If the commissioner denies a license application or suspends, revokes, or refuses to renew the license of a viatical settlement provider or viatical settlement broker, or suspends, revokes, or refuses to renew a license of a life insurance producer operating as a viatical

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settlement broker pursuant to this chapter, the commissioner shall conduct a hearing in accordance with chapter 17A.

2000 Acts, ch 1147, §38; 2008 Acts, ch 1155, §4
Referred to in §522B.5A

508E.5 Approval of viatical settlement contracts and disclosure statements.

A person shall not use a viatical settlement contract form or provide to a viator a disclosure statement form in this state unless first filed with and approved by the commissioner. The commissioner shall disapprove a viatical settlement contract form or disclosure statement form if, in the commissioner's opinion, the contract or provisions contained therein fail to meet the requirements of sections 508E.8, 508E.10, 508E.14, and 508E.15, subsection 2, or are unreasonable, contrary to the interests of the public, or otherwise misleading or unfair to the viator. At the commissioner's discretion, the commissioner may require the submission of advertising material. The commissioner's approval of any of the materials shall not be a defense or otherwise preclude a civil action for fraud.

2008 Acts, ch 1155, §5

508E.6 Reporting requirements and privacy.

1. For any policy settled within five years of policy issuance, each viatical settlement provider shall file with the commissioner on or before March 1 of each year an annual statement containing such information as the commissioner may adopt by rule. In addition to any other requirements, the annual statement shall specify the total number, aggregate face amount, and life settlement proceeds of policies settled during the immediately preceding calendar year, together with a breakdown of the information by policy issue year. The annual statement shall also include the names of the insurance companies whose policies have been settled and the viatical settlement brokers that have settled said policies. Such information shall be limited to only those transactions where the viator is a resident of this state. Notwithstanding chapter 22, individual transaction data regarding the business of viatical settlements or data that could compromise the privacy of personal, financial, and health information of the viator or insured shall be filed with the commissioner on a confidential basis.

2. Except as otherwise allowed or required by law, a viatical settlement provider, viatical settlement broker, insurance company, insurance producer, information bureau, rating agency or company, or any other person with actual knowledge of an insured's identity shall not disclose that identity as an insured, or the insured's financial or medical information to any other person unless the disclosure is any of the following:

a. Necessary to effect a viatical settlement between the viator and a viatical settlement provider and the viator and insured have provided prior written consent to the disclosure.

b. Provided in response to an investigation or examination by the commissioner or any other governmental officer or agency or pursuant to the requirements of section 508E.15, subsection 3.

c. A term of or condition to the transfer of a policy by one viatical settlement provider to another viatical settlement provider.

d. Necessary to permit a financing entity, related provider trust, or special purpose entity to finance the purchase of policies by a viatical settlement provider and the viator and insured have provided prior written consent to the disclosure.

e. Necessary to allow the viatical settlement provider, viatical settlement broker, or their authorized representatives to make contacts for the purpose of determining health status.

f. Required to purchase stop-loss coverage or financial guaranty insurance.

2008 Acts, ch 1155, §6

508E.7 Examination or investigations.

1. *Authority, scope, and scheduling of examinations.*

a. (1) The commissioner may conduct an examination under this chapter of a licensee as often as the commissioner in the commissioner's discretion deems appropriate after considering the factors set forth in this paragraph "*a*".

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(2) In scheduling and determining the nature, scope, and frequency of the examinations, the commissioner shall consider such matters as the consumer complaints, results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants, and other relevant criteria as determined by the commissioner.

b. For purposes of completing an examination of a licensee under this chapter, the commissioner may examine or investigate any person, or the business of any person, insofar as the examination or investigation is, in the sole discretion of the commissioner, necessary or material to the examination of the licensee.

c. In lieu of an examination under this chapter of any foreign or alien licensee licensed in this state, the commissioner may, at the commissioner's discretion, accept an examination report on the licensee as prepared by the commissioner for the licensee's state of domicile or port-of-entry state.

d. As far as practical, the examination of a foreign or alien licensee shall be made in cooperation with the insurance supervisory officials of other states in which the licensee transacts business.

2. *Record retention requirements.*

a. A person required to be licensed pursuant to section 508E.3 shall for five years retain copies of all of the following:

(1) Proposed, offered, or executed contracts, purchase agreements, underwriting documents, policy forms, and applications from the date of the proposal, offer, or execution of the contract or purchase agreement, whichever is later.

(2) All checks, drafts, or other evidence and documentation related to the payment, transfer, deposit, or release of funds from the date of the transaction.

(3) All other records and documents related to the requirements of this chapter.

b. This section does not relieve a person of the obligation to produce documents described in paragraph "*a*" to the commissioner after the retention period has expired if the person has retained the documents.

c. Records required to be retained by paragraph "*a*" must be legible and complete and may be retained in paper, photograph, microprocess, magnetic, mechanical, or electronic media, or by any process that accurately reproduces or forms a durable medium for the reproduction of a record.

3. *Conduct of examinations.*

a. Upon determining that an examination should be conducted, the commissioner shall issue an examination warrant appointing one or more examiners to perform the examination and instructing them as to the scope of the examination. In conducting the examination, the examiner shall observe those guidelines and procedures set forth in the examiners handbook adopted by the national association of insurance commissioners. The commissioner may also adopt rules for such other guidelines or procedures as the commissioner may deem appropriate.

b. Every licensee or person from whom information is sought, its officers, directors, and agents shall provide to the examiners timely, convenient, and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents, assets, and computer or other recordings relating to the property, assets, business, and affairs of the licensee being examined. The officers, directors, employees, and agents of the licensee or person shall facilitate the examination and aid in the examination so far as it is in their power to do so. The refusal of a licensee, by its officers, directors, employees, or agents, to submit to examination or to comply with any reasonable written request of the commissioner shall be grounds for suspension or refusal of, or nonrenewal of, any license or authority held by the licensee to engage in the viatical settlement business or other business subject to the commissioner's jurisdiction. Any proceedings for suspension, revocation, or refusal of any license or authority shall be conducted pursuant to section 507B.6A.

c. The commissioner shall have the power to issue subpoenas, to administer oaths, and to examine under oath any person as to any matter pertinent to the examination. Upon the failure or refusal of a person to obey a subpoena, the commissioner may petition a court of competent jurisdiction, and upon proper showing, the court may enter an order compelling

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the witness to appear and testify or produce documentary evidence. A failure to obey the court order shall be punishable as contempt of court.

d. When making an examination under this chapter, the commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners, the reasonable cost of which shall be borne by the licensee that is the subject of the examination.

e. Nothing contained in this chapter shall be construed to limit the commissioner's authority to terminate or suspend an examination in order to pursue other legal or regulatory action pursuant to the insurance laws of this state. Findings of fact and conclusions made pursuant to any examination shall be prima facie evidence in any legal or regulatory action.

f. The commissioner's authority to use and, if appropriate, to make public any final or preliminary examination report, any examiner or licensee workpapers, or other documents, or any other information discovered or developed during the course of any examination in the furtherance of any legal or regulatory action shall be permitted consistent with section 507.14.

4. *Examination reports.*

a. Examination reports shall be comprised of only facts appearing upon the books, records, or other documents of the licensee, its agents, or other persons examined, or as ascertained from the testimony of its officers, agents, or other persons examined concerning its affairs, and such conclusions and recommendations as the examiners find reasonably warranted from the facts.

b. Not later than sixty days following completion of the examination, the examiner in charge shall file with the commissioner a verified written report of examination under oath. Upon receipt of the verified report, the commissioner shall transmit the report to the licensee examined, together with a notice that shall afford the licensee examined a reasonable opportunity of not more than thirty days to make a written submission or rebuttal with respect to any matters contained in the examination report.

c. In the event the commissioner determines that regulatory action is appropriate as a result of an examination, the commissioner may initiate any proceedings or actions provided by law.

5. *Confidentiality of examination information.*

a. Notwithstanding chapter 22, the names and individual identification data for all viators shall be considered private and confidential information and shall not be disclosed by the commissioner, unless required by law.

b. Except as otherwise provided in this chapter, all examination reports, working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination made under this chapter, or in the course of an analysis or investigation by the commissioner of the financial condition or market conduct of a licensee, shall be confidential by law and privileged, shall not be subject to chapter 22, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. The commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as part of the commissioner's official duties. All examination reports, working papers, recorded information, documents, and their copies produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination made under this chapter, or in the course of an analysis or investigation by the commissioner of the financial condition or market conduct of a licensee shall be privileged and confidential in any judicial or administrative proceeding except for any of the following:

(1) An administrative proceeding brought by the insurance division under chapter 17A.

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

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

c. Documents, materials, or other information, including but not limited to all working papers and copies, in the possession or control of the national association of insurance commissioners and its affiliates and subsidiaries shall be confidential by law and privileged,

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shall not be subject to chapter 22, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action if they are any of the following:

(1) Created, produced, or obtained by or disclosed to the national association of insurance commissioners and its affiliates and subsidiaries in the course of assisting an examination made under this chapter, or assisting the commissioner in the analysis or investigation of the financial condition or market conduct of a licensee.

(2) Disclosed to the national association of insurance commissioners and its affiliates and subsidiaries under paragraph *"d"* by the commissioner.

(3) For the purposes of paragraph *"b"*, *"chapter"* includes the law of another state or jurisdiction that is substantially similar to this chapter.

d. In order to assist in the performance of the commissioner's duties, the commissioner may do all of the following:

(1) Share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to paragraph *"a"*, with other state, federal, and international regulatory agencies, with the national association of insurance commissioners and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the documents, materials, communications, or other information.

(2) Receive documents, materials, communications, or information, including otherwise confidential and privileged documents, materials, or information, from the national association of insurance commissioners and its affiliates and subsidiaries, notwithstanding chapter 22, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any documents, materials, or 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 documents, materials, or information.

(3) Enter into agreements governing sharing and use of information consistent with section 507.14, subsection 4.

e. No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in paragraph *"c"*.

f. A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this subsection shall be available and enforced in any proceeding in, and in any court of, this state.

g. Nothing contained in this chapter shall prevent or be construed as prohibiting the commissioner from disclosing the content of an examination report, preliminary examination report or results, or any matter relating thereto, to the commissioner of any other state or country, or to law enforcement officials of this or any other state or agency of the federal government at any time or to the national association of insurance commissioners, so long as such agency or office receiving the report or matters relating thereto agrees in writing to hold it confidential and in a manner consistent with this chapter.

6. *Conflict of interest.*

a. An examiner may not be appointed by the commissioner if the examiner, either directly or indirectly, has a conflict of interest or is affiliated with the management of or owns a pecuniary interest in any person subject to examination under this chapter. This section shall not be construed to automatically preclude an examiner from being any of the following:

(1) A viator.

(2) An insured in a viaticated insurance policy.

(3) A beneficiary in an insurance policy that is proposed to be viaticated.

b. Notwithstanding the requirements of paragraph *"a"*, the commissioner may retain from time to time, on an individual basis, qualified actuaries, certified public accountants, or other similar individuals who are independently practicing their professions, even though these persons may from time to time be similarly employed or retained by persons subject to examination under this chapter.

7. *Cost of examinations.*

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a. The commissioner may appoint insurance examiners who, while conducting examinations, shall possess all the powers conferred upon the commissioner for such purposes. The entire time of the examiners shall be under the control of the commissioner, and shall be employed as the commissioner may direct.

b. The commissioner may, when in the commissioner's judgment it is advisable, appoint assistants to aid in making examinations. The examiners shall be compensated on the basis of the normal workweek of the insurance division at a salary to be fixed by the commissioner subject, however, to the provisions of section 505.14. The compensation shall be paid from appropriations for such purposes upon certification of the commissioner, which shall be reimbursed as provided in sections 507.8 and 507.9.

c. When making an examination under this chapter, the commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners, the reasonable cost of which shall be borne by the company which is the subject of the examination.

d. The commissioner shall, upon the completion of an examination, or at such regular intervals prior to completion as the commissioner determines, prepare an account of the costs incurred in performing and preparing the report of such examinations which shall be charged to and paid by the company examined, and upon failure or refusal of a company examined to pay such costs, the same may be recovered by the commissioner or the attorney general in an action brought in the name of the state, and the commissioner may also revoke the certificate of authority of such company to transact business within this state.

8. *Immunity from liability.*

a. No cause of action shall arise, nor shall any liability be imposed, against the commissioner, the commissioner's authorized representatives, or any examiner appointed by the commissioner for any statements made or conduct performed reasonably and in good faith while carrying out the provisions of this chapter.

b. No cause of action shall arise, nor shall any liability be imposed, against any person for the act of communicating or delivering information or data to the commissioner or the commissioner's authorized representative or examiner pursuant to an examination made under this chapter, if the act of communication or delivery was performed reasonably and in good faith and without fraudulent intent or the intent to deceive. This paragraph does not abrogate or modify in any way any common law or statutory privilege or immunity heretofore enjoyed by any person identified in paragraph *"a"*.

9. *Investigative authority of the commissioner.* The commissioner may investigate suspected fraudulent viatical settlement acts and persons engaged in the business of viatical settlements.

2008 Acts, ch 1155, §7

508E.8 Disclosure to viator.

1. With each application for a viatical settlement, a viatical settlement provider or viatical settlement broker shall provide the viator with at least the following disclosures no later than the time the application for the viatical settlement contract is signed by all parties. The disclosures shall be provided in a separate document that is signed by the viator and the viatical settlement provider or viatical settlement broker, and shall provide all of the following information:

a. There are possible alternatives to viatical settlement contracts including any accelerated death benefits or policy loans offered under the viator's life insurance policy.

b. That a viatical settlement broker represents exclusively the viator, and not the insurer or the viatical settlement provider, and owes a fiduciary duty to the viator, including a duty to act according to the viator's instructions and in the best interest of the viator.

c. Some or all of the proceeds of the viatical settlement may be taxable under federal income tax and state franchise and income taxes, and assistance should be sought from a professional tax advisor.

d. Proceeds of the viatical settlement could be subject to the claims of creditors.

e. Receipt of the proceeds of a viatical settlement may adversely affect the viator's

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eligibility for Medicaid or other government benefits or entitlements, and advice should be obtained from the appropriate government agencies.

f. The viator has the right to rescind a viatical settlement contract before the earlier of thirty days after the date upon which the viatical settlement contract is executed by all parties or fifteen days after the viatical settlement proceeds have been paid to the viator, as provided in section 508E.10, subsection 3. Rescission, if exercised by the viator, is effective only if both notice of the rescission is given, and the viator repays all proceeds and any premiums, loans, and loan interest paid on account of the viatical settlement within the rescission period. If the insured dies during the rescission period, the viatical settlement contract shall be deemed to have been rescinded, subject to repayment by the viator or the viator's estate of all viatical settlement proceeds and any premiums, loans, and loan interest that have been paid by the viatical settlement provider or purchaser within sixty days of the insured's death.

g. Funds will be sent to the viator within three business days after the viatical settlement provider has received the insurer's or group administrator's written acknowledgment that ownership of the policy or interest in the certificate has been transferred and the beneficiary has been designated.

h. Entering into a viatical settlement contract may cause other rights or benefits, including conversion rights and waiver of premium benefits, that may exist under the policy or certificate, to be forfeited by the viator. Assistance should be sought from a financial adviser.

i. Disclosure to a viator shall include distribution of a brochure describing the process of viatical settlements. The national association of insurance commissioners form for the brochure shall be used unless another form is developed and approved by the commissioner.

j. The disclosure document shall contain the following language:

> All medical, financial, or personal information solicited or obtained by a viatical settlement provider or viatical settlement broker about an insured, including the insured's identity or the identity of family members, a spouse, or a significant other may be disclosed as necessary to effect the viatical settlement between the viator and the viatical settlement provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every two years.

k. Following execution of a viatical contract, the insured may be contacted for the purpose of determining the insured's health status and to confirm the insured's residential or business street address and telephone number, or as otherwise provided in this chapter. This contact shall be limited to once every three months if the insured has a life expectancy of more than one year, and no more than once per month if the insured has a life expectancy of one year or less. All such contacts shall be made only by a duly licensed viatical settlement provider or by the authorized representative of a duly licensed viatical settlement provider.

2. A viatical settlement provider shall provide the viator with at least the following disclosures no later than the date the viatical settlement contract is signed by all parties. The disclosures shall be conspicuously displayed in the viatical settlement contract or in a separate document signed by the viator and provide all of the following information:

a. The affiliation, if any, between the viatical settlement provider and the issuer of the insurance policy to be viaticated.

b. The name, business address, and telephone number of the viatical settlement provider.

c. If an insurance policy to be viaticated has been issued as a joint policy or involves family riders or any coverage of a life other than the insured under the policy to be viaticated, a notice of the viator's possible loss of coverage on the other lives under the policy and to consult with the viator's insurance producer or the insurer issuing the policy for advice on the proposed viatical settlement.

d. The dollar amount of the current death benefit payable to the viatical settlement provider under the policy or certificate. If known, the viatical settlement provider shall also

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disclose the availability of any additional guaranteed insurance benefits, the dollar amount of any accidental death and dismemberment benefits under the policy or certificate, and the extent to which the viator's interest in those benefits will be transferred as a result of the viatical settlement contract.

e. Whether the funds will be escrowed with an independent third party during the transfer process, and if so, provide the name, business address, and telephone number of the independent third-party escrow agent, and the fact that the viator or owner may inspect or receive copies of the relevant escrow or trust agreements or documents.

3. A viatical settlement broker shall provide the viator with at least the following disclosures no later than the date the viatical settlement contract is signed by all parties. The disclosures shall be conspicuously displayed in the viatical settlement contract or in a separate document signed by the viator and provide all of the following information:

a. The name, business address, and telephone number of the viatical settlement broker.

b. A full, complete, and accurate description of all offers, counteroffers, acceptances, and rejections relating to the proposed viatical settlement contract.

c. Any affiliations or contractual arrangements between the viatical settlement broker and any person making an offer in connection with the proposed viatical settlement contracts.

d. The amount and method of calculating the broker's compensation. As used in this paragraph, "*compensation*" includes anything of value paid or given to a viatical settlement broker for the placement of a policy.

e. Where any portion of the viatical settlement broker's compensation, as defined in paragraph "*d*", is taken from a proposed viatical settlement offer, the broker shall disclose the total amount of the viatical settlement offer and the percentage of the viatical settlement offer comprised by the viatical settlement broker's compensation.

4. If the viatical settlement provider transfers ownership or changes the beneficiary of the insurance policy, the viatical settlement provider shall communicate in writing the change in ownership or beneficiary to the insured within twenty days after the change.

5. A viatical settlement provider shall provide the viatical settlement purchaser with at least the following disclosures prior to the date the viatical settlement purchase agreement is signed by all parties. The disclosures shall be conspicuously displayed in any viatical purchase contract or in a separate document signed by the viatical settlement purchaser and viatical settlement provider or viatical settlement investment agent, and shall make the following disclosure to the viatical settlement purchaser:

a. The viatical settlement purchaser will receive no returns including dividends and interest, until the insured dies and a death claim payment is made.

b. The actual annual rate of return on a viatical settlement contract is dependent upon an accurate projection of the insured's life expectancy, and the actual date of the insured's death. An annual "guaranteed" rate of return is not determinable.

c. The viaticated life insurance contract should not be considered a liquid purchase since it is impossible to predict the exact timing of its maturity and the funds probably are not available until the death of the insured. There is no established secondary market for resale of these products by the viatical settlement purchaser.

d. The viatical settlement purchaser may lose all benefits or may receive substantially reduced benefits if the insurer goes out of business during the term of the viatical investment.

e. The viatical settlement purchaser is responsible for payment of the insurance premium or other costs related to the policy, if required by the terms of the viatical purchase agreement. These payments may reduce the viatical settlement purchaser's return. If a party other than the viatical settlement purchaser is responsible for the payment, the name and address of that party also shall be disclosed.

f. The viatical settlement purchaser is responsible for payment of the insurance premiums or other costs related to the policy if the insured returns to health. The viatical settlement provider shall disclose the amount of such premiums, if applicable.

g. The name, business address, and telephone number of the independent third party providing escrow services and the relationship to the viatical settlement broker.

h. The amount of any trust fees or other expenses to be charged to the viatical settlement purchaser shall be disclosed.

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i. Whether the viatical settlement purchaser is entitled to a refund of all or part of the viatical settlement purchaser's investment under the viatical settlement contract if the policy is later determined to be null and void.

j. That group policies may contain limitations or caps in the conversion rights, that additional premiums may have to be paid if the policy is converted, the name of the party responsible for the payment of the additional premiums, and, if a group policy is terminated and replaced by another group policy, that there may be no right to convert the original coverage.

k. The risks associated with policy contestability including but not limited to the risk that the viatical settlement purchaser will have no claim or only a partial claim to death benefits should the insurer rescind the policy within the contestability period.

l. Whether the viatical settlement purchaser will be the owner of the policy in addition to being the beneficiary, and if the viatical settlement purchaser is the beneficiary only and not also the owner, the special risks associated with that status, including but not limited to the risk that the beneficiary may be changed or the premium may not be paid.

m. The experience and qualifications of the person who determines the life expectancy of the insured, including in-house staff, independent physicians, and specialty firms that weigh medical and actuarial data; the information this projection is based on; and the relationship of the projection maker to the viatical settlement provider, if any.

n. A brochure describing the process of investment in viatical settlements. The national association of insurance commissioners form for the brochure shall be used unless another form is developed and approved by the commissioner.

6. A viatical settlement provider shall provide the viatical settlement purchaser with at least the following disclosures no later than at the time of the assignment, transfer, or sale of all or a portion of an insurance policy. The disclosures shall be contained in a document signed by the viatical settlement purchaser and viatical settlement provider, and shall make all of the following disclosures to the viatical settlement purchaser:

a. All the life expectancy certifications obtained by the provider in the process of determining the price paid to the viator.

b. Whether premium payments or other costs related to the policy have been escrowed. If escrowed, state the date upon which the escrowed funds will be depleted and whether the viatical settlement purchaser will be responsible for payment of premiums thereafter and, if so, the amount of the premiums.

c. Whether premium payments or other costs related to the policy have been waived. If waived, disclose whether the viatical settlement purchaser will be responsible for payment of the premiums if the insurer that wrote the policy terminates the waiver after purchase and the amount of those premiums.

d. The type of policy offered or sold, i.e., whole life, term life, universal life, or a group policy certificate, any additional benefits contained in the policy, and the current status of the policy.

e. If the policy is term insurance, the special risks associated with term insurance including but not limited to the viatical settlement purchaser's responsibility for additional premiums if the viator continues the term policy at the end of the current term.

f. Whether the policy is contestable.

g. Whether the insurer that wrote the policy has any additional rights that could negatively affect or extinguish the viatical settlement purchaser's rights under the viatical settlement contract, what these rights are, and under what conditions these rights are activated.

h. The name and address of the person responsible for monitoring the insured's condition. The viatical settlement provider shall describe how often the monitoring of the insured's condition is done, how the date of death is determined, and how and when this information will be transmitted to the viatical settlement purchaser.

2008 Acts, ch 1155, §8; 2008 Acts, ch 1191, §130; 2018 Acts, ch 1041, §127

Referred to in §508E.5, 508E.10

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508E.9 Disclosure to insurer.

A viatical settlement broker, or viatical settlement provider, shall fully disclose to an insurer a transaction or series of transactions to which the viatical settlement broker or viatical settlement provider is a party to originate, renew, continue, or finance a life insurance policy with the insurer for the purpose of engaging in the business of viatical settlements at any time prior to, or during the first five years after, issuance of the policy.

2008 Acts, ch 1155, §9

508E.10 General rules.

1. *a.* A viatical settlement provider entering into a viatical settlement contract shall first obtain all of the following:

(1) If the viator is the insured, a written statement from a licensed attending physician that the viator is of sound mind and under no constraint or undue influence to enter into a viatical settlement contract.

(2) A document in which the insured consents to the release of the insured's medical records to a licensed viatical settlement provider, viatical settlement broker, and, if the policy was issued less than two years from the date of application for a viatical settlement contract, the insurance company that issued the life insurance policy covering the life of the insured.

b. Within twenty days after a viator executes documents necessary to transfer any rights under an insurance policy or within twenty days of entering any agreement, option, promise, or any other form of understanding, expressed or implied, to viaticate the policy, the viatical settlement provider shall give written notice to the insurer that issued that insurance policy that the policy has or will become a viaticated policy. The notice shall be accompanied by the documents required by paragraph *"c"*.

c. The viatical provider shall deliver a copy of the medical release required under paragraph *"a"*, subparagraph (2), a copy of the viator's application for the viatical settlement contract, the notice required under paragraph *"b"*, and a request for verification of coverage to the insurer that issued the life policy that is the subject of the viatical transaction. The national association of insurance commissioners form for verification of coverage shall be used unless another form is developed and approved by the commissioner.

d. The insurer shall respond to a request for verification of coverage submitted on an approved form by a viatical settlement provider or viatical settlement broker within thirty days of the date the request is received and shall indicate whether, based on the medical evidence and documents provided, the insurer intends to pursue an investigation at this time regarding the validity of the insurance contract or possible fraud. The insurer shall accept a request for verification of coverage made on a national association of insurance commissioners form or any other form developed and approved by the commissioner. The insurer shall accept an original, facsimile, or electronic copy of such request and any accompanying authorization signed by the viator. A failure by the insurer to meet its obligations under this subsection shall be a violation of sections 508E.11 and 508E.17.

e. Prior to or at the time of execution of the viatical settlement contract, the viatical settlement provider shall obtain a witnessed document in which the viator consents to the viatical settlement contract, represents that the viator has a full and complete understanding of the viatical settlement contract, that the viator has a full and complete understanding of the benefits of the life insurance policy, acknowledges that the viator is entering into the viatical settlement contract freely and voluntarily, and, for persons with a terminal or chronic illness or condition, acknowledges that the insured has a terminal or chronic illness or condition and that the terminal or chronic illness or condition was diagnosed after the life insurance policy was issued.

f. If a viatical settlement broker performs any of these activities required of the viatical settlement provider, the viatical settlement provider is deemed to have fulfilled the requirements of this section.

2. All medical information solicited or obtained by any licensee shall be subject to the applicable provisions of state law relating to confidentiality of medical information, including section 505.8.

3. All viatical settlement contracts entered into in this state shall provide the viator

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with an absolute right to rescind the contract before the earlier of thirty days after the date upon which the viatical settlement contract is executed by all parties or fifteen days after the viatical settlement proceeds have been sent to the viator as provided in subsection 4. Rescission by the viator may be conditioned upon the viator both giving notice and repaying to the viatical settlement provider within the rescission period all viatical settlement proceeds, and any premiums, loans, and loan interest paid by or on behalf of the viatical settlement provider in connection with or as a consequence of the viatical settlement. If the insured dies during the rescission period, the viatical settlement contract shall be deemed to have been rescinded, subject to repayment to the viatical settlement provider or purchaser of all viatical settlement proceeds, and any premiums, loans, and loan interest that have been paid by the viatical settlement provider or purchaser, which shall be paid within sixty days of the death of the insured. In the event of any rescission, if the viatical settlement provider has paid commissions or other compensation to a viatical settlement broker in connection with the rescinded transaction, the viatical settlement broker shall refund all such commissions and compensation to the viatical settlement provider within five business days following receipt of written demand from the viatical settlement provider, which demand shall be accompanied by either the viator's notice of rescission if rescinded at the election of the viator, or a notice of the death of the insured if rescinded by reason of the death of the insured within the applicable rescission period.

4. The viatical settlement provider shall instruct the viator to send the executed documents required to effect the change in ownership, assignment, or change in beneficiary directly to the independent escrow agent. Within three business days after the date the escrow agent receives the document, or from the date the viatical settlement provider receives the documents, if the viator erroneously provides the documents directly to the viatical settlement provider, the viatical settlement provider shall pay or transfer the viatical settlement proceeds into an escrow or trust account maintained in a state or federally chartered financial institution whose deposits are insured by the federal deposit insurance corporation. Upon payment of the viatical settlement proceeds into the escrow account, the escrow agent shall deliver the original change in ownership, assignment, or change in beneficiary forms to the viatical settlement provider or related provider trust, or other designated representative of the viatical settlement provider. Upon the escrow agent's receipt of the acknowledgment of the properly completed transfer of ownership, assignment, or designation of beneficiary from the insurance company, the escrow agent shall pay the viatical settlement proceeds to the viator.

5. A failure to tender consideration to the viator for the viatical settlement contract within the time set forth in the disclosure pursuant to section 508E.8, subsection 1, paragraph "*g*", renders the viatical settlement contract voidable by the viator for lack of consideration until the time consideration is tendered to and accepted by the viator. Funds shall be deemed sent by a viatical settlement provider to a viator as of the date that the escrow agent either releases funds for wire transfer to the viator or places a check for delivery to the viator via the United States postal service or other nationally recognized delivery service.

6. A contact with the insured for the purpose of determining the health status of the insured by the viatical settlement provider or viatical settlement broker after the viatical settlement has occurred shall only be made by the viatical settlement provider or viatical settlement broker licensed pursuant to section 508E.3 or its authorized representatives and shall be limited to once every three months for insureds with a life expectancy of more than one year, and to no more than once per month for insureds with a life expectancy of one year or less. The viatical settlement provider or viatical settlement broker shall explain the procedure for these contacts at the time the viatical settlement contract is entered into. The limitations set forth in this subsection shall not apply to any contact with an insured for reasons other than determining the insured's health status. A viatical settlement provider and a viatical settlement broker shall be responsible for the actions of their authorized representatives.

2008 Acts, ch 1155, §10; 2017 Acts, ch 54, §76
Referred to in §508E.5, 508E.8, 508E.12

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508E.11 Prohibited practices.

1. Except as provided in section 508E.12, it is a violation of this chapter for any person to enter into a viatical settlement contract at any time prior to the application or issuance of a policy which is the subject of a viatical settlement contract or within a five-year period commencing with the date of issuance of the insurance policy or certificate.

2. An insurer shall not, as a condition of responding to a request for verification of coverage or effecting the transfer of a policy pursuant to a viatical settlement contract, require that the viator, insured, viatical settlement provider, or viatical settlement broker sign any form, disclosure, consent, or waiver form that has not been expressly approved by the commissioner for use in connection with viatical settlement contracts in this state.

3. Upon receipt of a properly completed request for change of ownership or beneficiary of a policy, the insurer shall respond in writing within twenty days, with written acknowledgment confirming that the change has been effected or specifying the reasons why the requested change cannot be processed. The insurer shall not unreasonably delay effecting a change of ownership or beneficiary and shall not otherwise seek to interfere with any viatical settlement contract lawfully entered into in this state.

2008 Acts, ch 1155, §11
Referred to in §508E.10, 508E.12

508E.12 Permitted practices.

1. Notwithstanding section 508E.11, at any time subsequent to the issuance of the policy, a person may enter into a viatical settlement contract if the viator certifies to the viatical settlement provider that one or more of the following conditions have been met within the five-year period:

a. The policy was issued upon the viator's exercise of conversion rights arising out of a group or individual policy, provided the total of the time covered under the conversion policy plus the time covered under the prior policy is at least sixty months. The time covered under a group policy shall be calculated without regard to any change in insurance carriers, provided the coverage has been continuous and under the same group sponsorship.

b. The viator submits an affidavit to the viatical settlement provider that one or more of the following conditions exists:

(1) The viator or insured is terminally or chronically ill.

(2) The viator's spouse or child dies.

(3) The viator divorces the viator's spouse.

(4) The viator retires from full-time employment.

(5) The viator becomes physically or mentally disabled and a physician determines that the disability prevents the viator from maintaining full-time employment.

(6) The viator has filed for bankruptcy or sought reorganization in a court of competent jurisdiction, or a court of competent jurisdiction has appointed a receiver, trustee, or liquidator to all or a substantial part of the viator's assets.

(7) Other circumstances as established as eligible exemptions by the commissioner by rule, including but not limited to substantial adverse financial circumstances or other factors substantially affecting the viator.

2. Notwithstanding section 508E.11, a person may enter into a viatical settlement contract if at all times prior to the date that is two years after policy issuance, all of the following conditions are met with respect to the policy:

a. Policy premiums have been funded exclusively with any of the following:

(1) Unencumbered assets, including an interest in the life insurance policy being financed only to the extent of its net cash surrender value, provided by a person described in section 508E.2, subsection 15, paragraph *"d"*, subparagraph (5).

(2) Fully recourse liability incurred by the insured or a person described in section 508E.2, subsection 15, paragraph *"d"*, subparagraph (5).

b. There is no agreement or understanding with any other person to guarantee any such liability or to purchase, or stand ready to purchase, the policy, including through an assumption or forgiveness of the loan.

c. Neither the insured nor the policy has been evaluated for settlement.

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3. Copies of the affidavits described in this section and documents required by section 508E.10, subsection 1, shall be submitted to the insurer when the viatical settlement provider or viatical settlement broker submits a request to the insurer for verification of coverage. The copies shall be accompanied by a letter of attestation from the viatical settlement provider that the copies are true and correct copies of the documents received by the viatical settlement provider.

4. If the viatical settlement provider submits to the insurer a copy of the owner's or insured's or insurer's affidavit described in this section when the provider submits a request to the insurer to effect the transfer of the policy or certificate to the viatical settlement provider, the copy shall be deemed to conclusively establish that the viatical settlement contract satisfies the requirement of this section and the insurer shall timely respond to the request.

2008 Acts, ch 1155, §12; 2010 Acts, ch 1069, §62
Referred to in §508E.11

508E.13 Prohibited practices and conflicts of interest.

1. With respect to any viatical settlement contract or insurance policy, a viatical settlement broker shall not knowingly solicit an offer from, effectuate a viatical settlement with, or make a sale to any viatical settlement provider, viatical settlement purchaser, financing entity, or related provider trust that is controlling, controlled by, or under common control with such viatical settlement broker unless such relationship is disclosed to the viator.

2. With respect to any viatical settlement contract or insurance policy, a viatical settlement provider shall not knowingly enter into a viatical settlement contract with a viator, if, in connection with such viatical settlement contract, anything of value will be paid to a viatical settlement broker that is controlling, controlled by, or under common control with such viatical settlement provider or the viatical settlement purchaser, financing entity, or related provider trust that is involved in such viatical settlement contract unless such relationship is disclosed to the viator.

3. A viatical settlement provider shall not enter into a premium finance agreement with any person or agency, or any person affiliated with such person or agency, pursuant to which such person or agency shall receive any proceeds, fees, or other consideration, directly or indirectly, from the policy or owner of the policy or any other person with respect to the premium finance agreement or any viatical settlement contract or other transaction related to such policy that are in addition to the amounts required to pay the principal, interest, and service charges related to policy premiums pursuant to the premium finance agreement or subsequent sale of such agreement. Any payments, charges, fees, normal insurance commissions, or other amounts in addition to the amounts required to pay the principal, interest, and service charges related to policy premiums paid under the premium finance agreement shall be remitted to the original owner of the policy or to the original owner's estate if the original owner is not living at the time of the determination of the overpayment.

4. A violation of subsection 1, 2, or 3 shall be deemed a fraudulent viatical settlement act.

5. A person shall not issue, solicit, market, or otherwise promote the purchase of an insurance policy for the sole purpose of or with a primary emphasis on settling the policy.

6. A person providing premium financing shall not receive any proceeds, fees, or other consideration from the policy or owner of the policy that are in addition to the amounts required to pay principal, interest, and any costs or expenses incurred by the lender or borrower in connection with the premium finance agreement, except for the event of a default, unless either the default on such loan or transfer of the policy occurs pursuant to an agreement or understanding with any other person for the purpose of evading regulation under this chapter. Any payments, charges, fees, or other amounts received by a person providing premium financing in violation of this subsection shall be remitted to the original owner of the policy or to the original owner's estate if the original owner is not living at the time of the determination of overpayment.

7. In the solicitation, application for, or issuance of a life insurance policy, a person shall not employ any device, scheme, or artifice to create an insurable interest in the life of a person except as provided in sections 511.39 and 511.40.

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8. No viatical settlement provider shall enter into a viatical settlement contract unless the viatical settlement promotional, advertising, and marketing materials, as may be prescribed by rules adopted by the commissioner, have been filed with the commissioner. In no event shall any marketing materials expressly reference that the insurance is free for any period of time. The inclusion of any reference in the marketing materials that would cause a viator to reasonably believe that the insurance is free for any period of time shall be considered a violation of this chapter.

9. No life insurance producer, insurance company, viatical settlement broker, or viatical settlement provider shall make any statement or representation to the applicant or policyholder in connection with the sale or financing of a life insurance policy to the effect that the insurance is free or without cost to the policyholder for any period of time unless provided in the policy.

2008 Acts, ch 1155, §13

508E.14 Advertising for viatical settlements.

The purpose of this section is to provide prospective viators with clear and unambiguous statements in the advertisement of viatical settlements and to assure the clear, truthful, and adequate disclosure of the benefits, risks, limitations, and exclusions of any viatical settlement contract. This purpose is intended to be accomplished by rules adopted by the commissioner for the establishment of guidelines and standards of permissible and impermissible conduct in the advertising of viatical settlements to assure that product descriptions are presented in a manner that prevents unfair, deceptive, or misleading advertising, and is conducive to accurate presentation and description of viatical settlements through the advertising media and materials used by viatical settlement licensees.

1. This section shall apply to any advertising of viatical settlement contracts or related products or services intended for dissemination in this state, including internet advertising viewed by persons located in this state. Where disclosure requirements are established pursuant to federal regulation, this section shall be interpreted so as to minimize or eliminate conflict with federal regulation wherever possible.

2. Every viatical settlement licensee shall establish and at all times maintain a system of control over the content, form, and method of dissemination of all advertisements of its contracts, products, and services. All advertisements, regardless of by whom written, created, designed, or presented, shall be the responsibility of the viatical settlement licensees, as well as the individual who created or presented the advertisement. A system of control shall include regular, routine notification, at least once a year, to agents and others authorized by the viatical settlement licensee who disseminate advertisements of the requirements and procedures for approval prior to the use of any advertisements not furnished by the viatical settlement licensee.

3. An advertisement shall be truthful and not misleading in fact or by implication. The form and content of an advertisement of a viatical settlement contract shall be sufficiently complete and clear so as to avoid deception. It shall not have the capacity or tendency to mislead or deceive. Whether an advertisement has the capacity or tendency to mislead or deceive shall be determined by the commissioner from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.

4. The information required to be disclosed under this section shall not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled with the text of the advertisement so as to be confusing or misleading.

a. An advertisement shall not omit material information or use words, phrases, statements, references, or illustrations if the omission or use has the capacity, tendency, or effect of misleading or deceiving viators as to the nature or extent of any benefit, loss covered, premium payable, or state or federal tax consequence. The fact that the viatical settlement contract offered is made available for inspection prior to consummation of the sale, or an offer is made to refund the payment if the viator is not satisfied or that the viatical settlement contract includes a free-look period that satisfies or exceeds legal requirements, does not remedy a misleading statement.

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b. An advertisement shall not use the name or title of a life insurance company or a life insurance policy unless the advertisement has been approved by the insurer.

c. An advertisement shall not state or imply that interest charged on an accelerated death benefit or a policy loan is unfair, inequitable, or in any manner an incorrect or improper practice.

d. The words "free", "no cost", "without cost", "no additional cost", "at no extra cost", or words of similar import shall not be used with respect to any benefit or service unless true. An advertisement may specify the charge for a benefit or a service or may state that a charge is included in the payment or use other appropriate language.

e. Testimonials, appraisals, analyses, or endorsements used in advertisements must be genuine; represent the current opinion of the author; be applicable to the viatical settlement contract product or service advertised, if any; and be accurately reproduced with sufficient completeness to avoid misleading or deceiving prospective viators as to the nature or scope of the testimonials, appraisal, analysis, or endorsement. In using a testimonial, appraisal, analysis, or endorsement, a licensee under this chapter makes as its own all the statements contained therein, and the statements are subject to all of the provisions of this section.

(1) If the individual making a testimonial, appraisal, analysis, or an endorsement has a financial interest in the party making use of the testimonial, appraisal, analysis, or endorsement, either directly or through a related entity as a stockholder, director, officer, employee, or otherwise, or receives any benefit directly or indirectly other than required union scale wages, that fact shall be prominently disclosed in the advertisement.

(2) An advertisement shall not state or imply that a viatical settlement contract benefit or product or service has been approved or endorsed by a group of individuals, society, association, or other organization unless that is the fact and unless any relationship between an organization and the viatical settlement licensee is disclosed. If the entity making the endorsement or testimonial is owned, controlled, or managed by the viatical settlement licensee, or receives any payment or other consideration from the viatical settlement licensee for making an endorsement or testimonial, that fact shall be disclosed in the advertisement.

(3) When an endorsement refers to benefits received under a viatical settlement contract, all pertinent information shall be retained by the viatical settlement licensee for a period of five years after its use.

5. An advertisement shall not contain statistical information unless it accurately reflects recent and relevant facts. The source of all statistics used in an advertisement shall be identified.

6. An advertisement shall not disparage an insurer, viatical settlement provider, viatical settlement broker, insurance producer, policy, services, or methods of marketing.

7. The name of the viatical settlement licensee shall be clearly identified in all advertisements about the viatical settlement licensee or its viatical settlement contract, products, or services, and if any specific viatical settlement contract is advertised, the viatical settlement contract shall be identified either by form number or some other appropriate description. If an application is part of the advertisement, the name of the viatical settlement provider shall be shown on the application.

8. An advertisement shall not use a trade name, group designation, name of the parent company of a viatical settlement licensee, name of a particular division of the viatical settlement licensee, service mark, slogan, symbol or other device, or reference without disclosing the name of the viatical settlement licensee, if the advertisement would have the capacity or tendency to mislead or deceive as to the true identity of the viatical settlement licensee, or to create the impression that a company other than the viatical settlement licensee would have any responsibility for the financial obligation under a viatical settlement contract.

9. An advertisement shall not use any combination of words, symbols, or physical materials that by their content, phraseology, shape, color, or other characteristics are so similar to a combination of words, symbols, or physical materials used by a government program or agency or otherwise appear to be of such a nature that they tend to mislead prospective viators into believing that the solicitation is in some manner connected with a government program or agency.

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10. An advertisement may state that a viatical settlement licensee is licensed in the state where the advertisement appears, provided it does not exaggerate that fact or suggest or imply that a competing viatical settlement licensee may not be so licensed. The advertisement may ask the audience to consult the viatical settlement licensee's internet site or contact the commissioner to find out if the state requires licensing and, if so, whether the viatical settlement provider or viatical settlement broker is licensed.

11. An advertisement shall not create the impression that the viatical settlement provider, its financial condition or status, the payment of its claims or the merits, desirability, or advisability of its viatical settlement contracts are recommended or endorsed by any government entity.

12. The name of the actual viatical settlement licensee shall be stated in each of its advertisements. An advertisement shall not use a trade name, any group designation, name of any affiliate, or controlling entity of the viatical settlement licensee, service mark, slogan, symbol, or other device in a manner that would have the capacity or tendency to mislead or deceive as to the true identity of the actual viatical settlement licensee or create the false impression that an affiliate or controlling entity would have any responsibility for the financial obligation of the viatical settlement licensee.

13. An advertisement shall not directly or indirectly create the impression that any division or agency of the state or of the United States government endorses, approves, or favors any of the following:

a. A viatical settlement licensee or its business practices or methods of operation.

b. The merits, desirability, or advisability of any viatical settlement contract.

c. Any viatical settlement contract.

d. Any life insurance policy or life insurance company.

14. If the advertiser emphasizes the speed with which the viatication will occur, the advertising must disclose the average time frame from completed application to the date of offer and from acceptance of the offer to receipt of the funds by the viator.

15. If the advertising emphasizes the dollar amounts available to viators, the advertising shall disclose the average purchase price as a percent of face value obtained by viators contracting with the licensee during the past six months.

2008 Acts, ch 1155, §14
Referred to in §508E.5

508E.15 Fraud prevention and control.

1. *Fraudulent viatical settlement acts — interference, and participation of convicted felons prohibited.*

a. A person shall not commit a fraudulent viatical settlement act.

b. A person shall not knowingly or intentionally interfere with the enforcement of the provisions of this chapter or investigations of suspected or actual violations of this chapter.

c. A person in the business of viatical settlements shall not knowingly or intentionally permit any person convicted of a felony involving dishonesty or breach of trust to participate in the business of viatical settlements.

2. *Fraud warning required.*

a. A viatical settlement contract and application for a viatical settlement, regardless of the form of transmission, shall contain the following statement or a substantially similar statement:

> Any person who knowingly presents false information in an application for insurance or viatical settlement contract is guilty of a crime and may be subject to fines and confinement in prison.

b. The lack of a statement as required in paragraph *"a"* does not constitute a defense in any prosecution for a fraudulent viatical settlement act.

3. *Mandatory reporting of fraudulent viatical settlement acts.*

a. Any person engaged in the business of viatical settlements having knowledge or a reasonable suspicion that a fraudulent viatical settlement act is being, will be, or has been

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committed shall provide to the commissioner such information as required by and in a manner prescribed by rules adopted by the commissioner.

b. Any other person having knowledge or a reasonable belief that a fraudulent viatical settlement act is being, will be, or has been committed may provide to the commissioner the information required by and in a manner prescribed by rules adopted by the commissioner.

4. *Immunity from liability.*

a. No civil liability shall be imposed on and no cause of action shall arise from a person who, acting reasonably and in good faith, furnishes information concerning suspected, anticipated, or completed fraudulent viatical settlement acts or suspected or completed fraudulent insurance acts, if the information is provided to or received from any of the following:

(1) The commissioner or the commissioner's employees, agents, or representatives.

(2) A federal, state, or local law enforcement or regulatory official or the official's employees, agents, or representatives.

(3) A person involved in the prevention and detection of fraudulent viatical settlement acts or that person's agents, employees, or representatives.

(4) The national association of insurance commissioners; the financial industry regulatory authority, inc.; the North American securities administrators association; their employees, agents, or representatives; or other regulatory body overseeing life insurance, viatical settlements, securities, or investment fraud.

(5) A life insurer that issued the life insurance policy covering the life of the insured.

b. Paragraph *"a"* does not apply to a statement made in bad faith or with actual malice. In an action brought against a person for filing a report or furnishing other information concerning a fraudulent viatical settlement act, the party bringing the action shall plead specifically any allegation that paragraph *"a"* does not apply because the person filing the report or furnishing the information did so in bad faith or with actual malice.

c. A person furnishing information as identified in paragraph *"a"* shall be entitled to an award of attorney fees and costs if the person is the prevailing party in a civil cause of action for libel, slander, or any other relevant tort arising out of an activity in carrying out the provisions of this chapter and the party bringing the action was not substantially justified in doing so. For purposes of this paragraph, a proceeding is substantially justified if it had a reasonable basis in law or fact at the time that it was initiated. However, such an award does not apply to any person furnishing information concerning the person's own fraudulent viatical settlement act.

d. This section does not abrogate or modify a common law or statutory privilege or immunity enjoyed by a person described in paragraph *"a"*.

5. *Confidentiality.*

a. A document or evidence provided pursuant to subsection 4 or obtained by the commissioner in an investigation of a suspected or actual fraudulent viatical settlement act shall be privileged and confidential, notwithstanding chapter 22, shall not be a public record, and shall not be subject to discovery or subpoena in a civil or criminal action.

b. Paragraph *"a"* does not prohibit the release by the commissioner of a document or evidence obtained in an investigation of a suspected or actual fraudulent viatical settlement act if any of the following applies:

(1) In an administrative or judicial proceeding to enforce laws administered by the commissioner.

(2) To a federal, state, or local law enforcement or regulatory agency, to an organization established for the purpose of detecting and preventing fraudulent viatical settlement acts, or to the national association of insurance commissioners.

(3) At the discretion of the commissioner, to a person in the business of viatical settlements that is aggrieved by a fraudulent viatical settlement act.

c. Release of a document or evidence under paragraph *"b"* does not abrogate or modify the privilege granted in paragraph *"a"*.

6. *Other law enforcement or regulatory authority.* This chapter shall not do any of the following:

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a. Preempt the authority or relieve the duty of other law enforcement or regulatory agencies to investigate, examine, and prosecute suspected violations of law.

b. Prevent or prohibit a person from disclosing voluntarily information concerning viatical settlement fraud to a law enforcement or regulatory agency other than the commissioner.

c. Limit the powers granted elsewhere by the laws of this state to the commissioner or an insurance fraud unit to investigate and examine possible violations of law and to take appropriate action against wrongdoers.

7. *Viatical settlement antifraud initiatives.*

a. A viatical settlement provider or viatical settlement broker shall have in place antifraud initiatives reasonably calculated to detect, prosecute, and prevent fraudulent viatical settlement acts. At the discretion of the commissioner, the commissioner may order, or a licensee may request and the commissioner may grant, such modifications of the following required initiatives as necessary to ensure an effective antifraud program. The modifications may be more or less restrictive than the required initiatives so long as the modifications may reasonably be expected to accomplish the purpose of this section.

b. Antifraud initiatives shall include all of the following:

(1) A fraud investigator, who may be a viatical settlement provider, viatical settlement broker, a viatical settlement provider's or viatical settlement broker's employee, or an independent contractor.

(2) An antifraud plan, which shall be submitted to the commissioner. The antifraud plan shall include, but is not limited to all of the following:

(a) A description of the procedures for detecting and investigating possible fraudulent viatical settlement acts and procedures for resolving material inconsistencies between medical records and insurance applications.

(b) A description of the procedures for reporting possible fraudulent viatical settlement acts to the commissioner.

(c) A description of the plan for antifraud education and training of underwriters and other personnel.

(d) A description or chart outlining the organizational arrangement of the antifraud personnel who are responsible for the investigation and reporting of possible fraudulent viatical settlement acts and investigating unresolved material inconsistencies between medical records and insurance applications.

c. An antifraud plan submitted to the commissioner shall be privileged and confidential, notwithstanding chapter 22, shall not be a public record, and shall not be subject to discovery or subpoena in a civil or criminal action.

2008 Acts, ch 1155, §15; 2018 Acts, ch 1074, §6
Referred to in §508E.3, 508E.5, 508E.6

508E.16 Injunctions — civil remedies — cease and desist orders — civil penalty.

1. In addition to the penalties and other enforcement provisions of this chapter, if any person violates this chapter or any rule implementing this chapter, the commissioner may seek an injunction in a court of competent jurisdiction and may apply for a temporary or permanent order that the commissioner determines is necessary to restrain the person from committing the violation.

2. A person damaged by the act of a person in violation of this chapter may bring a civil action against the person committing the violation in a court of competent jurisdiction.

3. The commissioner may issue, in accordance with chapter 17A, a cease and desist order upon a person that violates any provision of this chapter, any rule or order adopted by the commissioner, or any written agreement entered into with the commissioner.

4. When the commissioner finds that an activity in violation of this chapter presents an immediate danger to the health, safety, or welfare of the public requiring immediate agency action, the commissioner may proceed under section 17A.18A.

5. In addition to the penalties and other enforcement provisions of this chapter, any person who violates this chapter is subject to a civil penalty of up to five thousand dollars for each violation of this chapter. The civil penalty shall be deposited as provided in section 505.7. If a person has not been ordered to pay restitution by a court, the commissioner's order

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may require a person found to be in violation of this chapter to make restitution to a person aggrieved by a violation of this chapter.

6. Except for a fraudulent viatical settlement act committed by a viator, the enforcement provisions and penalties of this section shall not apply to a viator.

2008 Acts, ch 1155, §16; 2009 Acts, ch 181, §70

508E.17 Unfair trade practices.

A violation of this chapter, including the commission of a fraudulent viatical settlement act, is an unfair trade practice under chapter 507B and a person convicted of the violation is subject to the penalties contained in that chapter.

2008 Acts, ch 1155, §17
Referred to in §508E.10

508E.18 Criminal penalties.

1. *a.* A person acting in this state as a viatical settlement provider or viatical settlement broker, without being licensed pursuant to section 508E.3, who willfully violates any provision of this chapter or any rule adopted or order issued under this chapter, is guilty of a class "D" felony.

b. A person acting in this state as a viatical settlement provider or viatical settlement broker, without proper licensure, who willfully violates any provision of this chapter, or any rule adopted or order issued under this chapter, and when such violation results in a loss of more than ten thousand dollars, is guilty of a class "C" felony.

2. The commissioner may refer such evidence as is available concerning violations of this chapter or of any rule adopted or order issued under this chapter, or of the failure of a person to comply with the licensing requirements of this chapter, to the attorney general or the proper county attorney who may, with or without such reference, institute the appropriate criminal proceedings under this chapter.

2008 Acts, ch 1155, §18

508E.19 Authority to promulgate rules.

The commissioner shall have the authority to do all of the following:

1. Adopt rules implementing and administering this chapter.

2. Establish standards for evaluating reasonableness of payments under viatical settlement contracts for persons who are terminally or chronically ill. This authority includes but is not limited to regulation of discount rates used to determine the amount paid in exchange for assignment, transfer, sale, devise, or bequest of a benefit under a life insurance policy insuring the life of a person who is chronically or terminally ill.

3. Establish appropriate licensing requirements, fees, and standards for continued licensure for viatical settlement providers and brokers.

4. Require a bond or other mechanism for financial accountability for viatical settlement providers and viatical settlement brokers.

5. Adopt rules governing the relationship and responsibilities of both insurers and viatical settlement providers and viatical settlement brokers during the viatication of a life insurance policy or certificate.

2008 Acts, ch 1155, §19

508E.20 Public records.

All information filed with the commissioner pursuant to the requirements of this chapter and its implementing rules shall constitute a public record that is open for public inspection except as otherwise provided in this chapter.

2008 Acts, ch 1123, §18; 2008 Acts, ch 1191, §135

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CHAPTER 508F

CHARITABLE GIFT ANNUITIES

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 507B.3, 508C.3, 508C.5, 669.14, 670.7

508F.1 Definitions.
508F.2 Qualified charitable gift annuity is not insurance.
508F.3 Annuity agreement — notice to donor.
508F.4 Notice filed with the commissioner.
508F.5 Failure to comply with requirements.
508F.6 Penalties.
508F.7 Not unfair or deceptive trade practice.
508F.8 Rules.

508F.1 Definitions.

As used in this chapter, unless the context clearly indicates otherwise:

1. *"Charitable gift annuity"* means a transfer of property by a donor to a charitable organization in return for an annuity payable over one or two lives, if the actuarial value of the annuity is less than the value of the property transferred and the difference in value constitutes a charitable deduction for federal tax purposes.

2. *"Charitable organization"* means an entity described by any of the following:

a. Section 501(c)(3) of the Internal Revenue Code.

b. Section 170(c) of the Internal Revenue Code.

3. *"Commissioner"* means the commissioner of insurance.

4. *"Internal Revenue Code"* means the Internal Revenue Code of 1986 as designated by the Tax Reform Act of 1986, as amended to a date designated by rules adopted by the commissioner.

5. *"Property"* means anything of value that is subject to ownership, and includes but is not limited to property classified as real, personal, mixed, tangible or intangible, or any present or future interest in such property.

6. *"Qualified charitable gift annuity"* means a charitable gift annuity that is described by section 501(m)(5) or 514(c)(5) of the Internal Revenue Code, if all of the following apply:

a. The annuity agreement is issued by a charitable organization.

b. On the date that the annuity agreement is issued, the charitable organization has a minimum value of the lesser of three hundred thousand dollars or five times the face amount of total outstanding annuities in unrestricted cash, cash equivalents, or publicly traded securities. However, the total outstanding annuities as provided in this paragraph do not include assets funding the annuity agreement.

c. The charitable organization has been in continuous operation for at least three years or is a successor or affiliate of a charitable organization that has been in continuous operation for at least three years.

2001 Acts, ch 28, §2

508F.2 Qualified charitable gift annuity is not insurance.

1. The issuance of a qualified charitable gift annuity does not constitute engaging in the business of insurance in this state.

2. A charitable gift annuity that meets the requirements of a qualified charitable gift annuity shall be deemed to be a qualified charitable gift annuity for purposes of this chapter, regardless of whether the charitable gift annuity was issued prior to July 1, 2001. The issuance of that charitable gift annuity shall not be construed as engaging in the business of insurance in this state.

2001 Acts, ch 28, §3

508F.3 Annuity agreement — notice to donor.

An agreement for a qualified charitable gift annuity executed by a charitable organization and a donor shall be in writing. The annuity agreement shall include a notice stating that a qualified charitable gift annuity is not insurance under the laws of this state and is not subject to regulation by the commissioner or protected by an insurance guaranty fund or an

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insurance guaranty association. The notice required by this section shall be in a separate paragraph and in a type size no smaller than that generally used in the annuity agreement.

2001 Acts, ch 28, §4
Referred to in §508F.5

508F.4 Notice filed with the commissioner.

1. A charitable organization that issues qualified charitable gift annuities in this state on and after July 1, 2001, shall file a notice with the commissioner in writing not later than the date on which it executes the organization's first qualified charitable annuity agreement. All of the following shall apply:

a. The notice must be signed by an officer or director of the charitable organization.

b. The notice must identify the name and address of the charitable organization.

c. The notice must include a copy of the determination letter issued by the internal revenue service.

d. The notice must certify that the charitable organization is a bona fide charitable organization and that the annuities issued by the charitable organization are qualified charitable gift annuities.

2. The charitable organization is not required to submit additional information, unless the information is to be used to determine appropriate penalties that may be applicable under section 508F.5.

2001 Acts, ch 28, §5
Referred to in §508F.5

508F.5 Failure to comply with requirements.

1. The failure of a charitable organization to comply with the requirements of sections 508F.3 and 508F.4 does not prevent a charitable gift annuity that otherwise meets the requirements of this chapter from constituting a qualified charitable gift annuity.

2. The commissioner shall enforce performance of the requirements of sections 508F.3 and 508F.4. The commissioner may do any of the following:

a. Send a letter by restricted certified mail to the charitable organization demanding that the charitable organization comply with this chapter.

b. Establish and impose civil penalties on the charitable organization in an amount not to exceed one thousand dollars for each qualified charitable gift annuity issued until the charitable organization complies with the requirements of this chapter.

2001 Acts, ch 28, §6
Referred to in §508F.4

508F.6 Penalties.

The commissioner may determine, after hearing, that the issuance of an annuity is not in compliance with this chapter and that the entity issuing the annuity is subject to the provisions and penalties of chapters 507A and 507B.

2001 Acts, ch 28, §7

508F.7 Not unfair or deceptive trade practice.

The issuance of a qualified charitable gift annuity does not constitute a violation of chapter 507B.

2001 Acts, ch 28, §8

508F.8 Rules.

The commissioner may adopt rules pursuant to chapter 17A necessary to administer and enforce this chapter.

2001 Acts, ch 28, §9

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CHAPTER 509

GROUP INSURANCE

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 507B.4A, 508A.5, 509B.1, 510.11, 513C.10, 514C.1, 514C.2, 514C.3A, 514C.4, 514C.4A, 514C.6, 514C.10, 514C.11, 514C.12, 514C.12A, 514C.18, 514C.19, 514C.20, 514C.21, 514C.23, 514C.24, 514C.25, 514C.26, 514C.29, 514C.30, 514C.32, 514C.33, 514C.34, 514C.36, 514E.1, 514E.2, 514F.4, 514F.8A, 514F.8B, 514F.8C, 514L.1, 669.14, 670.7

509.1 Form of policy.
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509.3 Provisions as part of accident or health policy.
509.3A Creditable coverage.
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509.4 Employees of common employer — rates.
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509.10 Other provisions in policies.
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509.14 Group insurance on franchise plan.
509.15 Assignment of policy.
509.16 Premium rates approved.
509.17 Guidelines for rates.
509.18 Prohibited deposit in financial institution.
509.19 Claims and premium disclosure.

509.1 Form of policy.

No policy of group life, accident or health insurance shall be delivered in this state unless it conforms to one of the following descriptions:

1. A policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustee shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

a. The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term *"employees"* shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietors or partnerships if the business of the employer and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract, or otherwise. The policy may provide that the term *"employees"* shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term *"employees"* shall include retired employees. The policy may also provide that the term *"employees"* shall include the board of directors if the employer is a corporation.

b. The premium for the group policy shall be paid by the policyholder, either from the employer's funds or funds contributed by the insured employees, or from both. A policy of group accident and health 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 contributions. 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.

c. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustees.

d. Group policies may include dependents of the employee, including the spouse.

e. The policy shall not exclude from coverage an employee or an employee's spouse or dependents on the basis of the eligibility of the employee or the employee's spouse or dependents for medical assistance under chapter 249A.

2. *a.* A policy issued to any one of the following to be considered the policyholder:

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(1) An advisory, supervisory, or governing body or bodies of a regularly organized religious denomination to insure its clergy, priests, or ministers of the gospel.

(2) A teachers' association, to insure its members.

(3) A lawyers' association, to insure its members.

(4) A volunteer fire company, to insure all of its members.

(5) A fraternal society or association, or any subordinate lodge or branch thereof, to insure its members.

(6) A common principal of any group of persons similarly engaged between whom there exists a contractual relationship, to insure the members of such group.

(7) An association, the members of which are students, teachers, administrators or officials of any elementary or secondary school or of any college, to insure the members thereof. For the purpose of this subparagraph, the students, teachers, administrators or officials of or for any such school or college shall constitute an association.

b. The provisions and requirements of subsection 1 shall apply to the policy and the policyholder and insured in the same manner as subsection 1 applies to employers and employees, except that if a policy is issued to a volunteer fire company or an association, the members of which are students, teachers, administrators or officials of any elementary or secondary school or of any college, the requirement for twenty-five members shall not apply, and, if issued to a teachers' association or lawyers' association, not less than sixty-five percent of the members thereof may be insured.

3. A policy issued to a creditor, who shall be deemed the policyholder, to insure debtors of the creditor, subject to the following requirements:

a. The debtors eligible for insurance under the policy shall be all of the debtors of the creditor, or all of any class or classes thereof determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness. The policy may provide that the term *"debtors"* shall include the debtors of one or more subsidiary corporations, and the debtors of one or more affiliated corporations, proprietors or partnerships if the business of the policyholder and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract, or otherwise.

b. The premium for the policy shall be paid by the policyholder, either from the creditor's funds, or from charges collected from the insured debtors, or from both. A policy on which part or all of the premium is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include, in the class or classes of debtors eligible for insurance, debtors under obligations outstanding at its date of issue without evidence of individual insurability unless at least seventy-five percent of the then eligible debtors elect to pay the required charges. A policy on which no part of the premium is to be derived from the collection of such identifiable charges must insure all eligible debtors, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

c. The policy may be issued only if the group of eligible debtors is then receiving new entrants at the rate of at least one hundred persons yearly, or may reasonably be expected to receive at least one hundred new entrants during the first policy year, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than seventy-five percent of the new entrants become insured.

d. The amount of insurance on the life of a debtor shall not exceed the amount owed by the debtor to the creditor, or the face amount of a totally or partially executed loan or loan commitment creating personal liability and made in good faith for general agricultural or horticultural purposes to a debtor with seasonal income. However, in no event shall the amount of insurance exceed two hundred thousand dollars.

e. The insurance shall be payable to the policyholder. Such payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment. Provided that in the case of a debtor for agricultural or horticultural purposes of the type described in paragraph *"d"*, the insurance in excess of indebtedness to the creditor, if any, shall be payable to a named beneficiary, to the estate of the debtor or under the provision of a facility of payment clause.

4. A policy issued to a labor union, which shall be deemed the policyholder, to insure

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members of such union for the benefit of persons other than the union or any of its officials, representatives, or agents, subject to the following requirements:

a. The members eligible for insurance under the policy shall be all of the members of the union or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the union, or both.

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

c. The policy must cover at least ten members at date of issue.

d. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the union.

e. Policies may include dependents of the insured, including the spouse.

f. The policy shall not exclude from coverage a member or a member's spouse or dependents on the basis of the eligibility of the member or the member's spouse or dependents for medical assistance under chapter 249A.

5. A policy issued to the trustees of a fund established by two or more employers in the same industry or by two or more labor unions or by one or more employers and by one or more labor unions which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions, subject to the following requirements:

a. The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or both. The policy may provide that the term *"employees"* shall include the individual proprietor or partners if an employer is an individual proprietor or a partnership. The policy may provide that the term *"employees"* shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship. The policy may provide that the term *"employees"* shall include retired employees. The policy may also provide that the term *"employees"* shall include the board of directors if the employer is a corporation.

b. The premium for the policy shall be paid by the trustees wholly from funds established by the employers of the insured persons. The policy must insure all eligible persons, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer, if the funds are contributed wholly by the employer or unions.

c. The policy must cover at least one hundred persons at date of issue.

d. The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons or by the policyholder, employers, or unions.

e. Policies may include dependents of the insured, including the spouse.

f. The policy shall not exclude from coverage an employee or member or an employee's or member's spouse or dependents on the basis of the eligibility of the employee or member or employee's or member's spouse or dependents for medical assistance under chapter 249A.

6. A policy issued to any nonprofit industrial association, which shall be deemed the policyholder, incorporated for a period of at least ten years and organized for purposes other than obtaining insurance, subject to the following requirements:

a. If two or more members of the association, or any class or classes of members thereof determined by conditions pertaining to insurance, elect to insure their employees or any class or classes of employees determined by conditions pertaining to employment; and

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b. The total number of insured employees must not be less than one thousand, and of these not less than seventy-five percent must be employees of members with at least twenty insured employees each, and further, not more than ten percent may be employees of members with less than ten insured employees each; and

c. The insurance premiums are paid by such members to the association; each member, insofar as applicable to the member's own employees, may collect part of the premium from insured employees, and the method of apportionment of the premium payment between the member and the member's employees may be varied as among individual members; and

d. Not less than seventy-five percent of the eligible employees of each participating member may be insured where the employees pay a part of the premium. The word "employees" as used in this subsection shall also include the individual members and employees of such association.

e. Policies may include dependents of the employees, including the spouse.

f. The policy shall not exclude from coverage an employee or an employee's spouse or dependents on the basis of the eligibility of the employee or the employee's spouse or dependents for medical assistance under chapter 249A. This paragraph shall also apply to corporations operating within the state who provide insurance coverage for their employees directly, and the commissioner shall have the authority to enforce the provisions of this paragraph.

7. A policy issued to the department of health and human services, which shall be deemed the policyholder, to insure eligible persons for medical assistance, or for both mandatory medical assistance and optional medical assistance, as defined by chapter 249A as hereafter amended.

8. A policy of group health insurance coverage, as defined in section 513B.2, issued by a small employer carrier, as defined in section 513B.2, to a bona fide association, subject to the following requirements:

a. The policy provides group health insurance coverage to eligible employees of members of a bona fide association that are small employers as defined in section 513B.2, and to the spouses and dependents of such employees.

b. The policy is issued to a bona fide association. For the purposes of this subsection, a bona fide association is an association which meets all of the following requirements:

(1) The association is a trade, industry, or professional association which is organized in good faith as a nonprofit corporation under chapter 504 for purposes other than obtaining insurance and has been in existence and actively maintained for at least five continuous years at the time the policy is issued.

(2) The association does not condition membership in the association on the health status of employees of its members or the health status of the spouses and dependents of such employees.

(3) Group health insurance coverage offered by the association is available to all eligible employees of its members that are small employers as defined in section 513B.2 who choose to participate in the health insurance coverage offered, and to the spouses and dependents of such employees, regardless of the health status of such employees or their spouses and dependents.

(4) Group health insurance coverage offered by the association is available only to persons who are eligible employees of a small employer as defined in section 513B.2 that is a member of the association, or to the spouses or dependents of such employees.

9. A policy of group health insurance coverage issued to a multiple employer welfare arrangement pursuant to chapter 513D that is subject to regulation by the commissioner.

10. A policy issued to a resident of this state under a group life, accident, or health insurance policy issued to a group other than one described in subsections 1 through 9, subject to the following requirements:

a. The commissioner determines that all of the following apply:

(1) The issuance of the group policy is not contrary to the best interest of the public.

(2) The issuance of the group policy will result in economies of acquisition or administration.

(3) The benefits under the group policy are reasonable in relation to the premium charged.

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b. The commissioner need not make a determination under paragraph *"a"* if the commissioner determines that the group insurance coverage offered in this state by an insurer or other person is offered under a policy issued in another state and that state or another state in which the policy is offered, having requirements substantially similar to those in paragraph *"a"*, has determined that the policy meets those requirements.

c. The premium for the policy shall be paid either from the policyholder's funds, or from funds contributed by the covered person, or both.

d. The insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

e. If compensation of any kind will or may be paid to the policyholder in connection with the group policy, the insurer shall provide to the prospective insured written notice that compensation will or may be paid. Notice shall be provided whether the compensation is direct or indirect, and whether the compensation is paid to or retained by the policyholder, or paid to or retained by a third party at the direction of the policyholder or any entity affiliated with the policyholder by ownership, contract, or employment. The notice shall be placed on or accompany any document designed for the enrollment of prospective insureds.

[C24, 27, 31, §8675, 8676; C35, §8684-e1 – 8684-e3; C39, §**8684.01 – 8684.03;** C46, §509.1 – 509.3; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §509.1]

83 Acts, ch 96, §157, 159; 85 Acts, ch 69, §1; 87 Acts, ch 63, §1; 91 Acts, ch 244, §25; 92 Acts, ch 1162, §11; 2006 Acts, ch 1117, §33; 2007 Acts, ch 57, §1, 2, 8; 2012 Acts, ch 1023, §108; 2013 Acts, ch 138, §75; 2017 Acts, ch 29, §145; 2018 Acts, ch 1063, §3, 4; 2021 Acts, ch 181, §7; 2023 Acts, ch 19, §1186

Referred to in §513B.2

509.2 Provisions as part of group life policy.

No policy of group life insurance shall be delivered in this state unless it contains in substance the following provisions, or provisions which in the opinion of the commissioner are more favorable to the persons insured or at least as favorable to the persons insured, and more favorable to the policyholder, provided, however, that provisions of subsections 6 through 10 shall not apply to policies issued to a creditor to insure debtors of such creditor; that the standard provisions required for individual life insurance policies shall not apply to group life insurance policies; and that if the group life insurance policy is on a plan of insurance other than the term plan, it shall contain a nonforfeiture provision or provisions which in the opinion of the commissioner is or are equitable to the insured persons and to the policyholder, but nothing herein shall be construed to require that group life insurance policies contain the same nonforfeiture provisions as are required for individual life insurance policies:

1. A provision that the policyholder is entitled to a grace period of thirty-one days for the payment of any premium due except that first, during which grace period the death benefit coverage shall continue in force, unless the policyholder shall have given the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder shall be liable to the insurer for the payment of a pro rata premium for the time the policy was in force during such grace period.

2. A provision that the validity of the policy shall not be contested, except for nonpayment of premiums, after it has been in force for two years from its date of issue; and that no statement made by any person insured under the policy relating to the person's insurability shall be used in contesting the validity of the insurance with respect to which such statement was made after such insurance has been in force prior to the contest for a period of two years during such person's lifetime, nor unless it is contained in a written instrument signed by the person.

3. A provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued, that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties, and that no statement made by any person insured shall be used in any contest unless a copy of the instrument containing the statement is or has been furnished to such person or to the person's beneficiary.

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4. A provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of the person's coverage.

5. A provision specifying an equitable adjustment of premiums or benefits or of both to be made in the event the age of a person insured has been misstated, such provision to contain a clear statement of the method of adjustment to be used.

6. A provision that any sum becoming due by reason of the death of the person insured shall be payable to the beneficiary designated by the person insured, subject to the provisions of the policy in the event there is no designated beneficiary, as to all or any part of such sum, living at the death of the person insured, and subject to any right reserved by the insurer in the policy and set forth in the certificate to pay at its option a part of such sum, not exceeding five hundred dollars, to any person appearing to the insurer to be equitably entitled thereto by reason of having incurred funeral or other expenses incident to the last illness or death of the person insured.

7. A provision that the insurer will issue to the policyholder for delivery to each person insured an individual certificate setting forth a statement as to the insurance protection to which the person is entitled, to whom the insurance benefits are payable, and the rights and conditions set forth in subsections 8 through 10 if applicable.

8. A provision that if the insurance, or any portion of it, on a person covered under the policy ceases because of termination of employment or of membership in the class or classes eligible for coverage under the policy, such person shall be entitled to have issued to the person by the insurer, without evidence of insurability, an individual policy of life insurance without disability or other supplementary benefits, provided application for the individual policy shall be made, and the first premium paid to the insurer, within thirty-one days after such termination, and provided further that,

a. The individual policy shall, at the option of such person, be on any one of the forms, except term insurance, then customarily issued by the insurer at the age and for the amount applied for;

b. The individual policy shall be in an amount not in excess of the amount of life insurance which ceases because of such termination, provided that any amount of insurance which matures on the date of such termination, or has matured prior thereto as an endowment payable to the person insured, whether in one sum or in installments or in the form of an annuity, shall not, for the purposes of this provision, be included in the amount which is considered to cease because of such termination, and

c. The premium on the individual policy shall be at the insurer's then customary rate applicable to the form and amount of the individual policy, to the class of risk to which such person then belongs, and to the person's age attained on the effective date of the individual policy.

9. A provision that if the group policy terminates or is amended so as to terminate the insurance of any class of insured persons, every person insured thereunder at the date of such termination whose insurance terminates and who has been so insured for at least five years prior to such termination date shall be entitled to have issued to the person by the insurer an individual policy of life insurance, subject to the same conditions and limitations as are provided by subsection 8, except that the group policy may provide that the amount of such individual policy shall not exceed the smaller of the amount of the person's life insurance protection ceasing because of the termination or amendment of the group policy, less the amount of any life insurance for which the person is or becomes eligible under any group policy issued or reinstated by the same or another insurer within thirty-one days after such termination, and two thousand dollars.

10. A provision that if a person insured under the group policy dies during the period within which the person would have been entitled to have an individual policy issued to the person in accordance with subsection 8 or 9 and before such an individual policy shall have become effective, the amount of life insurance which the person would have been entitled to have issued to the person under such individual policy shall be payable as a claim under the

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group policy, whether or not application for the individual policy or the payment of the first premium therefor has been made.

[C24, 27, 31, §8677, 8678; C35, §8684-e4, -e5; C39, §**8684.04, 8684.05;** C46, §509.4, 509.5; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §509.2]

2021 Acts, ch 76, §125, 126; 2022 Acts, ch 1032, §86; 2024 Acts, ch 1043, §96

Referred to in §508A.5, 509.4, 509.10, 509.14

509.3 Provisions as part of accident or health policy.

1. All policies of group accident or health insurance or combination thereof issued in this state shall contain in substance the following provisions:

a. The policy shall have a provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued or shall be furnished to the policyholder within thirty days after the policy is issued, that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties, and that no statement made by any person insured shall be used in any contest unless a copy of the instrument containing the statement is or has been furnished to such person.

b. A provision that the company will issue to the policyholder for delivery to each person insured under such policy an individual certificate setting forth a statement as to the insurance protection to which the person is entitled, to whom the insurance benefits are payable, and such provisions of the policy as are, in the opinion of the commissioner of insurance, necessary to inform the holder thereof as to the holder's rights under the policy.

c. A provision that to the group or class thereof originally insured shall be added, from time to time, all new persons eligible to insurance in such group or class.

d. A provision that if the insurance on a person or insurance on a person and the person's dependents covered by the policy ceases because of termination of employment or of membership in the class, the person and the person's dependents may continue their accident or health insurance under the group policy.

e. A provision shall be made available to policyholders, under group policies covering vision care services or procedures, for payment of necessary medical or surgical care and treatment provided by an optometrist licensed under chapter 154 if the care and treatment are provided within the scope of the optometrist's license and if the policy would pay for the care and treatment if the care and treatment were provided by a person engaged in the practice of medicine or surgery or osteopathic medicine and surgery as licensed under chapter 148. The policy shall provide that the policyholder may reject the coverage or provision if the coverage or provision for services which may be provided by an optometrist is rejected for all providers of similar vision care services as licensed under chapter 148 or 154. This paragraph applies to group policies delivered or issued for delivery after July 1, 1983, and to existing group policies on their next anniversary or renewal date, or upon expiration of the applicable collective bargaining contract, if any, whichever is later. This paragraph does not apply to blanket, short-term travel, accident-only, limited or specified disease, or individual or group conversion policies, or policies designed only for issuance to persons for coverage under Tit. XVIII of the Social Security Act, or any other similar coverage under a state or federal government plan.

f. A provision shall be made available to policyholders under group policies covering diagnosis and treatment of human ailments for payment or reimbursement for necessary diagnosis or treatment provided by a chiropractor licensed under chapter 151, if the diagnosis or treatment is provided within the scope of the chiropractor's license and if the policy would pay or reimburse for the diagnosis or treatment by a person licensed under chapter 148 of the human ailment, irrespective of and disregarding variances in terminology employed by the various licensed professions in describing the human ailment or its diagnosis or its treatment. The policy shall provide that the policyholder may reject the coverage or provision if the coverage or provision for diagnosis or treatment of a human ailment by a chiropractor is rejected for all providers of diagnosis or treatment for similar human ailments licensed under chapter 148 or 151. A policy of group health insurance may limit or make optional the payment or reimbursement for lawful diagnostic or treatment service by all licensees under chapters 148 and 151 on any rational basis which is not solely

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related to the license under or the practices authorized by chapter 151 or is not dependent upon a method of classification, categorization, or description based directly or indirectly upon differences in terminology used by different licensees in describing human ailments or their diagnosis or treatment. This paragraph applies to group policies delivered or issued for delivery after July 1, 1986, and to existing group policies on their next anniversary or renewal date, or upon expiration of the applicable collective bargaining contract, if any, whichever is later. This paragraph does not apply to blanket, short-term travel, accident-only, limited or specified disease, or individual or group conversion policies, or policies under Tit. XVIII of the Social Security Act, or any other similar coverage under a state or federal government plan.

g. A provision shall be made available to policyholders, under group policies covering hospital, medical, or surgical expenses, for payment of covered services determined to be medically necessary provided by registered nurses certified by a national certifying organization, which organization shall be identified by the Iowa board of nursing pursuant to rules adopted by the board, if the services are within the practice of the profession of a registered nurse as that practice is defined in section 152.1, under terms and conditions agreed upon between the insurer and the policyholder, subject to utilization controls. This paragraph shall not require payment for nursing services provided by a certified nurse practicing in a hospital, nursing facility, health care institution, physician's office, or other noninstitutional setting if the certified nurse is an employee of the hospital, nursing facility, health care institution, physician, or other health care facility or health care provider. This paragraph applies to group policies delivered or issued for delivery in this state on or after July 1, 1989, and to existing group policies on their next anniversary or renewal dates, or upon expiration of the applicable collective bargaining contract, if any, whichever is later. This paragraph does not apply to blanket, short-term travel, accident-only, limited or specified disease, or individual or group conversion policies, policies rated on a community basis, or policies designed only for issuance to persons for eligible coverage under Tit. XVIII of the federal Social Security Act, or any other similar coverage under a state or federal government plan.

h. A provision that the insurer will permit continuation of existing coverage or reenrollment in previously existing coverage for an individual who meets the requirements of section 513B.2, subsection 14, paragraph *"a"*, *"b"*, *"c"*, *"d"*, or *"e"*, and who is an unmarried child of an insured or enrollee who so elects, at least through the policy anniversary date on or after the date the child marries, ceases to be a resident of this state, or attains the age of twenty-five years old, whichever occurs first, or so long as the unmarried child maintains full-time status as a student in an accredited institution of postsecondary education.

2. In addition to the provisions required in subsection 1, paragraphs *"a"* through *"h"*, the commissioner shall require provisions through the adoption of rules implementing the federal Health Insurance Portability and Accountability Act, Pub. L. No. 104-191.

[C24, 27, 31, §8677, 8678; C35, §8684-e4, -e6; C39, §**8684.04, 8684.06;** C46, §509.4, 509.6; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §509.3]

83 Acts, ch 166, §1; 84 Acts, ch 1290, §1; 86 Acts, ch 1124, §8; 86 Acts, ch 1180, §2; 89 Acts, ch 164, §2; 97 Acts, ch 103, §1; 99 Acts, ch 75, §2; 2005 Acts, ch 70, §7; 2008 Acts, ch 1088, §125; 2008 Acts, ch 1188, §38, 43; 2009 Acts, ch 118, §7, 11; 2012 Acts, ch 1021, §98

Referred to in §509.10, 509.14, 514.21, 514.23

509.3A Creditable coverage.

For the purposes of any policies of group accident or health insurance or combination of such policies issued in this state, *"creditable coverage"* means health benefits or coverage provided to an individual under any of the following:

1. A group health plan.
2. Health insurance coverage.
3. Part A or Part B Medicare pursuant to Tit. XVIII of the federal Social Security Act.
4. Medicaid pursuant to Tit. XIX of the federal Social Security Act, other than coverage consisting solely of benefits under section 1928 of that Act.
5. 10 U.S.C. ch. 55.

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6. A health or medical care program provided through the Indian health service or a tribal organization.
7. A state health benefits risk pool.
8. A health plan offered under 5 U.S.C. ch. 89.
9. A public health plan as defined under federal regulations.
10. A health benefit plan under section 5(e) of the federal Peace Corps Act, 22 U.S.C. §2504(e).
11. A short-term limited duration policy.
12. The Hawki program authorized by chapter 514I.

2009 Acts, ch 118, §19; 2017 Acts, ch 148, §34; 2023 Acts, ch 19, §1187

509.3B Health savings accounts and qualified high-deductible health plans — cost sharing.

If a copayment, coinsurance, or deductible paid as cost sharing by an enrollee under this chapter may result in the enrollee becoming ineligible for a health savings account associated with the enrollee's qualified high-deductible health plan under section 223 of the Internal Revenue Code, the cost sharing shall apply only to the enrollee's qualified high-deductible health plan after the enrollee satisfies the enrollee's minimum deductible, except for items or services determined to be preventive care under section 223(c)(2)(C) of the Internal Revenue Code.

2026 Acts, ch 1105, §1
NEW section

509.4 Employees of common employer — rates.

An insurer may issue policies of individual life, accident, health, hospital, medical, or surgical insurance or any combination thereof at reduced rates to employees of a common employer including the state, a county, school district, city, or institution supported in whole or in part by public funds, but the number of employees to be insured must be more than one. The premium for such policies may be paid wholly or in part by the employer. If such policies shall provide term life insurance renewable only during the continuance of employment with the employer they shall also provide for conversion to a level premium life policy substantially in accordance with the provisions of section 509.2, subsection 8.

[C24, 27, 31, §8675, 8678; C35, §8684-e1, -e5; C39, §**8684.01, 8684.05;** C46, §509.1, 509.5; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §509.4]

2015 Acts, ch 29, §72

509.5 Authorized companies.

1. Any level premium life insurance company, organized on the stock or mutual plan and authorized to transact business under the provisions of chapter 508 may, upon complying with the provisions of said chapter and of this chapter, issue contracts providing for group life, or health, or accident insurance, or combinations thereof as defined in this chapter.
2. A casualty company organized on the stock or mutual plan, or accident and health association authorized to transact business under chapter 515, or a reciprocal or interinsurance exchange organized under chapter 520, may, by complying with those chapters and this chapter, issue contracts providing for health or accident insurance, or combinations of health and accident insurance, as defined in this chapter.

[C24, 27, 31, §8677; C35, §8684-e4; C39, §**8684.04;** C46, §509.4; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §509.5]

89 Acts, ch 83, §68

509.6 Approval of commissioner.

No policy or certificate of group insurance shall be issued in this state until the form thereof has been filed with the commissioner of insurance and approved by the commissioner.

[C24, 27, 31, §8678; C35, §8684-e7; C39, §**8684.07;** C46, §509.7; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §509.6]

Referred to in §509.7, 509.8

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509.7 Grounds for revocation of authority.

Failure to comply with section 509.6 shall be deemed sufficient grounds for revocation of the certificate of authority of any company so violating.

[C35, §8684-e8; C39, §**8684.08;** C46, §509.8; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §509.7]

509.8 Foreign policies.

Policies of group insurance issued in other states or countries by companies organized in this state may contain any provision required by the laws of the state, territory, district, or country in which the same are issued, anything in section 509.6 to the contrary notwithstanding.

[C24, 27, 31, §8679; C35, §8684-e9; C39, §**8684.09;** C46, §509.9; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §509.8]

509.9 Foreign companies.

Policies of group insurance, when issued in this state by any company not organized under the laws of this state, may contain when issued any provision required by the law of the state, territory, or district of the United States under which the company is organized.

[C24, 27, 31, §8680; C35, §8684-e10; C39, §**8684.10;** C46, §509.10; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §509.9]

509.10 Other provisions in policies.

Any group policy may contain any other provisions which meet the approval of the commissioner of insurance, provided such provisions are not in conflict with the standard provisions of section 509.2 or 509.3.

[C24, 27, 31, §8681; C35, §8684-e11; C39, §**8684.11;** C46, §509.11; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §509.10]

509.11 Voting by policyholders.

If policyholders are entitled to vote at meetings of a domestic insurance company, each policyholder of a group policy shall be entitled to one vote.

[C24, 27, 31, §8682; C35, §8684-e12; C39, §**8684.12;** C46, §509.12; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §509.11]

509.12 Proceeds exempt from execution.

A policy of group insurance and the proceeds of the policy are exempt from execution and attachment to the same extent as provided in chapter 627.

[C24, 27, 31, §8683; C35, §8684-e13; C39, §**8684.13;** C46, §509.13; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §509.12]

88 Acts, ch 1255, §1

509.13 Rules.

The commissioner of insurance shall issue rules establishing minimum standards for group Medicare supplement policies and minimum standards for benefits under coverages contained in group Medicare supplement policies. These rules shall be consistent with those rules established for individual Medicare supplement policies pursuant to chapter 514D. The commissioner also shall establish by rule reasonable and creditable anticipated minimum loss ratios for group Medicare supplement policies. Rules issued by the commissioner shall give issuers of group Medicare supplement policies a reasonable time to achieve compliance.

[81 Acts, ch 167, §1]

509.14 Group insurance on franchise plan.

It shall be lawful for an authorized insurer to issue life, accident and sickness insurance policies on a franchise plan at reduced rates, covering the members of an association, subject to the following:

1. An *"association"* as referred to herein shall consist of a labor union, trade association,

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association of employees, industrial association or professional association, which has been organized and operating more than two years for purposes other than procuring insurance.

2. A "*franchise plan*" as referred to herein shall consist of an insurance policy or policies covering the insurable members of an association, but in no case less than ten. Such policies may be written in the name of the association or may be written individually for the insured members, subject to the following:

a. A life insurance policy written in the name of the association, shall conform to the provisions of section 509.2.

b. An individual policy on the life of a member of an association, providing for term insurance renewable only during the continuation of membership, shall also provide in the event of termination of membership the same provision for conversion as set out in section 509.2, subsection 8.

c. An individual life policy written on any basis other than term shall provide that the policyholder may elect to continue it in force upon the policyholder's termination of membership in the association by giving the insurer a notice in writing of such election within thirty days thereafter and paying therefor the renewal premium, which the insurer may increase to reflect the normal individual rate for the policyholder as determined by the policyholder's age and class at the date of issue of the policy.

d. If an accident and sickness policy is written in the name of the association, it shall conform to the provisions of section 509.3.

e. An individual accident and sickness policy shall be subject to the provisions of chapter 514A.

f. Premiums for such policies may be paid entirely from the funds of the association, entirely from the funds of the members or partly from the funds of each.

g. Accident and sickness policies may include the spouse and dependents of the insured.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §509.14]

Referred to in §509.19, 514D.3, 514D.4

509.15 Assignment of policy.

Any person insured under a group life insurance policy may assign the rights, benefits and all other incidents of ownership conferred on the person by any provision of such policy or by law, including specifically and not by way of limitation the right, if any, to have issued to the person an individual policy and the right to name a beneficiary. Subject to the terms of the policy or agreement between the insured, the group policyholder and the insurer, any such assignment, whether made before or after July 1, 1971, is valid for the purpose of vesting in the assignee, in accordance with any provisions included therein as to the time at which it is to be effective, all rights, benefits and incidents of ownership conferred upon the insured under the policy and shall entitle the insurer to deal with the assignee as the owner of such rights, benefits and incidents of ownership, provided the insurer shall not be affected by any assignment until the insurer has received written notice thereof. This section shall be construed as declaring the law as it existed prior to July 1, 1971 and not modifying it.

[C73, 75, 77, 79, 81, §509.15]

509.16 Premium rates approved.

1. An individual policy of credit life or credit accident and health insurance or certificate under a policy of group credit life or credit accident and health insurance shall not be issued for delivery or delivered in this state unless the premium rates charged for the insurance are approved by the commissioner of insurance.

2. The commissioner of insurance, after notice and hearing, may adopt rules as are necessary to identify specific methods of competition or acts or practices within the business of credit life and credit accident and health insurance which are unfair or deceptive.

[C75, 77, 79, 81, §509.16]

90 Acts, ch 1234, §27

509.17 Guidelines for rates.

Rates shall be made in accordance with the following provisions:

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1. Rates shall not be excessive, inadequate or unfairly discriminatory.

2. Due consideration shall be given to past and prospective loss experience within and outside this state, to a reasonable margin for underwriting profit and contingencies, to past and prospective expenses both countrywide and those especially applicable to this state, and to all other relevant factors within and outside this state.

3. The commissioner shall, after a public hearing, approve a reasonable charge or premium for credit accident and health insurance and for credit life insurance as the commissioner deems appropriate and necessary for the implementation of this section.

[C71, 73, §535.2; C75, 77, 79, 81, §509.17]
90 Acts, ch 1234, §28, 29

509.18 Prohibited deposit in financial institution.

A company or its agent licensed to sell a policy of credit life or credit accident and health insurance or certificate under a policy of group credit life or credit accident and health insurance shall not deposit or offer to deposit funds in a financial institution of this state in exchange for the privilege of selling such insurance to or on behalf of the financial institution.

[C75, 77, 79, 81, §509.18]
2004 Acts, ch 1110, §27

509.19 Claims and premium disclosure.

1. *a.* A person issuing a policy or contract providing group health benefit coverages to a group of fifty-one or more eligible employees as defined in chapter 513B shall provide to the policyholder, contract holder, or sponsor of the group health benefit plan, upon request, annually, but not more than three months prior to the policy renewal date, the total amount of actual claims identified as paid or incurred and paid, and the total amount of premiums by line of coverage. If premiums are not billed for each line of coverage, it is not necessary to artificially separate premiums for each line of coverage and will be acceptable to supply total premiums for the period.

b. For purposes of this section, *"line of coverage"* includes medical, prescription drug card program, dental, vision, long-term disability, and short-term disability.

c. The information required by paragraph *"a"* shall be provided by the carrier for two separate years, either policy years or rolling twelve-month periods.

d. The information required by paragraph *"a"* shall not disclose any confidential information or otherwise disclose the identity of an individual insured, subscriber, or enrollee, who has submitted a claim within the time frame of the report.

2. For purposes of this section, *"person issuing a policy or contract providing group health benefit coverages"* includes all of the following:

a. A person issuing a group policy of accident or health insurance pursuant to this chapter.

b. A person issuing a group contract of a nonprofit health service corporation pursuant to chapter 514.

c. A person issuing a group contract of a health maintenance organization pursuant to chapter 514B.

d. A multiple employer welfare arrangement, as defined in section 3 of the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. §1002, paragraph 40, or a multiple employer welfare arrangement formed as an association health plan pursuant to 29 C.F.R. pt. 2510, that meets the requirements of chapter 513D.

e. A plan for public employees established pursuant to chapter 509A.

f. A person issuing or sponsoring an association group policy under section 509.14.

90 Acts, ch 1159, §1; 2002 Acts, ch 1111, §12; 2003 Acts, ch 91, §11; 2016 Acts, ch 1011, §93; 2017 Acts, ch 148, §35; 2021 Acts, ch 181, §8

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CHAPTER 509A

GROUP INSURANCE FOR PUBLIC EMPLOYEES

Referred to in §2.40, 87.4, 173.1, 296.7, 331.301, 364.4, 505.28, 505.29, 507B.4, 508C.3, 509.19, 510.11, 510B.1, 514C.4A, 514C.12, 514C.12A, 514C.14, 514C.15, 514C.16, 514C.17, 514C.18, 514C.19, 514C.20, 514C.22, 514C.23, 514C.24, 514C.25, 514C.26, 514C.27, 514C.28, 514C.29, 514C.30, 514C.31, 514C.34, 514C.36, 514F.4, 514F.5, 514F.7, 514F.8, 514F.8A, 514F.8B, 514F.8C, 514F.9, 514J.102, 514L.1, 669.14, 670.7

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509A.1 Authority of governing body — definitions.

1. The governing body of the state, school district, or any institution supported in whole or in part by public funds may establish plans for and procure group insurance, health or medical service, or health flexible spending accounts as described in section 125 of the Internal Revenue Code of 1986 for the employees of the state, school district, or tax-supported institution.

2. For purposes of this chapter:

a. "Governing body" means the director of the department of administrative services, the school boards of school districts, and the superintendent or other person in charge of an institution supported in whole or in part by public funds.

b. "Public body" means the state, a school district, or an institution supported in whole or in part by public funds.

[C50, 54, 58, 62, §365A.1; C66, §509.15; C71, 73, 75, 77, 79, 81, S81, §509A.1; 81 Acts, ch 117, §1085]

99 Acts, ch 200, §20; 2025 Acts, ch 30, §87

509A.2 Sources of funds.

The funds for such plans shall be created solely from the contributions of employees, or from contributions wholly or in part by the governing body.

[C50, 54, 58, 62, §365A.2; C66, §509.16; C71, 73, 75, 77, 79, 81, §509A.2]

Referred to in §509A.3

509A.3 Assessment of employees.

1. All employees participating in any such plan the fund of which is created under the provisions of section 509A.2 shall be assessed and required to pay an amount to be fixed by the governing body not to exceed the two percent which shall be contributed by the public body according to the plan adopted, and the amount so assessed shall be deducted and retained out of the wages or salaries of such employees.

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2. Any employee may authorize deductions from the employee's wages or salary in payment for plans authorized in this chapter in the manner provided in section 514.16.

[C50, 54, 58, 62, §365A.3; C66, §509.17; C71, 73, 75, 77, 79, 81, §509A.3]

2019 Acts, ch 24, §104

509A.4 Participation optional.

Participation in any such plan shall be optional with all employees eligible to the benefits thereof as provided by the rules adopted by the governing body pursuant thereto. Election to participate therein shall be in writing signed by the employee and filed with the governing body.

[C50, 54, 58, 62, §365A.4; C66, §509.18; C71, 73, 75, 77, 79, 81, §509A.4]

509A.5 Fund under control of governing body — interest earnings of certain funds.

1. The fund for each plan shall be under the control and shall be expended under the directions of the governing body and shall be used solely for the purpose of administering and carrying out the provisions of the plan adopted by the governing body.

2. Any interest earnings from investments or time deposits of the funds under the control of the department of administrative services shall be deposited to the credit of these funds.

[C50, 54, 58, 62, §365A.5; C66, §509.19; C71, 73, 75, 77, 79, 81, §509A.5]

84 Acts, ch 1071, §1; 85 Acts, ch 266, §2; 2019 Acts, ch 24, §104; 2024 Acts, ch 1169, §35

Referred to in §8A.454

509A.6 Contract with insurance carrier or health maintenance organization.

The governing body may contract with a nonprofit corporation operating under the provisions of this chapter or chapter 514 or with any insurance company having a certificate of authority to transact an insurance business in this state with respect of a group insurance plan, which may include life, accident, health, hospitalization and disability insurance during period of active service of such employees, with the right of any employee to continue such life insurance in force after termination of active service at such employee's sole expense; may contract with a nonprofit corporation operating under and governed by the provisions of this chapter or chapter 514 with respect of any hospital or medical service plan; and may contract with a health maintenance organization authorized to operate in this state with respect to health maintenance organization activities.

[C50, 54, 58, 62, §365A.6; C66, §509.20; C71, 73, 75, 77, 79, 81, §509A.6]

95 Acts, ch 162, §10; 2017 Acts, ch 148, §36

509A.7 Employee defined.

The word *"employee"* as used in this chapter does not include temporary or retired employees except as otherwise provided in this chapter. However, this section does not prevent a retired employee sixty-five years of age or older from voluntarily continuing in force, at the employee's own expense, an existing contract.

[C50, 54, 58, 62, §365A.7; C66, §509.21; C71, 73, 75, 77, 79, 81, §509A.7; 82 Acts, ch 1101, §2]

84 Acts, ch 1285, §24

509A.8 Rules.

The governing body of public bodies establishing any such plan under this chapter shall administer such plan and formulate and establish rules for the operation thereof, not inconsistent with the provisions of this chapter.

[C50, 54, 58, 62, §365A.8; C66, §509.22; C71, 73, 75, 77, 79, 81, §509A.8]

509A.9 Exemption from debts.

All amounts payable to employees under and pursuant to the plan of group insurance established as provided in this chapter shall be exempt from liability for debts of the person

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to or on account of whom the same is payable and shall not be subject to seizure upon execution or other process.

[C50, 54, 58, 62, §365A.9; C66, §509.23; C71, 73, 75, 77, 79, 81, §509A.9]

2020 Acts, ch 1063, §277

509A.10 Decisions of governing body final.

The decisions of the governing body upon all matters upon which the said governing body is empowered to act, under and pursuant to the provisions of this chapter, shall be final and conclusive, in the absence of fraud, and no appeal shall be allowed therefrom nor shall such decisions of the governing body, in the absence of fraud, be reviewed, enjoined or set aside by any court.

[C50, 54, 58, 62, §365A.10; C66, §509.24; C71, 73, 75, 77, 79, 81, §509A.10]

2020 Acts, ch 1063, §278

509A.11 Definitions. Repealed by 2025 Acts, ch 30, §104. See §509A.1.

509A.12 Deferred compensation program for governmental employees.

1. A governing body, county board of supervisors, or other public entity, to the extent allowed by law, may establish a deferred compensation program under this section. The contributions made on behalf of an employee who chooses to participate in the program shall be invested at the direction of the employee in a life insurance contract, annuity contract, mutual fund, security, or any other deferred payment contract offered as an investment option under the program. The contract acquired for an employee shall be in accordance with the plan document and shall be acquired from a company, or a salesperson for that company, that is authorized to do business in this state. When the state of Iowa acquires an investment product pursuant to the plan document the state does not become a shareholder, stockholder, or owner of a corporation in violation of Article VIII, section 3, of the Constitution of the State of Iowa or any other provision of law.

2. This section is in addition to any benefit program provided by law for employees of the state or its political subdivisions.

[C73, 75, 77, 79, 81, S81, §509A.12; 81 Acts, ch 117, §1087]

94 Acts, ch 1183, §80; 95 Acts, ch 162, §11; 97 Acts, ch 185, §10; 2019 Acts, ch 24, §104

Referred to in §8A.433, 8A.434, 8A.435, 8F.2, 12B.10, 12B.10A, 12B.10B, 12B.10C, 12C.1, 331.324

509A.13 Continuation of group insurance.

1. If a governing body, a county board of supervisors, or a city council has procured for its employees accident, health, or hospitalization insurance, or a medical service plan, or has contracted with a health maintenance organization authorized to do business in this state, the governing body, county board of supervisors, or city council shall allow its employees who retired before attaining sixty-five years of age to continue participation in the group plan or under the group contract at the employee's own expense until the employee attains sixty-five years of age.

2. This section applies to employees who retired on or after January 1, 1981.

84 Acts, ch 1285, §25; 86 Acts, ch 1243, §32; 2019 Acts, ch 24, §104

Referred to in §80.6A, 456A.13A

509A.13A Continuation of group insurance covering spouses.

1. As used in this section, unless the context otherwise requires:

a. "Eligible retired state employee" means a former employee of the government of the state of Iowa, including but not limited to any departments, agencies, boards, bureaus, or commissions of the state of Iowa, who is receiving the minimum level of retirement benefits for eligibility under this section and who is participating in a state health or medical group insurance plan which covers the former employee and the former employee's spouse at the time of the death of the former employee.

b. "Minimum level of retirement benefits for eligibility under this section" means any of the following:

(1) The eligible retired state employee has received retirement benefits under the

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retirement system established in chapter 97A based upon the completion of at least twenty-two years of membership service.

(2) The eligible retired state employee has received retirement benefits under the retirement system established in chapter 97B.

(3) The eligible retired state employee has received retirement benefits under the retirement system established in chapter 602, article 9.

c. "*State health or medical group insurance plan*" means a health or medical group insurance plan for employees of the state.

2. Notwithstanding any provision of law to the contrary, in the event of the death of an eligible retired state employee, the surviving spouse of the eligible retired state employee whose insurance would otherwise terminate because of the death of the eligible retired state employee may elect to continue to be a member of the state health or medical group insurance plan by requesting continuation in writing to the department of administrative services within thirty-one days after the death of the eligible retired state employee. The surviving spouse shall pay the total premium for the state health or medical group insurance plan and shall have the same rights to change programs or coverage as state employees.

94 Acts, ch 1183, §81; 98 Acts, ch 1183, §71, 79; 99 Acts, ch 200, §21; 2003 Acts, ch 145, §286

509A.13B Coverage of children — continuation or reenrollment.

If a governing body, a county board of supervisors, or a city council has procured accident or health care coverage for its employees under this chapter, such coverage shall permit continuation of existing coverage or reenrollment in previously existing coverage for an individual who meets the requirements of section 513B.2, subsection 14, paragraph "*a*", "*b*", "*c*", "*d*", or "*e*", and who is an unmarried child of an insured or enrollee who so elects, at least through the policy anniversary date on or after the date the child marries, ceases to be a resident of this state, or attains the age of twenty-five years old, whichever occurs first, or so long as the unmarried child maintains full-time status as a student in an accredited institution of postsecondary education.

2008 Acts, ch 1188, §39, 43; 2009 Acts, ch 118, §8, 11

Referred to in §509A.13E

509A.13C Health care coverage for surviving spouse and children of fire fighters and peace officers killed in the line of duty.

1. For the purposes of this section, "*eligible peace officer or fire fighter*" means a peace officer as defined in section 801.4, or a fire fighter, to which a line of duty death benefit is payable pursuant to section 97A.6, subsection 16, section 97B.52, subsection 2, or section 411.6, subsection 15.

2. *a.* If a governing body, a county board of supervisors, or a city council has procured accident or health care coverage for its employees under this chapter, such coverage shall permit continuation of existing coverage or reenrollment in previously existing coverage for the surviving spouse and each surviving child of an eligible peace officer or fire fighter.

b. A governing body, a county board of supervisors, or a city council shall also permit continuation of existing coverage for the surviving spouse and each surviving child of a peace officer as defined in section 801.4, or a fire fighter who dies and to which a line of duty death benefit is reasonably expected to be payable pursuant to section 97A.6, subsection 16, section 97B.52, subsection 2, or section 411.6, subsection 15, until such time as the determination of whether to provide a line of duty death benefit is made.

3. A governing body, a county board of supervisors, or a city council providing accident or health care coverage under this section shall not be required to pay for the cost of the coverage. However, a governing body, a county board of supervisors, or a city council may pay the full cost or a portion of the cost of the coverage. If the full cost of the coverage is not paid, a surviving spouse and each surviving child eligible for coverage under this section may elect to continue accident or health care coverage by paying that portion of the cost of the coverage not paid by the governing body, county board of supervisors, or city council.

4. A governing body, a county board of supervisors, or a city council shall notify the

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provider of accident or health care coverage for its employees of a surviving spouse and each surviving child to be provided coverage pursuant to the requirements of this section.

5. This section shall not require continuation of coverage if the surviving spouse or surviving child who would otherwise be entitled to continuation of coverage under this section was, through the surviving spouse's or surviving child's actions, a substantial contributing factor to the death of the eligible peace officer or fire fighter.

2018 Acts, ch 1172, §76, 78, 79
Referred to in §80.47

509A.13D Health insurance coverage — surviving spouse and children of certain employees of the Iowa department of corrections.

1. For the purposes of this section, *"eligible employee of the Iowa department of corrections"* means any of the following:

a. An employee of the Iowa department of corrections.

b. An employee of the Iowa department of corrections whose death has been determined by the department to be the direct and proximate result of a traumatic personal injury incurred in the line of duty, and to whom none of the following applies:

(1) The employee's death resulted from stress, strain, occupational illness, or a chronic, progressive, or congenital illness, including but not limited to a disease of the heart, lungs, or respiratory system, unless a traumatic personal injury was a substantial contributing factor to the employee's death.

(2) The employee's death was caused by the employee's intentional misconduct, or by the employee's intent to cause the employee's own death.

(3) The employee was voluntarily intoxicated at the time of the employee's death.

(4) The employee was performing the employee's duties in a grossly negligent manner at the time of the employee's death.

2. *a.* If the governing body of the state has procured health insurance coverage for its employees under this chapter, the governing body of the state shall permit continuation of existing health insurance coverage or reenrollment in previously existing coverage for the surviving spouse and each surviving child of an eligible employee of the Iowa department of corrections.

b. The governing body of the state shall permit continuation of existing health insurance coverage for the surviving spouse and each surviving child of an employee of the Iowa department of corrections who dies and who is reasonably expected to be determined to be an eligible employee of the Iowa department of corrections, until such time as the determination of eligibility is made.

3. The governing body of the state shall not be required to pay for the cost of the health insurance under this section; however, the governing body of the state may pay the full cost or a portion of the cost of the health insurance. If the full cost or a portion of the cost of the coverage is not paid by the governing body of the state, the surviving spouse and each surviving child who is eligible for health insurance under this section may elect to continue coverage by paying that portion of the cost of the health insurance not paid by the governing body of the state.

4. The governing body of the state shall notify the provider of health insurance coverage for state employees of the identity of the surviving spouse and each surviving child who is to be provided health insurance coverage pursuant to the requirements of this section.

5. This section shall not require continuation of health insurance coverage if the surviving spouse or a surviving child who would otherwise be entitled to continuation of health insurance coverage under this section was, through the actions of the surviving spouse or the surviving child, a substantial contributing factor to the death of the eligible employee of the Iowa department of corrections.

2021 Acts, ch 166, §32, 34, 35
Referred to in §904.321

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509A.13E Health insurance coverage — surviving spouse and children of employees of the state of Iowa.

1. For the purposes of this section, *"eligible employee of the state of Iowa"* means an employee of the state of Iowa, including but not limited to any department, agency, board, bureau, or commission of the state of Iowa, who is participating in a state health or medical group insurance plan under this chapter which covers the employee at the time of death of the employee and whose death has been determined by the department of administrative services to be the direct and proximate result of a traumatic personal injury incurred in the performance of the employee's work duties, and to whom none of the following applies:

a. The employee's death resulted from stress, strain, occupational illness, or a chronic, progressive, or congenital illness, including but not limited to a disease of the heart, lungs, or respiratory system, unless the traumatic personal injury was a substantial contributing factor to the employee's death.

b. The employee's death was caused by the employee's intentional misconduct, or by the employee's intent to cause the employee's own death.

c. The employee was voluntarily intoxicated at the time of the employee's death.

d. The employee was performing the employee's duties in a grossly negligent manner at the time of the employee's death.

2. *a.* The governing body of the state shall permit continuation of existing health insurance coverage or reenrollment in previously existing coverage for the surviving spouse and each surviving child of an eligible employee of the state of Iowa.

b. The governing body of the state shall permit continuation of existing health insurance coverage for the surviving spouse and each surviving child of an employee of the state of Iowa who dies and who is reasonably expected to be determined to be an eligible employee of the state of Iowa, until such time as the determination of eligibility is made.

3. The governing body of the state shall not be required to pay for the cost of the health insurance under this section; however, the governing body of the state may pay the full cost or a portion of the cost of the health insurance, in which case the department, agency, board, bureau, commission, or other employing entity of the eligible employee of the state of Iowa shall bear the cost of such health insurance. If the full cost or a portion of the cost of the coverage is not paid by the governing body of the state, the surviving spouse and each surviving child who is eligible for health insurance under this section may elect to continue coverage by paying that portion of the cost of the health insurance not paid by the governing body of the state.

4. The governing body of the state shall notify the provider of health insurance coverage for state employees of the identity of the surviving spouse and each surviving child who is to be provided health insurance coverage pursuant to the requirements of this section.

5. The governing body of the state shall implement continuation of health insurance coverage for the surviving spouse and each surviving child of an eligible employee of the state of Iowa in a manner that ensures that the health insurance coverage provided under this section is the payor of last resort, as permitted by federal law.

6. *a.* This section shall not require continuation of health insurance coverage if the surviving spouse or a surviving child who would otherwise be entitled to continuation of health insurance coverage under this section was, through the actions of the surviving spouse or the surviving child, a substantial contributing factor to the death of the eligible employee of the state of Iowa.

b. This section shall not require continuation of health insurance coverage if the surviving spouse or a surviving child becomes ineligible for health insurance coverage under the terms of the health insurance coverage obtained by the state for reasons other than the death of the eligible employee of the state of Iowa, including but not limited to ineligibility under this chapter, remarriage of the surviving spouse, or ineligibility for continuing coverage for a surviving child pursuant to section 509A.13B.

2025 Acts, ch 87, §1, 2

Section applies retroactively to January 1, 2024; 2025 Acts, ch 87, §2

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509A.14 Approval of self-insurance plans.

The commissioner of insurance shall adopt rules for self-insurance plans for life insurance and accident and health insurance for a political subdivision of the state or a school corporation. The rules adopted shall include, but are not limited to, the following:

1. A requirement that the plan shall include all coverages and provisions that are required by law in insurance policies for the type of risk that the self-insurance plan is intended to cover.

2. A requirement that if the resources of the plan are inadequate to fully cover a claim under the plan, then the public body is liable for any portion of the claim that is left unpaid.

85 Acts, ch 251, §2; 92 Acts, ch 1162, §12; 93 Acts, ch 88, §9
Referred to in §296.7, 331.301, 364.4

509A.15 Certification of self-insurance plans — exemption.

1. *a.* Within ninety days following the end of a fiscal year, the governing body of a self-insurance plan of a political subdivision or a school corporation shall file with the commissioner of insurance a certificate of compliance, actuarial opinion, and an annual financial report. The filing shall be accompanied by a fee of one hundred dollars. A penalty of fifteen dollars per day shall be assessed for failure to comply with the ninety-day filing requirement, except that the commissioner may waive the penalty upon a showing that special circumstances exist which justify the waiver. The certificate shall be signed and dated by the appropriate public official representing the governing body, and shall certify the following:

(1) That the plan meets the requirements of this chapter and the applicable provisions of the Iowa administrative code.

(2) That an actuarial opinion has been attached to the certificate which attests to the adequacy of reserves, rates, and financial condition of the plan.

(3) That a written complaint procedure has been implemented. The certificate shall also list the number of complaints filed by participants under the written complaint procedure, and the percentage of participants filing written complaints, in the prior fiscal year.

(4) 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 a third-party administrator as defined in section 510.11, subsection 2.

b. The actuarial opinion must include but is not limited to a brief commentary about the adequacy of the reserves, rates, and the financial condition of the plan, a test of the prior year claim reserve, a brief description of how the reserves were calculated, and whether or not the plan is able to cover all reasonably anticipated expenses. The actuarial opinion shall be prepared, signed, and dated by a person who is a member of the American academy of actuaries.

c. If necessary, the actuary should assist the public body in preparing the annual financial report. The annual financial report shall be in a format as prescribed by the commissioner.

2. The commissioner shall by rule require the maintenance of confidentiality of information held by the plan administrator.

3. The failure of the governing body to provide the certificate of compliance required by subsection 1, or the failure of the governing body or plan administrator to abide by a requirement of the plan, this chapter, or applicable rule, is grounds for action against the plan, including cause for disapproval or discontinuance of the plan.

4. *a.* 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 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.

b. 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

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not apply for the year following a year in which yearly claims are determined to exceed two percent of the political subdivision's or school corporation's general fund budget.

88 Acts, ch 1112, §104; 92 Acts, ch 1162, §14; 93 Acts, ch 88, §10; 2000 Acts, ch 1200, §1; 2003 Acts, ch 91, §12; 2006 Acts, ch 1117, §34, 35; 2012 Acts, ch 1023, §109

CHAPTER 509B

CONTINUATION OF GROUP HEALTH INSURANCE

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

509B.1 Definitions.
509B.2 Persons included in this chapter.
509B.3 Continuation of benefits.
509B.4 Conversion of group policies. Repealed by 2006 Acts, ch 1117, §127.
509B.5 Notice of termination of membership or modification of coverage.

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509B.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Accident or health insurance"* means hospital, surgical, or major medical insurance, or a combination of these.
2. *"Commissioner"* means the state commissioner of insurance.
3. *"Group policy"* means a group accident or health insurance policy issued by an insurance company under chapter 509, a group accident or health contract issued by a health service corporation under chapter 514, or a plan for health care services provided by a health maintenance organization under chapter 514B, or issued or provided by any similar corporation or organization.
4. *"Insurance"*, *"insures"*, and *"insured"* refer to coverage under a group policy, individual policy, or converted policy on a premium-paying basis, and do not include coverage provided solely as an accrued liability or by reason of a disability extension.
5. *"Insurer"* means the entity issuing a group policy or an individual or converted policy.
6. *"Medicare"* means Tit. XVIII of the United States Social Security Act.
7. *"Premium"* includes any premium or payment or other consideration payable for coverage under a group or individual policy.

86 Acts, ch 1124, §1; 2006 Acts, ch 1117, §36; 2012 Acts, ch 1023, §78
Referred to in §514C.3

509B.2 Persons included in this chapter.

1. As used in this chapter, *"termination of employment or membership"* includes but is not limited to termination because of permanent or temporary layoff or approved leave of absence. A provision in this chapter which relates to termination of insurance under a group policy of an employee or member and the employee's or member's covered dependents includes termination of insurance with respect to the surviving or former spouse or children of an employee or member whose insurance would terminate because of dissolution or annulment of the marriage of the employee or member, or would terminate because of death of the employee or member.
2. A provision in this chapter which relates to an employee or member includes the surviving or former spouse or children if termination occurs because of dissolution or annulment of a marriage or death of an employee or member.

86 Acts, ch 1124, §2

509B.3 Continuation of benefits.

A group policy delivered or issued for delivery in this state which insures employees or members for accident or health insurance on an expense-incurred or service basis, other than for specific diseases or for accidental injuries only, shall provide that employees or members

whose coverage under the group policy would otherwise terminate because of termination of employment or membership may continue their accident or health insurance under that group policy, for themselves and their eligible dependents, subject to all of the group policy's terms and conditions applicable to those forms of insurance and subject to all of the following conditions:

1. Continuation shall only be available to an employee or member if the employee or member was continuously insured under the group policy, and for similar benefits under any group policy which it replaced, during the entire three months' period immediately preceding the termination.

2. Continuation shall not be available for a person who is or could be covered by Medicare. Continuation shall not be available for a person who is or is eligible to be covered by another group insured or uninsured arrangement which provides accident or health coverage, unless the person was covered by that other group policy immediately prior to the termination.

3. Continuation may exclude dental care, vision care, or prescription drug benefits or other benefits provided under the group policy which benefits are in addition to accident or health benefits.

4. *a.* An employee or member who wishes continuation of coverage must request continuation in writing to the employer or group policyholder within the ten-day period following the later of either of the following:

(1) The date of the termination.

(2) The date the employee is given notice of the right of continuation as provided in section 509B.5 by either the employer or the group policyholder.

b. If proper notice is given, the employee or member is not eligible to elect continuation more than thirty-one days after the date of termination.

5. An employee or member electing continuation shall pay monthly to the employer or group policyholder, in advance, the amount of contribution required by the employer or group policyholder, but not more than the group rate otherwise due for the insurance being continued under the group policy. If proper notice is given, the election of continuation by the employee or member together with the first contribution required to establish contributions on a monthly basis in advance, shall be given to the employer or group policyholder within thirty-one days of the date the group insurance would otherwise terminate.

6. Continuation of insurance under the group policy for any person shall terminate when the person becomes eligible for Medicare or another group insured or uninsured accident or health arrangement, or earlier, when any of the following first occurs:

a. Nine months after the date the employee's or member's insurance under the policy would otherwise have terminated because of termination of employment or membership.

b. At the end of the period for which contributions were made if the employee or member fails to make timely payment of a required contribution and if proper notice is given as provided in section 509B.5, subsection 2.

c. If the person covered is a former spouse, upon the former spouse's remarriage.

d. The date on which the group policy is terminated or, in the case of an employee, the date the employer terminates participation under the group policy. However, if this paragraph applies and the coverage which would cease because of the employer's termination is replaced by similar coverage under a different group policy, all of the following apply:

(1) The employee, member, spouse, or eligible dependent may become covered under the different group policy, for the balance of the period that the employee or member would have remained covered under the prior group policy had a termination of the group policy as specified in paragraph *"d"* not occurred.

(2) The minimum level of benefits to be provided by the different group policy shall be the applicable level of benefits of the prior group policy, reduced by any benefits payable under the prior group policy.

(3) The prior group policy shall continue to provide benefits to the extent of its accrued liabilities and extensions of benefits as if the prior group policy had not been replaced by the different group policy.

7. A notification of the continuation privilege shall be included with or in each certificate

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of coverage and as otherwise provided in section 509B.5 and shall contain the time limits for requesting the continued coverage.

8. The spouse of an employee or member, and any covered dependent children of the employee or member, whose coverage under the group policy would otherwise terminate because of dissolution or annulment of marriage or death of the employee or member shall have the same contribution and notice responsibilities and privileges as provided under this chapter to the employee or member upon termination of employment or membership.

86 Acts, ch 1124, §3; 87 Acts, ch 115, §62; 2012 Acts, ch 1023, §157

509B.4 Conversion of group policies. Repealed by 2006 Acts, ch 1117, §127.

509B.5 Notice of termination of membership or modification of coverage.

1. Employers or group policyholders shall notify all employees or members of their continuation 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 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 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 515.125 as that section relates to accident and health insurance.

2. If an employer or group policyholder terminates or substantially modifies an agreement to provide accident or health insurance for employees or members or if accident or health insurance for employees or members is terminated for failure to pay premiums or for another reason, the employer or group policyholder shall notify the employees or members, including persons being continued under the policy's continuation provisions, of the termination or substantial modification of their coverage. The notice shall be in writing and delivered in person to the entitled persons or mailed to their last known addresses at least ten days prior to the termination or substantial modification of the accident or health insurance coverage. The employer or group policyholder is solely liable for benefits, including extended benefits, other than extended benefits for which the insurer is liable in accordance with the provisions of the group policy, which would have been payable had the accident or health insurance remained in force or not been terminated or substantially modified during the period of time following the termination or substantial modification until the person entitled to notice is given notice by the employer or group policyholder as required by this subsection.

3. The employer or group policyholder is also solely liable for benefits, including extended benefits, which would have been payable had the accident or health insurance been in force and the employees or members been covered during the period of time the employer or group policyholder failed to implement the plan for accident or health insurance which the employer or group policyholder had agreed to provide, until the employer or group policyholder gives notice of its failure or inability to provide the agreed plan. The notice shall be in writing and delivered in person to the employees or members or mailed to their last known addresses.

4. The employer or group policyholder is also solely liable for benefits, including extended benefits, which would have been payable had the accident or health insurance been in force and the employees or members been covered by the accident or health insurance during a period of time for which the employer or group policyholder has collected contributions through payroll, withholding, or otherwise, but has failed to enroll the employees or members, unless the employer or group policyholder has given actual notice that enrollment in the plan will not become effective until a later date or until the employee's or member's application for enrollment has been approved.

86 Acts, ch 1124, §5; 2006 Acts, ch 1117, §37; 2007 Acts, ch 152, §55

Referred to in §509B.3, 514B.17

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CHAPTER 510

MANAGING GENERAL AGENTS AND THIRD-PARTY ADMINISTRATORS

Referred to in §87.4, 296.7, 331.301, 364.4, 505.20, 505.28, 505.29, 508.15A, 510B.2, 510B.10, 515.144, 669.14, 670.7

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MANAGING GENERAL AGENTS

510.1 Reserved.

510.1A Short title.

This chapter may be cited as the *"Managing General Agents Act."*

91 Acts, ch 26, §1

Referred to in §510.10

510.1B Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Actuary"* means a person who is a member in good standing of the American academy of actuaries.

2. *"Commissioner"* means the commissioner of insurance.

3. *"Insurer"* means a person duly licensed in this state as an insurance company pursuant to this subtitle.

4. *a. "Managing general agent"* means any person who engages in all of the following:

(1) Negotiates and binds ceding reinsurance contracts on behalf of an insurer or manages all or part of the insurance business of an insurer, including the management of a separate division, department, or underwriting office, and who acts as an agent for such insurer whether known as a managing general agent, manager, or other similar term or title.

(2) With or without authority and either separately or together with affiliates, directly or indirectly produces, and underwrites, an amount of gross direct written premium equal to or greater than five percent of the policyholder surplus in any one quarter or year as reported in the last annual statement of the insurer.

(3) Engages in either or both of the following:

(a) Adjusts or pays claims in excess of an amount determined by the commissioner.

(b) Negotiates reinsurance on behalf of the insurer.

b. Managing general agent does not include any of the following:

(1) An employee of the insurer.

(2) A manager of a United States branch of an alien insurer who resides in this country.

(3) An underwriting manager who, pursuant to contract, manages all insurance

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operations of the insurer, who is under common control with the insurer, subject to chapter 521A relating to the regulation of insurance holding company systems, and who is not compensated based upon the volume of premiums written.

(4) An insurance company, in connection with the acceptance or rejection of reinsurance on a block of business.

(5) The attorney-in-fact authorized by or acting for the subscribers of a reciprocal insurer or interinsurance exchange under power of attorney.

5. *"Underwrite"* means the authority to accept or reject risk on behalf of the insurer.

91 Acts, ch 26, §2
Referred to in §510.6, 510.10

510.2 Contracts with managing general agents.

1. A domestic insurer shall not enter into a contract with a managing general agent unless the domestic insurer notifies the commissioner in writing of its intention to enter into the contract at least thirty days prior to entering into the contract or within a shorter time permitted by the commissioner and the commissioner has not disapproved of the contracts within the time period. The commissioner shall not approve the contracts if the commissioner finds any of the following:

a. The service or management charges in the contract are based upon criteria unrelated either to the insurer's profits or to the reasonable, customary, and usual charges for such services to the company.

b. Management personnel or other employees of the insurance company are to be performing management functions and receiving any remuneration for those management functions through the contract in addition to the compensation received directly from the insurance company for their services.

c. The contract would transfer substantial control of the insurer or any of the powers vested in the board of directors, by statute, articles of incorporation, or bylaws, or substantially all of the basic functions of the insurer's management to the managing general agent.

d. The contract contains provisions which would be clearly detrimental to the best interest of policyholders, stockholders, or members of the company.

e. The officers and directors of the managing general agent firm are of known bad character or have been affiliated, directly or indirectly, through ownership, control, management, reinsurance transactions, or other insurance or business relations with any person known to have been involved in the improper manipulation of assets, accounts, or reinsurance.

2. If the commissioner disapproves of a contract, notice of the disapproval shall be given to the insurer, specifying the reasons in writing. The commissioner shall grant any party to the contract a hearing on the disapproval upon request pursuant to chapter 17A.

89 Acts, ch 227, §2; 2012 Acts, ch 1023, §157
Referred to in §510.10
Contracts; see also §510.5

510.3 Liability of managing general agents.

Notwithstanding any obligation of a director or officer of an insolvent insurer to the liquidator of the insolvent insurer, a managing general agent of a domestic insurer against whom an order of liquidation has been entered is liable for fees paid to the managing general agent prior to the entry of the order of liquidation upon a finding that the rendering of services, or failure to render services contracted for, substantially caused or contributed to the insolvency of the domestic insurer, and was pursuant to a contract which had not been submitted to the commissioner, or which had been submitted to the commissioner and disapproved, or the services did not meet accepted standards for such services.

89 Acts, ch 227, §3
Referred to in §510.10

510.4 Licensure required — bond.

1. A person shall not act in the capacity of a managing general agent with respect to risks

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located in this state for an insurer licensed in this state unless the person is a licensed producer in this state.

2. A person shall not act in the capacity of a managing general agent representing an insurer domiciled in this state with respect to risks located outside this state unless the person is licensed as a resident or nonresident producer in this state pursuant to the provisions of this chapter.

3. The commissioner may require a bond for each company represented by a managing general agent in an amount acceptable to the commissioner for the protection of the insurer.

4. The commissioner may require a managing general agent to maintain an errors and omissions policy.

91 Acts, ch 26, §3
Referred to in §510.10

510.5 Required contract provisions — limitations.

1. A person acting in the capacity of a managing general agent shall not place business with an insurer unless a written contract is in force between the parties which sets forth the responsibilities of each party. If both parties share responsibility for a particular function, the contract must specify the division of such responsibilities, and must contain, at a minimum, all of the following provisions:

a. The insurer may terminate the contract for cause upon written notice to the managing general agent. The insurer may suspend the underwriting authority of a managing general agent during the pendency of any dispute regarding the cause for termination. The insurer shall advise the commissioner of a termination or a suspension pursuant to this paragraph.

b. A managing general agent shall render accounts to the insurer detailing all transactions and remit all funds due under the contract to the insurer on not less than a monthly basis.

c. All funds collected for the account of an insurer shall be held by a managing general agent in a fiduciary capacity in a bank which is a member of the federal reserve system. This account shall be used for all payments on behalf of the insurer. A managing general agent may retain no more than three months' estimated claims payments and allocated loss adjustment expenses.

d. Separate records of business written by a managing general agent shall be maintained. An insurer shall have access and a right to copy all accounts and records related to the insurer's business in a form usable by the insurer and the commissioner shall have access to all books, bank accounts, and records of a managing general agent in a form usable by the commissioner. Such records shall be retained at least until after completion by the insurance division of the next examination of the insurer.

e. Appropriate underwriting guidelines including but not limited to the following:

(1) The maximum annual premium volume.
(2) The basis of the rates to be charged.
(3) The types of risks which may be written.
(4) Maximum limits of liability.
(5) Applicable exclusions.
(6) Territorial limitations.
(7) Policy cancellation provisions.
(8) The maximum length or duration of the policy period.

f. The insurer may cancel or refuse to renew any policy of insurance produced or underwritten by a managing general agent, subject to the applicable laws and rules concerning the cancellation and nonrenewal of insurance policies.

2. Permissible provisions in a contract and their requirements include the following:

a. If the contract permits a managing general agent to settle claims on behalf of the insurer all of the following requirements apply:

(1) All claims reported must be reported by the managing general agent to the insurer in a timely manner.

(2) A copy of the claim file must be sent to the insurer at its request or as soon as the managing general agent knows that the claim meets one or more of the following conditions:

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(a) The claim has the potential to exceed an amount determined by the commissioner or exceeds the limit set by the insurer, whichever is less.

(b) The claim involves a coverage dispute.

(c) The claim may exceed the claims settlement authority of the managing general agent.

(d) The claim is open for more than six months.

(e) The claim is closed by payment of an amount set by the commissioner or an amount set by the insurer, whichever is less.

(3) All claim files shall be the joint property of the insurer and the managing general agent. However, upon an order of liquidation of the insurer the files become the sole property of the insurer or its estate. The managing general agent shall have reasonable access to and the right to copy the files on a timely basis.

(4) Any settlement authority granted to the managing general agent may be terminated for cause upon the insurer's written notice to the managing general agent or upon the termination of the contract. The insurer may suspend the settlement authority during the pendency of any dispute regarding the cause for termination.

b. If electronic claims files are in existence, the contract must address the timely transmission or transfer of the data contained in the files.

c. If the contract provides for a sharing of interim profits by the managing general agent, and the managing general agent has the authority to determine the amount of interim profits by establishing loss reserves, by controlling claim payments, or by determining the amount of interim profits in any other manner, interim profits shall not be paid to the managing general agent until one year after they are earned for property insurance business and five years after they are earned for casualty insurance business, and not until the interim profits have been verified pursuant to section 510.6.

3. A managing general agent shall not do any of the following:

a. Bind reinsurance or retrocessions on behalf of the insurer, except that a managing general agent may bind facultative reinsurance contracts pursuant to obligatory facultative agreements if the contract with the insurer contains reinsurance underwriting guidelines including, for both reinsurance assumed and ceded, a list of reinsurers with which such automatic agreements are in effect, the coverages and amounts or percentages that may be reinsured, and commission schedules.

b. Commit the insurer to participate in insurance or reinsurance syndicates.

c. Appoint any producer without assuring that the producer is lawfully licensed to transact the type of insurance for which the producer is appointed.

d. Without prior approval of the insurer, pay or commit the insurer to pay a claim over a specified amount, net of reinsurance, which exceeds one percent of the policyholder's surplus of the insurer as of December 31 of the previous calendar year.

e. Collect any payment from a reinsurer or commit the insurer to any claim settlement with a reinsurer without prior approval of the insurer. If prior approval is given, a report must be promptly forwarded by the managing general agent to the insurer.

f. Permit its subproducer to serve on the insurer's board of directors.

g. Jointly employ an individual who is employed by the insurer.

h. Appoint a submanaging general agent.

91 Acts, ch 26, §4; 2008 Acts, ch 1123, §19; 2013 Acts, ch 30, §124
Referred to in §510.10
Contracts; see also §510.2

510.5A Unfair competition or unfair and deceptive acts or practices prohibited.

A managing general agent is subject to chapter 507B relating to unfair insurance trade practices.

93 Acts, ch 88, §11
Referred to in §510.10

510.6 Duties of insurers.

1. An insurer shall have on file an independent financial examination, in a form acceptable to the commissioner, of each managing general agent with which the insurer does or has done business.

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2. If a managing general agent establishes loss reserves, the insurer shall annually obtain the opinion of an actuary attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by a managing general agent. This is in addition to any other required loss reserve certification.

3. An insurer shall periodically, but at least semiannually, conduct an on-site review of the underwriting and claims processing operations of each managing general agent with which the insurer is currently doing business.

4. Binding authority for all reinsurance contracts or participation in insurance or reinsurance syndicates shall rest with an officer of the insurer, who is not affiliated with the managing general agent.

5. Within thirty days of entering into or termination of a contract with a managing general agent, the insurer shall provide written notification of the appointment or termination to the commissioner. A notice of appointment of a managing general agent must include a statement of duties which the applicant is expected to perform on behalf of the insurer, the lines of insurance for which the applicant is to be authorized to act, and any other information the commissioner may request.

6. An insurer shall review its books and records each quarter and determine if any insurance producer, as defined by section 510A.2, has become, by operation of section 510.1B, subsection 4, a managing general agent as defined in that section. If the insurer determines that an insurance producer has become a managing general agent by operation of section 510.1B, subsection 4, the insurer shall promptly notify the insurance producer and the commissioner of such determination and the insurer and insurance producer shall fully comply with the provisions of this chapter within thirty days.

7. An insurer shall not appoint to its board of directors an officer, director, employee, insurance producer, or controlling shareholder of a managing general agent of the insurer. This subsection shall not apply to relationships governed by chapter 521A relating to the regulation of insurance company holding systems, or, if applicable, by chapter 510A relating to the regulation of insurance producer controlled property and casualty insurers.

91 Acts, ch 26, §5; 91 Acts, ch 258, §56; 2004 Acts, ch 1101, §71
Referred to in §510.5, 510.10

510.7 Examination authority.

The acts of a managing general agent are considered to be the acts of the insurer on whose behalf a managing general agent is acting. A managing general agent may be examined as if it were the insurer.

91 Acts, ch 26, §6
Referred to in §510.10

510.8 Penalties and liabilities.

1. If the commissioner finds, after a hearing conducted in accordance with chapter 17A, that any person has violated one or more provisions of this chapter, the commissioner may do one or more of the following:

a. For each separate violation, order the imposition of an administrative penalty of not more than ten thousand dollars.

b. Order the revocation or suspension of the producer's license.

c. Bring a civil suit seeking reimbursement by the managing general agent of the insurer, the rehabilitator, or the liquidator of the insurer for any losses incurred by the insurer caused by a violation of this chapter committed by the managing general agent.

2. The decision, determination, or order of the commissioner pursuant to subsection 1 is subject to judicial review pursuant to chapter 17A.

3. This section does not affect the right of the commissioner to impose any other penalties provided for under this subtitle.

4. This chapter is not intended to and shall not in any manner limit or restrict the rights of policyholders, claimants, and auditors.

91 Acts, ch 26, §7; 91 Acts, ch 213, §8
Referred to in §510.10

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510.9 Rules.

The commissioner may adopt rules, pursuant to chapter 17A, as necessary or convenient for the implementation and administration of this chapter.

91 Acts, ch 26, §8

Referred to in §510.10

510.10 Exemption.

A managing general agent who complies with sections 510.1A through 510.9 for a block of business, shall not also be required to comply with sections 510.20 and 510.21 with regard to the same block of business.

91 Acts, ch 26, §9; 91 Acts, ch 258, §57

THIRD-PARTY ADMINISTRATORS

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.

89 Acts, ch 227, §4; 2006 Acts, ch 1117, §38

Referred to in §509A.15, 510.12, 510D.1, 729.6

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510.12 Written agreement necessary.

1. A person shall not act as 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.

2. 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.

89 Acts, ch 227, §5; 2006 Acts, ch 1117, §39; 2021 Acts, ch 76, §150
Referred to in §510.13, 510.14

510.13 Payment to third-party administrator.

If an insurer uses the services of 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.

89 Acts, ch 227, §6; 2006 Acts, ch 1117, §40
Referred to in §510.12

510.14 Maintenance of information.

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 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.

89 Acts, ch 227, §7; 2006 Acts, ch 1117, §41
Referred to in §510.12

510.15 Approval of advertising.

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.

89 Acts, ch 227, §8; 2006 Acts, ch 1117, §42
Referred to in §510.12

510.16 Underwriting provision.

The agreement shall provide for the underwriting or other standards pertaining to the business underwritten by the insurer.

89 Acts, ch 227, §9
Referred to in §510.12

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510.17 Premium collection.

1. All insurance charges or premiums collected by 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.

89 Acts, ch 227, §10; 2006 Acts, ch 1117, §43

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.

89 Acts, ch 227, §11; 96 Acts, ch 1122, §1; 2006 Acts, ch 1117, §44
Referred to in §510.17

510.19 Claim adjustment and settlement.

The compensation paid to 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 a third-party administrator from being based on premiums or charges collected or number of claims paid or processed.

89 Acts, ch 227, §12; 2006 Acts, ch 1117, §45

510.20 Notification required.

When the services of 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 a third-party administrator collects funds, it 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.

89 Acts, ch 227, §13; 2006 Acts, ch 1117, §46
Referred to in §510.10

510.21 Certificates — registration and renewal.

1. A person shall not act as or represent oneself to be 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 a third-party administrator, unless the person holds a current certificate of registration as a third-party administrator issued by the commissioner of insurance. A certificate of registration as a third-party administrator shall be renewed every three years. Failure to hold a current certificate of registration shall subject a third-party administrator to the sanctions set out in section 507B.7. An application for a certificate of registration shall be

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accompanied by a filing fee of one hundred dollars. A certificate of registration shall be issued by the commissioner to a third-party administrator unless the commissioner determines that the third-party administrator is not competent, trustworthy, financially responsible, of good personal and business reputation, or has had an application for an insurance license denied for cause within the preceding five years.

2. If the commissioner denies an application for registration or renewal, a written notice that specifies the reasons for the denial or nonrenewal shall be provided to the applicant. Pursuant to chapter 17A, upon the applicant's request, the commissioner shall grant the applicant a hearing on the denial or nonrenewal.

89 Acts, ch 227, §14; 2006 Acts, ch 1117, §47; 2007 Acts, ch 152, §56; 2008 Acts, ch 1074, §2; 2021 Acts, ch 76, §150; 2021 Acts, ch 181, §9

Referred to in §509A.15, 510.10, 510.22, 513D.1

510.22 Waiving of requirements.

The commissioner may waive the requirements of section 510.21 for any person or class of persons. The factors taken into account in granting a waiver shall include, but are not limited to whether:

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

2. The financial strength and history of the organization indicates stability in its continuity of doing business.

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

89 Acts, ch 227, §15; 2006 Acts, ch 1117, §48

510.23 Violations and penalties.

1. If, after hearing, the commissioner determines that a third-party administrator has violated this chapter, or chapter 507B, the commissioner may order any one or more of the sanctions or penalties set out in section 507B.7.

2. If, after hearing, the commissioner determines that a person has aided and abetted a third-party administrator in commission of a violation of this chapter, or chapter 507B, the commissioner may order any one or more of the sanctions or penalties set out in section 507B.7.

3. If, after hearing, the commissioner determines that a third-party administrator is not competent, trustworthy, financially responsible, or of good personal and business reputation, the commissioner may order any one or more of the sanctions and penalties set out in section 507B.7.

93 Acts, ch 88, §12; 2006 Acts, ch 1117, §49; 2021 Acts, ch 181, §10

CHAPTER 510A

BUSINESS PRODUCER CONTROLLED PROPERTY AND CASUALTY INSURERS

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 510.6, 521C.9, 669.14, 670.7

510A.1	Short title.	510A.4	Minimum standards.
510A.2	Definitions.	510A.5	Disclosure.
510A.3	Applicability.	510A.6	Penalties.

510A.1 Short title.

This chapter shall be known and may be cited as the "*Business Producer Controlled Property and Casualty Insurer Act.*"

91 Acts, ch 26, §10; 92 Acts, ch 1117, §35

510A.2 Definitions.

As used in this chapter unless the context otherwise requires:

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1. *"Accredited state"* means a state in which the insurance department or regulatory agency has qualified as meeting the minimum financial regulatory standards promulgated and established by the national association of insurance commissioners.

2. *"Control"* or *"controlled"* has the meaning ascribed in section 521A.1, subsection 3.

3. *"Controlled insurer"* means a licensed insurer that is controlled, directly or indirectly, by an insurance producer.

4. *"Controlling producer"* means an insurance producer who, directly or indirectly, controls an insurer.

5. *"Independent casualty actuary"* means a casualty actuary who is a member of the American academy of actuaries and who is not an employee, principal, the direct or indirect owner of, affiliated with, or in any way controlled by the insurer or insurance producer.

6. *"Insurance producer"* means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

7. *"Licensed insurer"* or *"insurer"* means any person duly licensed to transact a property and casualty insurance business in this state. The following are not licensed property and casualty insurers for the purposes of this chapter:

a. All risk retention groups as defined in the Superfund Amendments Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986) and the Risk Retention Act, 15 U.S.C. §3901 et seq. (1982 & Supp. 1986), or chapter 515E.

b. All residual market pools and joint underwriting authorities or associations.

c. All captive insurers. For the purposes of this chapter, captive insurers are insurance companies owned by another organization whose exclusive purpose is to insure risks of the parent organization and affiliated companies or, in the case of groups and associations, insurance organizations owned by the insureds whose exclusive purpose is to insure risks of any group and association members and any affiliates.

91 Acts, ch 26, §11; 92 Acts, ch 1117, §36; 2003 Acts, ch 91, §13 – 15
Referred to in §510.6, 510A.3

510A.3 Applicability.

This chapter applies to licensed insurers as defined in section 510A.2, either domiciled in this state or domiciled in a state that is not an accredited state and having a substantially similar law. All provisions of the insurance holding company Act, to the extent those provisions are not superseded by this chapter, continue to apply to all persons associated with holding companies subject to this chapter.

91 Acts, ch 26, §12; 92 Acts, ch 1117, §37

510A.4 Minimum standards.

1. *Applicability of section.*

a. This section applies if, in any calendar year, the aggregate amount of gross written premium on business placed with a controlled insurer by a controlling producer is equal to or greater than five percent of the admitted assets of the controlled insurer, as reported in the controlled insurer's quarterly statement filed as of September 30 of the preceding year.

b. Notwithstanding paragraph *"a"*, this section does not apply if both of the following apply:

(1) The controlling producer does all of the following:

(a) Places insurance only with the controlled insurer, or only with the controlled insurer and members of the controlled insurer's holding company system, or the controlled insurer's parent, affiliate, or subsidiary, and receives no compensation based upon the amount of premiums written in connection with such insurance.

(b) Accepts insurance placements only from nonaffiliated subproducers and not directly from insureds.

(2) The controlled insurer, except for insurance business written through a residual market facility, accepts insurance business only from the controlling producer, an insurance producer controlled by the controlled insurer, or an insurance producer that is a subsidiary of the controlled insurer.

2. *Required contract provisions.* A controlled insurer shall not accept business from a

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controlling producer and a controlling producer shall not place business with a controlled insurer unless there is a written contract between the controlling producer and the controlled insurer specifying the responsibilities of each party which has been approved by the board of directors of the controlled insurer and filed with the commissioner. The contract must contain, at a minimum, the following provisions:

a. The controlled insurer may terminate the contract for cause, upon written notice to the controlling producer. The controlled insurer shall suspend the authority of the controlling producer to write business during the pendency of any dispute regarding the cause for the termination.

b. The controlling producer shall render accounts to the controlled insurer detailing all material transactions, including information necessary to support all commissions, charges, and other fees received by, or owing to, the controlling producer.

c. The controlling producer shall remit all funds due under the terms of the contract to the controlled insurer on at least a monthly basis. The due date shall be fixed so that premiums or installments of premiums collected shall be remitted no later than ninety days after the effective date of any policy placed with the controlled insurer under this contract.

d. All funds collected for the controlled insurer's account shall be held by the controlling producer in a fiduciary capacity, in one or more appropriately identified bank accounts in banks that are members of the federal reserve system, in accordance with the provisions of the insurance law as applicable. However, funds of a controlling producer not required to be licensed in this state shall be maintained in compliance with the requirements of the controlling producer's domiciliary jurisdiction.

e. The controlling producer shall maintain separately identifiable records of business written for the controlled insurer.

f. The contract shall not be assigned in whole or in part by the controlling producer.

g. The controlled insurer shall provide the controlling producer with its underwriting standards, rules, and procedures manuals setting forth the rates to be charged, and the conditions for the acceptance or rejection of risks. The controlling producer shall adhere to the standards, rules, procedures, rates, and conditions. The standards, rules, procedures, rates, and conditions shall be the same as those applicable to comparable business placed with the controlled insurer by an insurance producer other than the controlling producer.

h. The rates and terms of the controlling producer's commissions, charges, or other fees and the purposes for those charges or fees. The rates of the commissions, charges, and other fees shall be no greater than those applicable to comparable business placed with the controlled insurer by producers other than controlling producers. For purposes of this paragraph and paragraph *"g"* of this subsection, *"comparable business"* includes the same lines of insurance, same kinds of insurance, same kinds of risks, similar policy limits, and similar quality of business.

i. If the contract provides that the controlling producer, on insurance business placed with the controlled insurer, is to be compensated contingent upon the insurer's profits on that business, then such compensation shall not be determined and paid until at least five years after the premiums on liability insurance are earned and at least one year after the premiums are earned on any other insurance. In no event shall the commissions be paid until the adequacy of the controlled insurer's reserves on remaining claims has been independently verified pursuant to subsection 4, paragraph *"a"*.

j. A limit on the controlling producer's writings in relation to the controlled insurer's surplus and total writings. The insurer may establish a different limit for each line or subline of business. The controlled insurer shall notify the controlling producer when the applicable limit is approached and shall not accept business from the controlling producer which would exceed the limit. The controlling producer shall not place business with the controlled insurer if it has been notified by the controlled insurer that the limit has been reached.

k. The controlling producer may negotiate but shall not bind reinsurance on behalf of the controlled insurer on business the controlling producer places with the controlled insurer, except that the controlling producer may bind facultative reinsurance contracts pursuant to obligatory facultative agreements if the contract with the controlled insurer contains underwriting guidelines including, for both reinsurance assumed and ceded, a

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list of reinsurers with which such automatic agreements are in effect, the coverages and amounts or percentages that may be reinsured, and commission schedules.

3. *Audit committee.* A controlled insurer must establish an audit committee of the board of directors composed of independent directors. Prior to approval of the annual financial statement, the audit committee shall meet with management, the insurer's independent certified public accountants, and an independent casualty actuary or other independent loss reserve specialist acceptable to the commissioner, to review the adequacy of the insurer's loss reserves.

4. *Reporting requirements.*

a. In addition to any other required loss reserve certification, the controlled insurer shall annually, on April 1 of each year, file with the commissioner an opinion of an independent casualty actuary, or another independent loss reserve specialist acceptable to the commissioner, reporting loss ratios for each line of business written and attesting to the adequacy of loss reserves established for losses incurred and outstanding as of year-end on business placed by the insurance producer, including incurred but not reported losses.

b. The controlled insurer shall annually report to the commissioner the amount of commissions paid to the insurance producer, the percentage such amount represents of the net premiums written, and comparable amounts and percentage paid to noncontrolling producers for placements of the same kinds of insurance.

91 Acts, ch 26, §13; 91 Acts, ch 213, §9; 92 Acts, ch 1117, §38; 2003 Acts, ch 91, §16 – 18; 2004 Acts, ch 1101, §72

510A.5 Disclosure.

The insurance producer, prior to the effective date of the policy, shall deliver written notice to the prospective insured disclosing the relationship between the insurance producer and the controlled insurer; except that, if the business is placed through a subproducer who is not a controlling producer, the controlling producer shall retain in the producer's records a signed commitment from the subproducer that the subproducer is aware of the relationship between the insurer and the insurance producer and that the subproducer has notified or will notify the insured.

92 Acts, ch 1117, §39; 2003 Acts, ch 91, §19

510A.6 Penalties.

1. If the commissioner believes that a controlling producer or any other person subject to this chapter has not materially complied with this chapter, or any rule adopted or order issued pursuant to this chapter, after notice and opportunity to be heard, the commissioner may order the controlling producer to cease placing business with the controlled insurer. Additionally, if the commissioner finds that because of such noncompliance the controlled insurer or any policyholder of the controlled insurer has suffered any loss or damage, the commissioner may maintain a civil action or intervene in an action brought by or on behalf of the insurer or policyholder for recovery of compensatory damages for the benefit of the insurer or policyholder, or for other appropriate relief.

2. If an order for liquidation or rehabilitation of the controlled insurer has been entered pursuant to chapter 507C, and the receiver appointed under that order believes that the controlling producer or any other person has not materially complied with this chapter, or any rule adopted or order issued pursuant to this chapter, and that the insurer suffered any loss or damage as a result of the noncompliance, the receiver may maintain a civil action for recovery of damages or other appropriate sanctions for the benefit of the insurer.

3. This section shall not be construed to affect or limit the right of the commissioner to impose any other penalties, as appropriate, which the commissioner is authorized to impose.

4. This section shall not be construed to affect or limit the rights of policyholders, claimants, creditors, or other third parties.

93 Acts, ch 88, §13

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CHAPTER 510B

REGULATION OF PHARMACY BENEFITS MANAGERS

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 507B.4, 669.14, 670.7

510B.1	Definitions.	510B.7	Pharmacy fees.
510B.2	Certification as a third-party administrator required.	510B.8	Prescription drugs — point of sale.
510B.3	Enforcement — rules. Repealed by 2022 Acts, ch 1113, §15, 16, 23.	510B.8A	Maximum allowable cost lists.
510B.4	Standards of conduct — good faith — conflict of interest.	510B.8B	Pharmacy benefits managers — reimbursements.
510B.4A	Retaliation prohibited.	510B.8C	Clean claims.
510B.4B	Prohibited conduct — pharmacy rights.	510B.8D	Pharmacy benefits manager contracts.
510B.5	Contacting covered persons — requirements.	510B.8E	Appeals and disputes.
510B.6	Substitute prescription drugs.	510B.9	Prior authorization.
		510B.10	Enforcement.
		510B.11	Rules.
		510B.12	Severability.

510B.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Clean claim"* means a claim that has no defect or impropriety, including a lack of any required substantiating documentation, or other circumstances requiring special treatment, that prevents timely payment from being made on the claim.

2. *"Commissioner"* means the commissioner of insurance.

3. *"Cost-sharing"* means any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket cost obligation imposed by a health benefit plan on a covered person.

4. *"Covered person"* means a policyholder, subscriber, or other person participating in a health benefit plan that has a prescription drug benefit managed by a pharmacy benefits manager.

5. *"Facility"* means an institution providing health care services or a health care setting, including but not limited to hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing centers, residential treatment centers, diagnostic, laboratory and imaging centers, and rehabilitation and other therapeutic health settings.

6. *"Health benefit plan"* means a policy, contract, certificate, or agreement offered or issued by a third-party payor to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.

7. *"Health care professional"* means a physician or other health care practitioner licensed, accredited, registered, or certified to perform specified health care services consistent with state law.

8. *"Health care provider"* means a health care professional or a facility.

9. *"Health carrier"* means an entity subject to the insurance laws and regulations of this state, or subject to the jurisdiction of the commissioner, including an insurance company offering sickness and accident plans, a health maintenance organization, a nonprofit health service corporation, or a plan established pursuant to chapter 509A for public employees. *"Health carrier"* does not include any of the following:

a. The department of health and human services.

b. A managed care organization acting pursuant to a contract with the department of health and human services to administer the medical assistance program under chapter 249A or the healthy and well kids in Iowa (Hawki) program under chapter 514I.

c. A policy or contract providing a prescription drug benefit pursuant to 42 U.S.C. ch. 7, subch. XVIII, part D.

d. A plan offered or maintained by a multiple employer welfare arrangement established under chapter 513D before January 1, 2022.

10. *"Maximum allowable cost"* means the maximum amount that a pharmacy will be reimbursed by a pharmacy benefits manager or a health carrier for a generic drug,

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brand-name drug, biologic product, or other prescription drug, and that may include any of the following:

a. Average acquisition cost.

b. National average drug acquisition cost.

c. Average manufacturer price.

d. Average wholesale price.

e. Brand effective rate.

f. Generic effective rate.

g. Discount indexing.

h. Federal upper limits.

i. Wholesale acquisition cost.

j. Any other term used by a pharmacy benefits manager or a health carrier to establish reimbursement rates for a pharmacy.

11. *"Maximum allowable cost list"* means a list of prescription drugs that includes the maximum allowable cost for each prescription drug and that is used, directly or indirectly, by a pharmacy benefits manager.

12. *"National average drug acquisition cost"* means the monthly survey of retail pharmacies conducted by the federal centers for Medicare and Medicaid services to determine average acquisition cost for Medicaid covered outpatient drugs.

13. *"Pass-through pricing"* means a model of prescription drug pricing in which payments made by a third-party payor to a pharmacy benefits manager for prescription drugs are equivalent to the payments the pharmacy benefits manager makes to the dispensing pharmacy or dispensing health care provider for the prescription drugs, including any professional dispensing fee.

14. *"Pharmacist"* means the same as defined in section 155A.3.

15. *"Pharmacy"* means the same as defined in section 155A.3.

16. *"Pharmacy acquisition cost"* means the cost to a pharmacy for a prescription drug as invoiced by a wholesale distributor, and reduced by any discounts, rebates, or other price concessions applicable to the prescription drug that are not shown on the invoice and are known at the time that the pharmacy files an appeal with a pharmacy benefits manager.

17. *"Pharmacy benefits manager"* means a person who, pursuant to a contract or other relationship with a third-party payor, either directly or through an intermediary, manages a prescription drug benefit provided by the third-party payor.

18. *"Pharmacy benefits manager affiliate"* means a pharmacy or a pharmacist that directly or indirectly through one or more intermediaries, owns or controls, is owned and controlled by, or is under common ownership or control of, a pharmacy benefits manager.

19. *"Pharmacy chain"* means an entity that has twenty or more pharmacies under common ownership or control located in at least twenty or more states.

20. *"Pharmacy network"* or *"network"* means pharmacies that have contracted with a pharmacy benefits manager to dispense or sell prescription drugs to covered persons of a health benefit plan for which the pharmacy benefits manager manages the prescription drug benefit.

21. *"Prescription drug"* means the same as defined in section 155A.3.

22. *"Prescription drug benefit"* means a health benefit plan providing for third-party payment or prepayment for prescription drugs.

23. *"Prescription drug order"* means the same as defined in section 155A.3.

24. *"Rebate"* means all discounts and other negotiated price concessions paid directly or indirectly by a pharmaceutical manufacturer or other entity, other than a covered person, in the prescription drug supply chain to a pharmacy benefits manager, and which may be based on any of the following:

a. A pharmaceutical manufacturer's list price for a prescription drug.

b. Utilization.

c. To maintain a net price for a prescription drug for a specified period of time for the pharmacy benefits manager in the event the pharmaceutical manufacturer's list price increases.

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d. Reasonable estimates of the volume of a prescribed drug that will be dispensed by a pharmacy to covered persons.

25. *"Retail pharmacy"* means a pharmacy that is not a pharmacy chain or a publicly traded entity, and that does not exclusively provide mail order dispensing of prescription drugs.

26. *"Specialty drug"* means a drug used to treat chronic and complex, or rare medical conditions and that requires special handling or administration, provider care coordination, or patient education that cannot be provided by a nonspecialty pharmacy or pharmacist.

27. *"Third-party payor"* means any entity other than a covered person or a health care provider that is responsible for any amount of reimbursement for a prescription drug benefit. *"Third-party payor"* includes health carriers and other entities that provide a plan of health insurance or health care benefits. *"Third-party payor"* does not include any of the following:

a. The department of health and human services.

b. A managed care organization acting pursuant to a contract with the department of health and human services to administer the medical assistance program under chapter 249A or the healthy and well kids in Iowa (Hawki) program under chapter 514I.

c. A policy or contract providing a prescription drug benefit pursuant to 42 U.S.C. ch. 7, subch. XVIII, part D.

28. *"Wholesale acquisition cost"* means the same as defined in 42 U.S.C. §1395w-3a(c)(6)(B).

29. *"Wholesale distributor"* means the same as defined in section 155A.3.

2007 Acts, ch 193, §1, 9; 2014 Acts, ch 1016, §1; 2022 Acts, ch 1113, §2, 16, 23; 2023 Acts, ch 19, §1188; 2024 Acts, ch 1100, §1; 2025 Acts, ch 151, §1, 9

Referred to in §505.26, 510C.1, 510D.1

Subsections 12, 13, 19, 25, 26, and 28 apply to pharmacy benefits managers, health carriers, third-party payors, and health benefit plans that manage a prescription drug benefit in the state on or after July 1, 2025; 2025 Acts, ch 151, §9

510B.2 Certification as a third-party administrator required.

A pharmacy benefits manager doing business in this state shall obtain a certificate as a third-party administrator under chapter 510, and the provisions relating to a third-party administrator pursuant to chapter 510 shall apply to a pharmacy benefits manager.

2007 Acts, ch 193, §2, 9

510B.3 Enforcement — rules. Repealed by 2022 Acts, ch 1113, §15, 16, 23. See §510B.10 and 510B.11.

510B.4 Standards of conduct — good faith — conflict of interest.

1. A pharmacy benefits manager shall exercise good faith and fair dealing in the performance of the pharmacy benefits manager's contractual obligations toward a third-party payor or a pharmacy.

2. A pharmacy benefits manager shall notify a health carrier in writing of any activity, policy, practice ownership interest, or affiliation of the pharmacy benefits manager that presents any conflict of interest.

3. A pharmacy benefits manager shall act in the best interest of each third-party payor for whom the pharmacy benefits manager manages a prescription drug benefit provided by the third-party payor, and shall discharge its duties in accordance with applicable state and federal law.

4. A pharmacy benefits manager, health carrier, health benefit plan, or third-party payor shall not discriminate against a pharmacy or a pharmacist with respect to participation, referral, reimbursement of a covered service, or indemnification if a pharmacist is acting within the scope of the pharmacist's license, as permitted under state law, and the pharmacy is operating in compliance with all applicable laws and rules.

2007 Acts, ch 193, §4, 9; 2022 Acts, ch 1113, §3, 16, 23; 2024 Acts, ch 1100, §2; 2025 Acts, ch 151, §2, 9

Subsection 4 applies to pharmacy benefits managers, health carriers, third-party payors, and health benefit plans that manage a prescription drug benefit in the state on or after July 1, 2025; 2025 Acts, ch 151, §9

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510B.4A Retaliation prohibited.

A pharmacy benefits manager shall not retaliate against a pharmacy based on the pharmacy's exercise of any right or remedy under this chapter, including but not limited to filing a complaint with the commissioner or cooperating with the commissioner pursuant to the commissioner's authority under this chapter. Retaliation prohibited by this section shall include but is not limited to all of the following:

1. Terminating or refusing to renew a contract with the pharmacy.
2. Subjecting the pharmacy to increased audits.
3. Withholding or failing to promptly pay the pharmacy any money owed by the pharmacy benefits manager to the pharmacy.

2024 Acts, ch 1100, §3

510B.4B Prohibited conduct — pharmacy rights.

1. A pharmacy benefits manager shall not do any of the following:

a. If a pharmacy or pharmacist has agreed to participate in a covered person's health benefit plan, prohibit or limit the covered person from selecting a pharmacy or pharmacist of the covered person's choice, or impose a monetary advantage or penalty that would affect a covered person's choice. A monetary advantage or penalty includes a copayment or coinsurance variation, a reduction in reimbursement for services, a promotion of one participating pharmacy over another, or comparing the reimbursement rates of a pharmacy against mail order pharmacy reimbursement rates.

b. Deny a pharmacy or pharmacist the right to participate as a contract provider under a health benefit plan if the pharmacy or pharmacist agrees to provide pharmacy services that meet the terms and requirements of the health benefit plan and the pharmacy or pharmacist agrees to the terms of reimbursement set forth by the third-party payor for similarly classified pharmacies.

c. Impose upon a pharmacy or pharmacist, as a condition of participation in a third-party payor network, any course of study, accreditation, certification, or credentialing that is inconsistent with, more stringent than, or in addition to state requirements for licensure or certification, and the administrative rules adopted by the board of pharmacy.

d. Unreasonably designate a prescription drug as a specialty drug to prevent a covered person from accessing the prescription drug, or limiting a covered person's access to the prescription drug, from a pharmacy or pharmacist that is within the health carrier's network. A covered person or pharmacy harmed by an alleged violation of this paragraph may file a complaint with the commissioner, and the commissioner shall, in consultation with the board of pharmacy, make a determination as to whether the covered prescription drug meets the definition of a specialty drug.

e. Require a covered person, as a condition of payment or reimbursement, to purchase pharmacy services, including prescription drugs, exclusively through a mail order pharmacy.

f. Impose upon a covered person a copayment, reimbursement amount, number of days of a prescription drug supply for which reimbursement will be allowed, or any other payment or condition relating to purchasing pharmacy services from a pharmacy that is more costly or restrictive than would be imposed upon the covered person if such pharmacy services were purchased from a mail order pharmacy, or any other pharmacy that can provide the same pharmacy services for the same cost and copayment as a mail order service.

2. *a.* If a third-party payor providing reimbursement to covered persons for prescription drugs restricts pharmacy participation, the third-party payor shall notify, in writing, all pharmacies within the geographical coverage area of the health benefit plan restriction, and offer the pharmacies the opportunity to participate in the health benefit plan at least sixty days prior to the effective date of the health benefit plan restriction. All pharmacies in the geographical coverage area of the health benefit plan shall be eligible to participate under identical reimbursement terms for providing pharmacy services and prescription drugs.

b. The third-party payor shall inform covered persons of the names and locations of all pharmacies participating in the health benefit plan as providers of pharmacy services and prescription drugs.

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c. A participating pharmacy shall be entitled to announce to the pharmacy's customers that the pharmacy participates in the health benefit plan.

3. The commissioner shall not certify a pharmacy benefits manager or license an insurance producer that is not in compliance with this section.

4. A covered person or pharmacy injured by a violation of this section may maintain a cause of action to enjoin the continuation of the violation.

2025 Acts, ch 151, §3, 9

Section applies to pharmacy benefits managers, health carriers, third-party payors, and health benefit plans that manage a prescription drug benefit in the state on or after July 1, 2025; 2025 Acts, ch 151, §9

510B.5 Contacting covered persons — requirements.

A pharmacy benefits manager, unless authorized pursuant to the terms of its contract with a health carrier, shall not contact any covered person without the express written permission of the health carrier.

2007 Acts, ch 193, §5, 9; 2022 Acts, ch 1113, §4, 16, 23

510B.6 Substitute prescription drugs.

1. The following provisions shall apply if a pharmacy benefits manager requests the dispensing of a substitute prescription drug for a drug prescribed for a covered person:

a. The pharmacy benefits manager may request the substitution of a lower priced generic and therapeutically equivalent prescription drug for a higher priced prescription drug.

b. If the substitute prescription drug's net cost to the covered person or to the health carrier exceeds the cost of the prescription drug originally prescribed for the covered person, the substitution shall be made only for medical reasons that benefit the covered person.

2. A pharmacy benefits manager shall obtain the approval of the prescribing health care professional prior to requesting any substitution under this section.

3. A pharmacy benefits manager shall not substitute an equivalent prescription drug contrary to a prescription drug order that prohibits a substitution.

2007 Acts, ch 193, §6, 9; 2022 Acts, ch 1113, §5, 16, 23

510B.7 Pharmacy fees.

A pharmacy benefits manager shall not assess, charge, or collect any form of remuneration that passes from a pharmacy or a pharmacist to the pharmacy benefits manager including but not limited to claim processing fees, performance-based fees, network participation fees, or accreditation fees.

2007 Acts, ch 193, §7, 9; 2022 Acts, ch 1113, §6, 16, 23; 2024 Acts, ch 1100, §4

510B.8 Prescription drugs — point of sale.

1. A covered person shall not be required to make a cost-sharing payment at the point of sale for a prescription drug in an amount that exceeds the total amount that the pharmacy at which the covered person fills the covered person's prescription drug order is reimbursed.

2. A pharmacy benefits manager shall not prohibit a pharmacy from disclosing the availability of a lower-cost prescription drug option to a covered person, or from selling a lower-cost prescription drug option to a covered person.

3. A pharmacy benefits manager shall not impose different cost-sharing or additional fees on a covered person based on the pharmacy at which the covered person fills a prescription drug order.

4. For the purpose of reducing premiums, one hundred percent of all rebates received by a pharmacy benefits manager shall be passed through to the health carrier, or to the employee plan sponsor as permitted by the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. §1001, et seq.

5. A pharmacy benefits manager shall include any amount paid by a covered person, or on behalf of a covered person, when calculating the covered person's total contribution toward the covered person's cost-sharing.

6. Any amount paid by a covered person for a prescription drug shall be applied to any deductible imposed on the covered person by the covered person's health benefit plan in accordance with the health benefit plan's coverage documents.

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7. If a covered person's policy, contract, or plan providing for third-party payment or prepayment of health or medical expenses qualifies as a high-deductible health plan under section 223 of the Internal Revenue Code, and a copayment, coinsurance, or deductible paid by the covered person as a cost-sharing requirement under this chapter would result in the covered person becoming ineligible for a health savings account associated with the covered person's high-deductible health plan, subsection 5 shall apply only after the covered person satisfies the covered person's minimum deductible, except for items or services determined to be preventive care under section 223(c)(2)(C) of the Internal Revenue Code.

2014 Acts, ch 1016, §2; 2022 Acts, ch 1113, §7, 16, 23; 2025 Acts, ch 151, §4, 9

Subsections 3 – 7 apply to pharmacy benefits managers, health carriers, third-party payors, and health benefit plans that manage a prescription drug benefit in the state on or after July 1, 2025; 2025 Acts, ch 151, §9

510B.8A Maximum allowable cost lists.

1. Prior to placement of a particular prescription drug on a maximum allowable cost list, a pharmacy benefits manager shall ensure that all of the following requirements are met:

a. The particular prescription drug must be listed as therapeutically and pharmaceutically equivalent in the most recent edition of the publication entitled "Approved Drug Products with Therapeutic Equivalence Evaluations", published by the United States food and drug administration, otherwise known as the orange book.

b. The particular prescription drug must not be obsolete or temporarily unavailable.

c. The particular prescription drug must be available for purchase, without limitations, by all pharmacies in the state from a national or regional wholesale distributor that is licensed in the state.

2. For each maximum allowable cost list that a pharmacy benefits manager uses in the state, the pharmacy benefits manager shall do all of the following:

a. Provide each pharmacy in a pharmacy network reasonable access to the maximum allowable cost list to which the pharmacy is subject.

b. Update the maximum allowable cost list within seven calendar days from the date of an increase of ten percent or more in the national average drug acquisition cost of a prescription drug on the list.

c. Update the maximum allowable cost list within seven calendar days from the date of a change in the methodology, or a change in the value of a variable applied in the methodology, on which the maximum allowable cost list is based.

d. Provide a reasonable process for each pharmacy in a pharmacy network to receive prompt notice of all changes to the maximum allowable cost list to which the pharmacy is subject.

2022 Acts, ch 1113, §8, 16, 23; 2024 Acts, ch 1100, §5

510B.8B Pharmacy benefits managers — reimbursements.

1. A pharmacy benefits manager shall not reimburse any pharmacy located in the state in an amount less than the amount that the pharmacy benefits manager reimburses a pharmacy benefits manager affiliate for dispensing the same prescription drug as dispensed by the pharmacy.

2. A pharmacy benefits manager shall not reimburse any retail pharmacy located in the state in an amount less than the most recently published national average drug acquisition cost for a prescription drug on the date that the prescription drug is administered or dispensed. If the most recently published national average drug acquisition cost for the prescription drug is unavailable on the date that the prescription drug is administered or dispensed, a pharmacy benefits manager shall not reimburse any retail pharmacy located in the state in an amount less than the wholesale acquisition cost for the prescription drug on the date that the prescription drug is administered or dispensed.

3. In addition to the reimbursement required under subsection 2, a pharmacy benefits manager shall reimburse the retail pharmacy or pharmacist a professional dispensing fee in the amount of ten dollars and sixty-eight cents.

4. *a.* A pharmacy benefits manager shall submit a quarterly report to the commissioner of all drugs reimbursed at ten percent or more below the national average drug acquisition cost,

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and all drugs reimbursed at ten percent or more above the national average drug acquisition cost, for each prescription drug appearing on the national average drug acquisition cost list on the day the prescription drug was dispensed.

b. For each prescription drug included in the report, a pharmacy benefits manager shall include all of the following information:

(1) The month the prescription drug was dispensed.

(2) The quantity of the prescription drug dispensed.

(3) The amount the pharmacy was reimbursed.

(4) If the dispensing pharmacy was an affiliate of the pharmacy benefits manager.

(5) If the prescription drug was dispensed pursuant to a government health plan.

(6) The average national drug acquisition cost for the month the prescription drug was dispensed.

c. The report shall exclude drugs dispensed pursuant to 42 U.S.C. §256b.

d. A copy of the report shall be published on the pharmacy benefits manager's public internet site for twenty-four months after the date the report is submitted to the commission.

5. This section shall not apply to a pharmacy that operates in a state-owned facility.

2022 Acts, ch 1113, §9, 16, 23; 2025 Acts, ch 151, §5, 9

2025 amendment applies to pharmacy benefits managers, health carriers, third-party payors, and health benefit plans that manage a prescription drug benefit in the state on or after July 1, 2025; 2025 Acts, ch 151, §9

510B.8C Clean claims.

After the date of receipt of a clean claim submitted by a pharmacy in a pharmacy network, a pharmacy benefits manager shall not retroactively reduce payment on the claim, either directly or indirectly except in the following circumstances:

1. The claim is found not to be a clean claim during the course of a routine audit.

2. The claim submission was fraudulent.

3. The claim submission was a duplicate submission of a claim for which the pharmacy had already received payment.

2022 Acts, ch 1113, §10, 16, 23

510B.8D Pharmacy benefits manager contracts.

1. All contracts executed, amended, adjusted, or renewed on or after July 1, 2025, that apply to prescription drug benefits on or after January 1, 2026, between a pharmacy benefits manager and a third-party payor, or between a person and a third-party payor, shall include all of the following requirements:

a. The pharmacy benefits manager shall use pass-through pricing.

b. Payments received by a pharmacy benefits manager for services provided by the pharmacy benefits manager to a third-party payor or to a pharmacy shall be used or distributed pursuant to the pharmacy benefits manager's contract with the third-party payor or with the pharmacy, or as otherwise required by law.

2. Unless otherwise prohibited by law, subsection 1 shall supersede any contractual terms to the contrary in any contract executed, amended, adjusted, or renewed on or after July 1, 2025, that applies to prescription drug benefits on or after January 1, 2026, between a pharmacy benefits manager and a third-party payor, or between a person and a third-party payor.

2025 Acts, ch 151, §6, 9

Section applies to pharmacy benefits managers, health carriers, third-party payors, and health benefit plans that manage a prescription drug benefit in the state on or after July 1, 2025; 2025 Acts, ch 151, §9

510B.8E Appeals and disputes.

1. A pharmacy benefits manager shall provide a reasonable process to allow a pharmacy to appeal any matter.

2. The appeals process must include all of the following:

a. A dedicated telephone number at which a pharmacy may contact the pharmacy benefits manager and speak directly with an individual who is involved with the appeals process.

b. A dedicated electronic mail address or internet site for the purpose of submitting an appeal directly to the pharmacy benefits manager.

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c. A period of no less than thirty business days after the date of a pharmacy's initial submission of a clean claim during which the pharmacy may initiate an appeal.

3. The pharmacy benefits manager shall respond to an appeal within seven business days after the date on which the pharmacy benefits manager receives the appeal.

a. If the pharmacy benefits manager grants a pharmacy's appeal related to a reimbursement rate, the pharmacy benefits manager shall do all of the following:

(1) Adjust the reimbursement rate of the prescription drug that is the subject of the appeal and provide the national drug code number that the adjustment is based on to the appealing pharmacy.

(2) Reverse and resubmit the claim that is the subject of the appeal.

(3) Make the adjustment pursuant to subparagraph (1) applicable to all of the following:

(a) Each pharmacy that is under common ownership with the pharmacy that submitted the appeal.

(b) Each pharmacy in the state that demonstrates the inability to purchase the prescription drug for less than the established reimbursement rate.

b. If the pharmacy benefits manager denies a pharmacy's appeal, the pharmacy benefits manager shall do all of the following:

(1) Provide the appealing pharmacy the national drug code number and the name of a wholesale distributor licensed pursuant to section 155A.17 from which the pharmacy can obtain the prescription drug at or below the reimbursement rate.

(2) If the prescription drug identified by the national drug code number provided by the pharmacy benefits manager pursuant to subparagraph (1) is not available below the pharmacy acquisition cost from the wholesale distributor from whom the pharmacy purchases the majority of its prescription drugs for resale, the pharmacy benefits manager shall adjust the reimbursement rate above the appealing pharmacy's pharmacy acquisition cost, and reverse and resubmit each claim affected by the pharmacy's inability to procure the prescription drug at a cost that is equal to or less than the previously appealed reimbursement rate.

2025 Acts, ch 151, §7, 9; 2025 Acts, ch 159, §15

Section applies to pharmacy benefits managers, health carriers, third-party payors, and health benefit plans that manage a prescription drug benefit in the state on or after July 1, 2025; 2025 Acts, ch 151, §9

510B.9 Prior authorization.

A pharmacy benefits manager shall comply with all applicable prior authorization requirements pursuant to section 505.26.

2014 Acts, ch 1140, §100, 101; 2022 Acts, ch 1113, §11, 16, 23

510B.10 Enforcement.

1. The commissioner may take any enforcement action under the commissioner's authority to enforce compliance with this chapter.

2. After notice and hearing, the commissioner may issue any order or impose any penalty pursuant to section 507B.7, and may suspend or revoke a pharmacy benefits manager's certificate of registration as a third-party administrator upon a finding that the pharmacy benefits manager violated this chapter, or any applicable requirements pertaining to third-party administrators under chapter 510.

3. A pharmacy benefits manager shall be subject to the commissioner's authority to conduct an examination pursuant to chapter 507.

4. A pharmacy benefits manager is subject to the commissioner's authority to conduct a proceeding pursuant to chapter 507B. The procedures set forth in chapter 507B regarding proceedings shall apply to a proceeding related to a pharmacy benefits manager under this chapter.

5. A pharmacy benefits manager is subject to the commissioner's authority to conduct an examination, audit, or inspection pursuant to chapter 510 for third-party administrators. The procedures set forth in chapter 510 for third-party administrators shall apply to an examination, audit, or inspection of a pharmacy benefits manager under this chapter.

6. If the commissioner conducts an examination of a pharmacy benefits manager under

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chapter 507; a proceeding under chapter 507B; or an examination, audit, or inspection under chapter 510, all information received from the pharmacy benefits manager, and all notes, work papers, or other documents related to the examination, proceeding, audit, or inspection shall be confidential records pursuant to chapter 22 and shall be accorded the same confidentiality as notes, work papers, investigatory materials, or other documents related to the examination of an insurer as provided in section 507.14.

7. A violation of this chapter shall be an unfair or deceptive act or practice in the business of insurance pursuant to section 507B.4, subsection 3.

2022 Acts, ch 1113, §12, 16, 23
Former section 510B.10 stricken by 2022 Acts, ch 1113, §12; see §510B.8(2)

510B.11 Rules.

The commissioner may adopt rules pursuant to chapter 17A to administer this chapter.

2022 Acts, ch 1113, §13, 16, 23

510B.12 Severability.

If a provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

2022 Acts, ch 1113, §14, 16, 23

CHAPTER 510C

PHARMACY BENEFITS MANAGER REPORTING

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

510C.1	Definitions.	510C.4	Enforcement.
510C.2	Annual report to commissioner.	510C.5	Applicability.
510C.3	Rules.		

510C.1 Definitions.

As used in this chapter unless the context otherwise requires:

1. *"Administrative fees"* means a fee or payment, other than a rebate, under a contract between a pharmacy benefits manager and a pharmaceutical drug manufacturer in connection with the pharmacy benefits manager's management of a third-party payor's prescription drug benefit, that is paid by a pharmaceutical drug manufacturer to a pharmacy benefits manager or is retained by the pharmacy benefits manager.

2. *"Aggregate retained rebate percentage"* means the percentage of all rebates received by a pharmacy benefits manager that is not passed on to the pharmacy benefits manager's third-party payor clients.

3. *"Commissioner"* means the commissioner of insurance.

4. *"Covered person"* means the same as defined in section 510B.1.

5. *"Formulary"* means a complete list of prescription drugs eligible for coverage under a health benefit plan.

6. *"Health benefit plan"* means the same as defined in section 510B.1.

7. *"Health carrier"* means the same as defined in section 510B.1.

8. *"Pharmacy benefits manager"* means the same as defined in section 510B.1.

9. *"Prescription drug benefit"* means the same as defined in section 510B.1.

10. *"Rebate"* means the same as defined in section 510B.1.

11. *"Third-party payor"* means the same as defined in section 510B.1.

12. *"Third-party payor administrative service fee"* means a fee or payment under a contract between a pharmacy benefits manager and a third-party payor in connection with the pharmacy benefits manager's administration of the third-party payor's prescription drug

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benefit that is paid by a third-party payor to a pharmacy benefits manager or is otherwise retained by a pharmacy benefits manager.

2019 Acts, ch 88, §1; 2020 Acts, ch 1063, §279 – 281; 2022 Acts, ch 1113, §17, 23

510C.2 Annual report to commissioner.

1. Each pharmacy benefits manager shall provide a report annually by February 15 to the commissioner that contains all of the following information regarding prescription drug benefits provided to covered persons of each third-party payor with whom the pharmacy benefits manager has contracted during the prior calendar year:

a. The aggregate dollar amount of all rebates received by the pharmacy benefits manager.

b. The aggregate dollar amount of all administrative fees received by the pharmacy benefits manager.

c. The aggregate dollar amount of all third-party payor administrative service fees received by the pharmacy benefits manager.

d. The aggregate dollar amount of all rebates received by the pharmacy benefits manager that the pharmacy benefits manager did not pass through to the third-party payor.

e. The aggregate amount of all administrative fees received by the pharmacy benefits manager that the pharmacy benefits manager did not pass through to the third-party payor.

f. The aggregate retained rebate percentage as calculated by dividing the dollar amount in paragraph *"d"* by the dollar amount in paragraph *"a"*.

g. Across all third-party payor clients with whom the pharmacy benefits manager was contracted, the highest and the lowest aggregate retained rebate percentages.

2. *a.* A pharmacy benefits manager shall provide the information pursuant to subsection 1 to the commissioner in a format approved by the commissioner that does not publicly disclose any of the following:

(1) The identity of a specific third-party payor.

(2) The price charged by a specific pharmaceutical manufacturer for a specific prescription drug or for a class of prescription drugs.

(3) The amount of rebates provided for a specific prescription drug or class of prescription drugs.

b. Information provided under this section by a pharmacy benefits manager to the commissioner that may reveal the identity of a specific third-party payor, the price charged by a specific pharmaceutical manufacturer for a specific prescription drug or class of prescription drugs, or the amount of rebates provided for a specific prescription drug or class of prescription drugs shall be considered a confidential record and be recognized and protected as a trade secret pursuant to section 22.7, subsection 3.

3. The commissioner shall publish, within sixty calendar days of receipt, the nonconfidential information received by the commissioner on a publicly accessible internet site. The information shall be made available to the public in a format that complies with subsection 2, paragraph *"a"*.

2019 Acts, ch 88, §2; 2020 Acts, ch 1063, §282 – 284; 2022 Acts, ch 1113, §18 – 21, 23; 2024 Acts, ch 1100, §6

510C.3 Rules.

The commissioner of insurance shall adopt rules pursuant to chapter 17A as necessary to administer this chapter.

2019 Acts, ch 88, §3

510C.4 Enforcement.

The commissioner may take any action within the commissioner's authority to enforce compliance with this chapter.

2019 Acts, ch 88, §4

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510C.5 Applicability.

This chapter is applicable to a health benefit plan that is delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2019.

2019 Acts, ch 88, §5

CHAPTER 510D

340B PROGRAM — COVERED ENTITIES AND CONTRACT PHARMACIES

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 507B.4, 669.14, 670.7

510D.1 Definitions.
510D.2 340B drug program — contract pharmacies and covered entities.
510D.3 Enforcement.
510D.4 Rules.
510D.5 Conflict of laws.
510D.6 Applicability.

510D.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"340B program"* means the program created pursuant to the Veterans Health Care Act of 1992, Pub. L. No. 102-585, §602, and codified as section 340B of the federal Public Health Services Act.
2. *"Commissioner"* means the commissioner of insurance.
3. *"Contract pharmacy"* means a pharmacy that has executed a contract with a covered entity to dispense covered outpatient drugs, purchased by the covered entity through the 340B program, to eligible patients of the covered entity.
4. *"Covered entity"* means the same as defined in 42 U.S.C. §256b(a)(4).
5. *"Group health plan"* means the same as defined in section 513B.2.
6. *"Medicaid managed care organization"* means an entity acting pursuant to a contract with the department of health and human services to administer the medical assistance program under chapter 249A, and that meets the definition of *"health maintenance organization"* under section 514B.1.
7. *"Pharmacy benefits manager"* means the same as defined in section 510B.1.
8. *"Similarly situated entity or pharmacy"* means an entity or pharmacy located in Iowa that is of a generally comparable size, and that operates in a market with similar demographic characteristics, including population size, density, distribution, and vital statistics, and reasonably similar economic and geographic conditions.
9. *"Third-party administrator"* means the same as defined in section 510.11.

2023 Acts, ch 43, §2

510D.2 340B drug program — contract pharmacies and covered entities.

1. Group health plans, health carriers that offer group or individual health insurance coverage, third-party administrators, and pharmacy benefits managers shall not discriminate against a covered entity or a contract pharmacy by reimbursing the covered entity or the contract pharmacy for a prescription drug or a dispensing fee in an amount less than the group health plan, health carrier, third-party administrator, or pharmacy benefits manager reimburses a similarly situated entity or pharmacy that is not a covered entity or a contract pharmacy.

2. *a.* Group health plans, health carriers that offer group or individual health insurance coverage, third-party administrators, and pharmacy benefits managers shall not, on the basis that an entity is a covered entity or that a pharmacy is a contract pharmacy, or that a covered entity or contract pharmacy participate in the 340B program, impose any of the following contractual terms and conditions on the covered entity or the contract pharmacy that differ from those imposed on a similarly situated entity or pharmacy that is not a covered entity or a contract pharmacy:

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(1) Fees or other assessments that are not required by state law or the Iowa administrative code.

(2) Chargebacks, clawbacks, or other reimbursement adjustments that are not required by state law or the Iowa administrative code.

(3) Professional dispensing fees that are not required by state law or the Iowa administrative code.

(4) Restrictions or requirements related to participation in standard or preferred pharmacy networks.

(5) Requirements related to the frequency or scope of audits.

(6) Requirements related to inventory management systems that utilize generally accepted accounting principles.

(7) Requirements related to mandatory disclosure either directly or through a third party, except disclosures required by federal law, of prescription orders that are filled with covered outpatient drugs obtained through the 340B program.

b. Paragraph *"a"*, subparagraphs (1) and (2), shall not be construed to prohibit adjustments for overpayments or other errors associated with an adjudicated claim.

c. Paragraph *"a"*, subparagraph (7), shall not be construed to prohibit modifiers or other identifiers on claims to identify whether a drug was purchased through the 340B program or to prevent duplication of rebates.

3. Group health plans, health carriers that offer group or individual health insurance coverage, third-party administrators, and pharmacy benefits managers shall not do any of the following on the basis that an entity is a covered entity or that a pharmacy is a contract pharmacy, or that a covered entity or a contract pharmacy participates in the 340B program:

a. Place any restrictions or impose any requirements on an individual that chooses to obtain a covered outpatient drug from a covered entity or a contract pharmacy, whether in person, via courier or the United States post office, or any other form of delivery.

b. Refuse to contract with a covered entity or a contract pharmacy based on any criteria that is not applied equally to a contract with a similarly situated entity or pharmacy that does not participate in the 340B drug program.

c. Impose any restriction or condition on a covered entity that interferes with the covered entity's ability to maximize the value of the discounts obtained by the covered entity through the covered entity's participation in the 340B drug program.

2023 Acts, ch 43, §3

510D.3 Enforcement.

1. The commissioner may take any enforcement action under the commissioner's authority to enforce compliance with this chapter.

2. After notice and hearing, the commissioner may issue any order or impose any penalty pursuant to section 507B.7 upon a finding that a group health plan, a health carrier that offers group or individual health insurance coverage, a third-party administrator, or a pharmacy benefits manager violated this chapter.

3. A violation of this chapter shall be an unfair or deceptive act or practice in the business of insurance pursuant to section 507B.4, subsection 3.

2023 Acts, ch 43, §4

510D.4 Rules.

The commissioner of insurance may adopt rules as necessary to implement the chapter.

2023 Acts, ch 43, §5

510D.5 Conflict of laws.

If any provision of this chapter is inconsistent or in conflict with applicable state or federal law or rule, or the state Medicaid plan, the applicable state or federal law or rule, or the state Medicaid plan, shall prevail to the extent necessary to eliminate the inconsistency or conflict.

2023 Acts, ch 43, §6

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510D.6 Applicability.

This chapter shall apply to covered entities, contract pharmacies, group health plans, health carriers that offer group or individual health insurance coverage, third-party administrators, and pharmacy benefits managers, but shall not apply to their operations under a contract with the state Medicaid agency or a Medicaid managed care organization, regardless of whether the covered entity or contract pharmacy is eligible to retain the 340B discounts generated by the covered entities and contract pharmacies.

2023 Acts, ch 43, §7

CHAPTER 511

PROVISIONS APPLICABLE TO LIFE INSURANCE COMPANIES AND ASSOCIATIONS

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 507.1, 508A.5, 521A.2, 669.14, 670.7

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511.1 Annual statement of foreign companies.

Every company or association organized under the laws of any other state or country and doing business in this state shall annually, by the first day of March, file with the commissioner of insurance a statement of its affairs for the year terminating on the thirty-first day of December preceding, in the same manner and form provided for similar companies or associations organized in this state.

[C73, §1166; C97, §1799; C24, 27, 31, 35, 39, §**8728;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §511.1]

511.2 Amended forms of statement.

The commissioner may amend the form of the annual statement required to be made by companies or associations doing business in this state, and propose and require such

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additional matter to be covered therein as the commissioner may think necessary to elicit a full exhibit of the standing of any such company or association.

[C73, §1168; C97, §1799; C24, 27, 31, 35, 39, §**8729;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §511.2]

511.3 Reserved.

511.4 Advertisements — who deemed agent.

The provisions of section 515.105 shall apply to life insurance companies and associations.

[C97, §1815; C24, 27, 31, 35, 39, §**8731;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §511.4]

2001 Acts, ch 16, §8, 37; 2001 Acts, ch 69, §12; 2007 Acts, ch 152, §57

511.5 and 511.6 Reserved.

511.7 Recovery of penalties.

Actions brought to recover any of the penalties provided for in this chapter shall be instituted in the name of the state by the county attorney of the county, under the direction and authority of the commissioner of insurance, and may be brought in the district court of any county in which the company or association proceeded against is engaged in the transaction of business, or in which the offending person resides, if it is against the person. The penalties, when recovered, shall be paid to the treasurer of state for deposit in the general fund of the state.

[C73, §1178; C97, §1802; C24, 27, 31, 35, 39, §**8734;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §511.7]

83 Acts, ch 185, §49, 62; 83 Acts, ch 186, §10106, 10201, 10204

Referred to in §331.756(60)

511.8 Investment of funds.

1. *Definitions.* As used in this section unless the context otherwise requires:

a. "Accounting practices and procedures manual" means the most recent edition of the national association of insurance commissioner's accounting practices and procedures manual.

b. "Admitted assets" means the assets permitted to be reported as admitted assets on an insurer's most recent statutory financial statement required to be filed with the commissioner. *"Admitted assets"* shall include reinsurance funds withheld. *"Admitted assets"* shall not include assets held in nonguaranteed separate accounts.

c. "Affiliate of" means the same as defined in section 521A.1.

d. "Business entity" means a sole proprietorship, corporation, limited liability company, association, partnership, joint stock company, joint venture, mutual fund, trust, joint tenancy or other similar form of business organization, whether organized for profit or not for profit.

e. "Capital and surplus" means the sum of capital and surplus of an insurer that is required to be shown on an insurer's most recent statutory financial statement required to be filed with the commissioner.

f. "Collateral loan" means an unconditional obligation for the payment of money that is secured by the pledge of any assets or investments permitted under this section. A collateral loan cannot be a mortgage loan, credit instrument, or other debt security as defined in this subsection.

g. "Commissioner" means the commissioner of insurance.

h. "Credit instrument" means an investment that is qualified as a bond under the accounting practices and procedures manual, such as evidence of indebtedness of a governmental unit or the instrumentality of the governmental unit, or of a private business entity. *"Credit instrument"* includes asset-backed securities, bank loans, and SVO-listed funds that have an SVO designation, and that qualify as a bond under the manual.

i. "Equity interest" means any of the following:

(1) A common stock.

(2) A trust certificate.

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(3) An equity investment in an investment company other than an SVO-listed fixed income or preferred stock fund.

(4) An investment in a common trust fund with a bank that is regulated by a federal or state agency as trustee.

(5) An ownership interest in minerals, oil, or gas, the rights to which have been separated from the underlying fee interest in the real estate where the minerals, oil, or gas are located.

(6) An instrument that is mandatorily, or at the option of the issuer, convertible to equity.

(7) A limited partnership interest or a general partnership interest as authorized under subsection 4.

(8) An ownership interest in a limited liability company.

(9) A warrant or other right to acquire an ownership interest that is created by the person that either owns or will issue the ownership interest to be acquired.

(10) An investment categorized as an equity interest under subsection 5.

j. "Foreign investment" means an investment in a foreign jurisdiction, or an investment in an entity, real estate, or asset domiciled in a foreign jurisdiction. *"Foreign investment"* shall not include any of the following:

(1) An asset for which the issuing person or guarantor is the United States or Canada, or is domiciled in the United States or Canada.

(2) An asset for which the issuing person is domiciled in a foreign jurisdiction that has a sovereign debt rating of SVO 1, and the issuing person is a fund or other investment vehicle that invests, directly or indirectly, substantially all of its assets in investments which are not foreign investments. If an insurer invests in an asset under this subparagraph, the commissioner may require the insurer to disclose to the commissioner the investments held by the fund or other investment vehicle.

k. "Hedging transaction" means a derivative transaction entered into and maintained by an insurer to reduce any of the following:

(1) The risk of a change in the value, yield, price, cash flow, or quantity of assets or liabilities which the insurer has acquired or incurred, or anticipates acquiring or incurring.

(2) Currency exchange rate risk or the degree of exposure as to assets or liabilities that the insurer has acquired or incurred, or anticipates acquiring or incurring.

l. "Income generation transaction" means a derivative transaction that involves writing a covered call option, covered put option, covered cap, or covered floor, and that is intended to generate income or enhance return.

m. "Insurer" means a company organized as a life insurance company under chapter 508.

n. "Investment company" means an investment company as defined in section 3(a) of the federal Investment Company Act of 1940, as amended, and as codified at 15 U.S.C. §80a-3 et seq., and a person described in section 3(c) of the federal Investment Company Act.

o. "Investment subsidiary" means a subsidiary of an insurer that is engaged or organized to engage exclusively in the ownership and management of assets authorized as investments for the insurer.

p. "Lower grade investment" means a credit instrument that is designated 4, 5, or 6 by the SVO.

q. "Medium grade investment" means a credit instrument that is designated 3 by the SVO.

r. "Mortgage loan" means an obligation secured by a mortgage, deed of trust, trust deed, or other consensual lien on real estate. *"Mortgage loan"* includes a leasehold estate in real property if fifty years or more of the term, including renewals, is unexpired.

s. "NAIC" means the national association of insurance commissioners.

t. "Nonguaranteed separate account" means a separate account for which the insurer's general account bears no risk related to performance of the separate account assets.

u. "Other debt security" means an investment in the form of a debt security that does not qualify as a bond, however, the investment does qualify as an admissible asset under the accounting practices and procedures manual.

v. "Person" means an individual, a business entity, a multilateral development bank, or a governmental or quasi-governmental body such as a political subdivision or a government-sponsored enterprise.

w. "Real estate" means any of the following:

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(1) Real property.

(2) Interests in real property such as leaseholds, and minerals, oil, and gas that have not been separated from the underlying fee interest.

(3) Improvements and fixtures located on or in the real property.

(4) The buyer's equity in a contract providing for a sale of real estate.

(5) An investment categorized as real estate under subsection 5.

x. "*Replication transaction*" means a derivative transaction entered into in conjunction with other investments in order to reproduce the investment characteristics of otherwise permissible investments. "*Replication transaction*" does not include a derivative transaction that is entered into as a hedging transaction.

y. "*Securities valuation office*" or "*SVO*" means the securities valuation office of the NAIC, or a successor entity.

z. "*Short-term investment*" means a highly liquid investment or security that has a remaining term of maturity between ninety days and three hundred sixty-five days, and that is qualified as a short-term investment under the accounting practices and procedures manual.

2. *Prudence evaluation criteria.*

a. For all investments under this section, an insurer shall perform the insurer's duties in good faith and with the degree of care that persons of reasonable prudence in a similar position exercise in a similar circumstance. The following factors shall be evaluated by the insurer and considered along with the insurer's business to determine if an investment portfolio or an investment policy is prudent:

(1) General economic conditions.

(2) The expected tax consequences of an investment decision or strategy.

(3) The fairness and reasonableness of the terms of an investment in relation to the investment's risk and reward characteristics.

(4) The effect of an investment on the characteristics of the insurer's investment portfolio as a whole.

(5) The extent of the diversification of the insurer's investments among all of the following:

(a) Individual investments.

(b) Classes of investments.

(c) Industry concentrations.

(d) Issuers.

(e) Geographic areas.

(6) The economic substance of investments in affiliates.

(7) The investment exposure to each of the following risks, consistent with the insurer's acceptable risk level identified under subsection 3:

(a) Liquidity.

(b) Credit and default.

(c) Market.

(d) Interest rate, including duration and convexity.

(e) Currency.

(8) The amount of the insurer's assets, premium writings and insurance in force, level of capitalization, and other appropriate characteristics.

(9) The amount and adequacy of the insurer's reported liabilities.

(10) The relationship, and the risk of adverse changes, of the expected cash flows of the insurer's assets and liabilities.

(11) The relationship, and the risk of adverse changes, of the valuation of the insurer's assets and liabilities.

(12) The insurer's level of expertise with various types of investments.

(13) The ability of the insurer to model the underlying risks of an investment, with the modeling commensurate with the complexity of the investment.

(14) The overall maturity of the insurer's enterprise risk management and investment risk management frameworks.

(15) The adequacy of the insurer's capital and surplus to secure the liabilities of the

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insurer in consideration of the risk and potential magnitude of adverse experience or economic conditions.

(16) The professional standards required by the insurer for the individuals who make day-to-day investment decisions on behalf of the insurer.

(17) Any other factors relevant to whether an investment is prudent.

b. The commissioner shall consider each of the factors in paragraph *"a"*, subparagraphs (1) through (17), prior to making a determination that an insurer's investment portfolio or investment policy is not prudent.

3. *Insurer investment policies.* In acquiring, investing, exchanging, holding, selling, and managing investments, an insurer shall establish and follow one or more written investment policies that shall be annually reviewed and approved by the insurer's board of directors or the board of directors' designee. The content and format of an insurer's investment policies are at the insurer's discretion; however, the investment policies must include written guidelines and controls appropriate to the insurer's business. An insurer shall consider all of the following:

a. Permissible asset types, including maximum or minimum internal limits regarding the composition of classes of investments.

b. Periodic evaluation of the investment portfolio as to the portfolio's risk and reward characteristics.

c. The relationship of investments to the insurer's insurance products and liabilities.

d. The manner in which the insurer intends to implement subsection 2.

e. The appropriate level of risk, based on quantitative measures, given the level of capitalization and expertise available to the insurer.

4. *Prohibited investments.* An insurer shall not, directly or indirectly, do any of the following:

a. Except as provided in subsection 5, invest in an obligation or security, or make a guarantee for the benefit of or in favor of an officer or director of the insurer.

b. Except as provided in chapter 521A or subsection 5, invest in an obligation or security of, make a guarantee for the benefit of or in favor of, or make other investments in, a business entity in which ten percent or more of the voting securities or equity interests are owned directly or indirectly by or for the benefit of one or more officers or directors of the insurer.

c. Engage on the insurer's own behalf, or through one or more affiliates, in a transaction or series of transactions intended to evade the prohibited investments under this subsection.

d. Act or invest as a general partner, with the following exceptions:

(1) If all other partners in the partnership are subsidiaries of the insurer.

(2) For the purpose of any of the following:

(a) Meeting cash calls committed to by the partnership prior to July 1, 2023.

(b) Completing specific projects or activities of the partnership in which the insurer was a general partner before July 1, 2023, and that had been undertaken before July 1, 2023.

(c) Making capital improvements to property owned by the partnership before July 1, 2023, if the insurer was a general partner before July 1, 2023.

e. Notwithstanding paragraphs *"c"* and *"d"*, a subsidiary or an affiliate of an insurer shall not be prohibited from acting or investing as a general partner.

f. (1) Invest in or lend the insurer's funds upon the security of shares of the insurer's own stock, except that an insurer may acquire shares of its own stock for any of the following purposes:

(a) Conversion of a stock insurer into a mutual or reciprocal insurer, or a mutual or reciprocal insurer into a stock insurer.

(b) Issuance to the insurer's officers, employees, or agents in connection with a plan for converting a publicly held insurer into a privately held insurer, as approved by the commissioner under section 508B.7, or in connection with other stock option and employee benefit plans.

(c) In accordance with any other plan approved by the commissioner.

(2) Stocks acquired by an insurer under subparagraph (1) shall not be admitted assets of the insurer.

5. *Valuation and categorization of investments.*

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a. Unless otherwise specified in this section, the valuation and categorization of, or the amount of, an insurer's investment acquired or held under subsections 6 through 20, shall be the classification and value at which the assets of an insurer are required to be reported for statutory accounting purposes, as determined in accordance with the accounting and valuation standards of the NAIC including all of the following:

(1) The most recently published purposes and procedures manual of the NAIC investment analysis office, or any successor purposes and procedures adopted by the NAIC investment analysis office.

(2) The most recently published valuation of securities manual, or any successor valuation of securities procedures adopted by the NAIC.

(3) The most recently published accounting practices and procedures manual, or any successor accounting practices and procedures adopted by the NAIC.

(4) The most recently published annual statement instructions, or any successor annual statement instructions adopted by the NAIC.

(5) Any successor valuation procedures adopted by the NAIC.

b. Upon approval of the commissioner, an insurer's investment in the equity interests of a business entity whose primary purpose is to directly or indirectly invest in and maintain assets and investments on behalf of the insurer and the insurer's affiliates, or on behalf of the insurer or the insurer's affiliates, may be deemed to be the insurer itself investing in such assets and investments of the business entity based on the insurer's pro rata equity interest in the business entity.

6. *General five-percent diversification.*

a. Except as otherwise specified in this section, an insurer shall not directly or indirectly acquire an investment under this section if, as a result of and after giving effect to the investment, the insurer will hold more than five percent of the insurer's admitted assets in investments of all kinds issued, assumed, accepted, insured, or guaranteed by a single person.

b. Notwithstanding paragraph "*a*", an insurer shall not acquire an asset-backed security if, as a result of and after giving effect to the investment, the aggregate amount of asset-backed securities secured by or evidencing an interest in a single asset or single pool of assets held by a trust or other business entity then held by the insurer will exceed five percent of the insurer's admitted assets.

c. Notwithstanding paragraph "*a*", an insurer shall not acquire a mortgage loan under subsection 12 if, as a result of and after giving effect to the investment, the aggregate amount of mortgage loans covering any one secured location will exceed five percent of the insurer's admitted assets.

7. *Medium and lower grade investments.*

a. An insurer shall not acquire an investment under this section, including counterparty exposure net of collateral held, if, as a result of and after giving effect to the investment any of the following apply:

(1) The aggregate amount of medium and lower grade investments then held by the insurer will exceed twenty percent of the insurer's admitted assets.

(2) The aggregate amount of lower grade investments then held by the insurer will exceed ten percent of the insurer's admitted assets.

(3) The aggregate amount of investments designated 5 or 6 by the SVO then held by the insurer will exceed three percent of the insurer's admitted assets.

(4) The aggregate amount of investments designated 6 by the SVO then held by the insurer will exceed one percent of the insurer's admitted assets.

b. An insurer shall not acquire an investment under this section, including counterparty exposure net of collateral held, if, as a result of and after giving effect to the investment all of the following apply:

(1) The aggregate amount of medium and lower grade investments issued, assumed, guaranteed, accepted, or insured by any one person or, as to asset-backed securities secured by or evidencing an interest in a single asset or pool of assets, then held by the insurer will exceed one percent of the insurer's admitted assets.

(2) The aggregate amount of lower grade investments issued, assumed, guaranteed,

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accepted, or insured by any one person or, as to asset-backed securities secured by or evidencing an interest in a single asset or pool of assets, then held by the insurer will exceed one-half of one percent of the insurer's admitted assets.

c. If an insurer attains or exceeds the limit of any one designation category under this subsection, the insurer shall not be precluded from acquiring investments in other designation categories, subject to the specific and multi-category limits applicable to each of those investments.

8. *Cash or cash equivalents.* An insurer may acquire, without limitation, cash and cash equivalents as such terms are defined in the accounting practices and procedures manual.

9. *Credit instruments and short-term investments.* An insurer may acquire the following credit instruments and short-term investments subject to all of the following:

a. The following credit instruments acquired under this subsection shall be subject to subsection 6 and subsection 7, but shall not be subject to subsection 6, paragraph "*a*":

(1) Credit instruments issued, assumed, guaranteed, or insured by the United States or Canada.

(2) Credit instruments issued, assumed, guaranteed, or insured by a government-sponsored enterprise of the United States or Canada, if the credit instruments are assumed, guaranteed, or insured by the United States or Canada, or are otherwise backed or supported by the full faith and credit of the United States or Canada.

(3) Credit instruments, excluding asset-backed securities that are any of the following:

(a) Issued, assumed, guaranteed, or insured by a government-sponsored enterprise of a government other than the United States or Canada.

(b) Issued, assumed, guaranteed, or insured by a state, if the instruments are general obligations of the state.

b. Short-term investments acquired under this subsection shall be subject to subsection 6.

c. All other credit instruments acquired under this subsection shall be subject to subsections 6 and 7.

d. Foreign investments acquired under this subsection shall be subject to subsection 15.

10. *Equity interests.* An insurer may acquire equity interests subject to all of the following:

a. (1) An insurer shall not acquire an investment under this subsection, if, as a result of and after giving effect to the investment, the aggregate amount of investments then held by the insurer will exceed ten percent of the insurer's admitted assets.

(2) Notwithstanding subparagraph (1), an insurer that files an annual statement pursuant to section 508.11 and completes the NAIC's health statement test shall not acquire an investment under this subsection, if, as a result of and after giving effect to the investment, the aggregate amount of investments then held by the insurer will exceed twenty-five percent of the insurer's admitted assets.

b. Foreign investments acquired under this subsection shall be subject to subsection 15.

c. Equity interests in subsidiary corporations, as authorized by section 508.33, shall be eligible investments if the total investment does not exceed five percent of the insurer's admitted assets. Upon application to and approval of the commissioner, an insurer may acquire additional equity interests in direct or indirect subsidiary insurance companies that are domiciled in the United States, not to exceed an additional two percent of the insurer's admitted assets.

d. In addition to the investments authorized in paragraphs "*a*", "*b*", and "*c*", an insurer may acquire equity interests in subsidiary entities as permitted by, and as subject to the limitations of, section 521A.2.

11. *Tangible personal property.*

a. An insurer may acquire obligations secured by tangible personal property that is under contract of sale or lease for which contractual payments may reasonably be expected to return the principal of, and provide earnings on, the investment within the anticipated useful life of the tangible personal property.

b. An insurer shall not acquire an obligation under paragraph "*a*", if, as a result of and after giving effect to the investment, the aggregate amount of investments then held by the insurer under this subsection will exceed either of the following:

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(1) Two percent of the insurer's admitted assets.

(2) One-half of one percent of the insurer's admitted assets as to any single item of tangible personal property.

12. *Mortgage loans.*

a. An insurer may acquire obligations secured by a mortgage or deed of trust that is a first or second lien upon otherwise unencumbered real estate, or upon leasehold estates in real property if fifty years or more of the term including renewals is unexpired, or other similar instruments, including mezzanine loans, either directly or through a business entity where the business entity's sole purpose is to hold mortgages that qualify for investment under this subsection, provided all of the following apply:

(1) The amount loaned by the insurer, together with any amount secured by an equal or prior security interest, whether of the insurer or another party, does not exceed ninety percent of the appraised value of the real estate and improvements at the time the insurer makes the investment, as evidenced by a current qualified external appraisal or an internal appraisal conducted using standards comparable to an external appraisal.

(2) The amount of an obligation required to be included in the calculation of the loan-to-value ratio may be reduced to the extent the obligation is insured or guaranteed by an agency of the United States government.

(3) A mezzanine loan acquired under this subsection shall not exceed four percent of an insurer's admitted assets.

b. This subsection shall not be construed to prevent any amount invested under this subsection that exceeds ninety percent of the appraised value of the real estate from being an authorized asset under subsection 10, paragraph *"a"*, or subsection 20, subject to the limitations of subsection 10, paragraph *"a"*, and subsection 20.

13. *Real estate.*

a. An insurer may acquire real estate either directly or through certificates evidencing participation with other investors.

b. An insurer may acquire real estate required for the insurer's home offices, or to be otherwise occupied by the insurer or the insurer's employees in transacting the insurer's business, and the insurer may lease any unused space to other occupants. The value of an insurer's investments under this paragraph shall not exceed ten percent of the insurer's admitted assets.

c. Excluding investments under paragraph *"b"*, an insurer's investments under this subsection shall not exceed fifteen percent of the insurer's admitted assets.

d. An insurer's aggregate investments under this subsection and subsection 12 shall not exceed forty-five percent of the insurer's admitted assets.

14. *Securities lending, repurchase, reverse repurchase, and dollar roll transactions.* An insurer may enter into securities lending, repurchase, reverse repurchase, and dollar roll transactions with business entities, provided that the insurer's board of directors, or the board of directors' designee, adopts a written plan that is consistent with the insurer's investment policies under subsection 3, and that specifies guidelines and objectives including all of the following:

a. A description of how any cash received will either be invested or used for the insurer's general corporate purposes.

b. Operational procedures to manage interest rate risk, counterparty default risk, the conditions under which proceeds from repurchase transactions may be used in the ordinary course of business, and the use of acceptable collateral in a manner that reflects the liquidity needs of the transaction.

c. The extent to which the insurer may engage in transactions under this subsection.

15. *Foreign investments.* An insurer may acquire foreign investments, or engage in investment practices with persons or business entities of or in foreign jurisdictions of substantially the same types as those investments that an insurer is permitted to acquire under this subsection, if, as a result and after giving effect to the investment the following apply:

a. The aggregate amount of foreign investments then held by the insurer under this subsection does not exceed twenty percent of the insurer's admitted assets.

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b. The aggregate amount of foreign investments under this subsection then held by the insurer in a single foreign jurisdiction that has a sovereign debt rating of SVO 1 does not exceed ten percent of the insurer's admitted assets, or does not exceed three percent of the insurer's admitted assets as to any other foreign jurisdiction.

c. Investments acquired under this subsection shall be aggregated with investments of the same type made in a similar manner under any other subsection of this section for purposes of determining compliance with any limitations contained in any other subsection of this section.

d. This subsection shall not authorize investments issued, assumed, or guaranteed by a foreign government which has engaged in a consistent pattern of gross violations of human rights.

16. *Derivative transactions.* An insurer may engage in derivative transactions if the insurer complies with all of the following conditions:

a. The insurer shall include all counterparty exposure amounts, net of collateral held, in determining compliance with the limitations of subsections 6 and 7.

b. The insurer shall have sufficient experience with derivatives such that the insurer's performance and procedures reflect all of the following:

(1) That the insurer has a successful history of adequately identifying, measuring, monitoring, and limiting exposures associated with derivative transactions.

(2) That the insurer has adequate corporate controls over the activities in subparagraph (1).

(3) That the insurer has sufficient staff who are knowledgeable, competent, and skilled in the use of the sophisticated financial instruments necessary to execute subparagraph (1).

c. Prior to engaging in a derivative transaction under this subsection, the insurer shall develop guidelines and internal control procedures pursuant to rules promulgated by the commissioner.

d. An insurer may use derivative instruments to engage in any of the following:

(1) Hedging transactions, provided that the insurer shall be able to demonstrate the intended hedging characteristics and the ongoing effectiveness of the derivative transaction or combination of transactions through cash flow testing or other appropriate analysis.

(2) Income generation transactions, provided that the transaction is one of the following:

(a) A sale of a call option on assets, if during the entire period the option is outstanding, the insurer holds, or has a currently exercisable right to acquire, the underlying assets.

(b) A sale of a put option on assets, if during the entire period the option is outstanding, the insurer holds sufficient short-term liquidity to purchase the underlying assets on exercise of the option, the insurer has the ability to hold the underlying assets in the insurer's portfolio, and the total market value of the put options sold by the insurer does not exceed two percent of the insurer's admitted assets.

(c) A sale of a covered cap or floor, if the insurer holds in the insurer's portfolio the investments generating the cash flow necessary to make the required payments under the cap or floor during the complete term that cap or floor is outstanding.

(3) Replication transactions, provided that all of the following apply:

(a) The insurer is otherwise authorized to invest in the asset being replicated.

(b) The asset being replicated is subject to this section as if the transaction constitutes a direct investment by the insurer in the replicated asset.

(c) The transaction is filed timely with the SVO as a replicated synthetic asset transaction.

17. *Policy loans.* An insurer may make a loan on any of the insurer's policies in an amount not to exceed the reserve that the insurer is required to maintain on the policy on which a loan is made.

18. *Preferred stock.* An insurer may acquire preferred stock, if, as a result of and after giving effect to the investment, the aggregate amount of preferred stock held by the insurer does not exceed twenty-five percent of the insurer's admitted assets, and the aggregate amount of preferred stocks held by the insurer that are not designated P1 or P2 by the SVO does not exceed ten percent of the insurer's admitted assets.

19. *Collateral loans and other debt securities secured by collateral.* An insurer may acquire collateral loans or other debt securities secured by collateral consisting of any assets

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or investments permitted under this section, provided that the amount of the loan is not in excess of ninety percent of the value of the collateral at the time of acquisition. For the purpose of determining compliance with the quantitative limits in this section, the collateral pledged to the insurer shall be aggregated with the insurer's direct investments.

20. *Additional authorized investments.* An insurer may acquire investments not otherwise authorized under this section, or that exceed the limitation of this section in an amount in the aggregate not exceeding ten percent of the insurer's admitted assets.

a. Investments authorized under this subsection shall not include investments prohibited under subsection 4.

b. An insurer shall not make investments under this subsection if the insurer fails to maintain at least company action level risk-based capital as defined by the NAIC.

c. This subsection shall not be construed to permit any asset not allowed as an admitted asset under the requirements of the accounting practices and procedures manual to be considered an admitted asset under this section.

21. *Application of limitations.* An investment qualified, in whole or in part, for acquisition or holding as an admitted asset may be qualified or requalified, in whole or in part, by the insurer at either the time of acquisition or a later date under any subsection of this section if the relevant conditions contained in the applicable subsection are satisfied at the time of the insurer's qualification or requalification.

22. *Rules.* The commissioner may adopt rules pursuant to chapter 17A to administer this section.

23. *Enforcement.* Investments not conforming to this section shall not be admitted assets. The commissioner may take any enforcement action under the commissioner's authority to enforce compliance with this section.

[C73, §1179 – 1181; C97, §1791 – 1793, 1803, 1804, 1806, 1807; SS15, §1806; C24, 27, 31, 35, 39, §**8698 – 8701, 8735 – 8739, 8741, 8742, 8744, 8747;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §511.8; 81 Acts, ch 168, §1; 82 Acts, ch 1095, §2 – 5]

84 Acts, ch 1067, §40; 85 Acts, ch 136, §1; 85 Acts, ch 228, §4; 85 Acts, ch 252, §31; 87 Acts, ch 64, §1 – 4; 88 Acts, ch 1112, §205; 89 Acts, ch 83, §69; 89 Acts, ch 311, §29; 91 Acts, ch 26, §38, 59, 60; 96 Acts, ch 1013, §1; 96 Acts, ch 1138, §1, 84; 98 Acts, ch 1014, §1; 2000 Acts, ch 1023, §15 – 18, 60; 2002 Acts, ch 1119, §179; 2003 Acts, ch 91, §20; 2004 Acts, ch 1110, §28 – 31; 2006 Acts, ch 1010, §136, 137; 2006 Acts, ch 1117, §50 – 54; 2008 Acts, ch 1123, §20 – 23; 2009 Acts, ch 145, §8; 2010 Acts, ch 1121, §10 – 14; 2011 Acts, ch 70, §24, 25; 2011 Acts, ch 131, §70, 158; 2012 Acts, ch 1023, §110, 111; 2012 Acts, ch 1138, §35; 2013 Acts, ch 30, §125; 2013 Acts, ch 90, §152; 2013 Acts, ch 124, §11 – 14; 2014 Acts, ch 1007, §3, 4; 2015 Acts, ch 30, §163, 164; 2015 Acts, ch 128, §10 – 20, 50, 51; 2017 Acts, ch 7, §1 – 4; 2018 Acts, ch 1003, §1; 2020 Acts, ch 1009, §1; 2021 Acts, ch 57, §1, 2; 2022 Acts, ch 1020, §1, 2; 2022 Acts, ch 1050, §1; 2023 Acts, ch 36, §5; 2023 Acts, ch 66, §155, 159, 161; 2024 Acts, ch 1042, §2 – 9

Referred to in §508.33A, 508C.8, 511.9, 514B.15, 521A.2, 521J.113

511.8A Agricultural land.

Agricultural land, as defined in section 9H.1, acquired as a result of foreclosure or in settlement or in satisfaction of any indebtedness by a life insurance company or association incorporated by or organized under the laws of this or any other state, shall be sold or otherwise disposed of by the company or association within five years after title is vested in the company or association. A life insurance company or association is a corporation for purposes of chapter 9H.

89 Acts, ch 311, §30; 2023 Acts, ch 36, §6

511.9 Violations.

The commissioner shall have authority to suspend or revoke the certificate of authority of any company or association failing to comply with any of the provisions of section 511.8, or for violating the same.

[SS15, §1806; C24, 27, 31, 35, 39, §**8745;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §511.9]

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511.10 Rule of valuation.

1. All bonds or other evidences of debt having a fixed term and rate, held by any fraternal beneficiary association authorized to do business in this state may, if amply secured and not in default as to principal and interest, be valued as follows:

a. If purchased at par, at the par value.

b. If purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made.

2. Provided that the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase.

3. The commissioner of insurance shall have full discretion in determining the method of calculating values according to the foregoing rule.

[C24, 27, 31, 35, 39, §**8746;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §511.10]

2012 Acts, ch 1023, §157

511.11 Prohibited loans.

No insurance company or association organized under the statutes of this state to transact an insurance business, shall invest its capital, surplus funds, or other assets, in or loan the same on property owned by any officer or director of such company or by any of the immediate members of the family of any such officer or director.

[C24, 27, 31, 35, 39, §**8748;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §511.11]

511.12 Officers not to profit by investments.

An officer or director of a life insurance company or association shall not profit from the investment of funds of the company.

[C24, 27, 31, 35, 39, §**8749;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §511.12]

2021 Acts, ch 80, §321

511.13 Disbursements — vouchers — affidavit.

No domestic life insurance company shall make any disbursement of one hundred dollars or more unless the same be evidenced by a voucher signed by or on behalf of the person, firm, or corporation receiving the money and correctly describing the consideration for the payment. If the expenditure be for both services and disbursements the voucher shall set forth the services rendered and an itemized statement of the disbursements made. When such voucher cannot be obtained the expenditure shall be evidenced by an affidavit of some officer or agent of said company describing the character and object of the expenditure and stating the reason for not obtaining such voucher.

[S13, §1820-a; C24, 27, 31, 35, 39, §**8750;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §511.13]

511.14 Taxes — from what funds payable.

In case this or any other state shall impose or levy any tax on any company or association, the same may be paid from any surplus or emergency fund of such company or association.

[C97, §1821; C24, 27, 31, 35, 39, §**8751;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §511.14]

511.15 Reserved.

511.16 Illegal business.

It shall be unlawful for any officer, manager, or agent of any life insurance company or association, with knowledge that it is doing business in an unlawful manner or is insolvent, to solicit or receive applications for insurance with the company or association, or to do any other act or thing toward procuring or receiving any new business for the company or association.

[C97, §1814; C24, 27, 31, 35, 39, §**8755;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §511.16]

2004 Acts, ch 1110, §32

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511.17 Contracts void — recovery — damages — attorney fees.

All contracts, promises, and agreements made by any person to or with any such company or association concerning any premium, policy, or certificate of new business, after the revocation of its certificates or denial of authority to do business, shall be null and void, and all payments of premium or assessments advanced or made by any person on account of any such policy, certificate of new business, or upon any arrangement therefor, may be recovered from such company or association, or its agent to whom payment was advanced or made, or from both of them, and in addition thereto plaintiff may recover an equal amount as liquidated damages, together with a reasonable fee to plaintiff's attorney for services in the case.

[C97, §1814; C24, 27, 31, 35, 39, §**8756;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §511.17]

Referred to in §507.16

511.18 Fraud in procuring insurance. Repealed by 2004 Acts, ch 1110, §71.

511.19 through 511.21 Reserved.

511.22 May not advertise authorized capital.

No insurance company shall be permitted to advertise or publish an authorized capital, or to represent in any manner itself as possessed of any greater capital than that actually paid up and invested.

[S13, §1783-g; C24, 27, 31, 35, 39, §**8761;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §511.22]

Referred to in §511.23

511.23 Penalties.

Any person, firm, or corporation violating any of the provisions of section 511.22, sections 515.8 through 515.10, or section 515.23 or failing to comply with any of the provisions in those sections, shall be subjected to the penalties provided in sections 507.10 and 507.12.

[S13, §1783-h; C24, 27, 31, 35, 39, §**8762;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §511.23]

2019 Acts, ch 59, §182; 2020 Acts, ch 1063, §285

511.24 Fees from domestic and foreign companies.

When not otherwise provided, a foreign or domestic life insurance company doing business in this state shall pay to the commissioner of insurance the following fees:

1. For filing an application to do business, or an application to renew a certificate of authority, fifty dollars.
2. For issuing a certificate of authority to do business in this state, or for renewing a certificate, fifty dollars.
3. For filing amended articles of incorporation, fifty dollars.
4. For issuing an amended certificate of authority, twenty-five dollars.
5. For affixing the official seal to any paper filed with the division, ten dollars.

[C73, §1183; C97, §1818; C24, 27, 31, 35, 39, §**8763, 8764;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §511.24, 511.25; 82 Acts, ch 1003, §5]

88 Acts, ch 1112, §206, 303

Referred to in §511.26, 514B.22, 514B.33

511.25 Reserved.

511.26 Fee statute — applicability.

The provisions of the chapter on insurance other than life apply as to fees under this chapter and chapter 508 except as modified by section 511.24.

[C97, §1818; C24, 27, 31, 35, 39, §**8765;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §511.26]

83 Acts, ch 101, §107; 89 Acts, ch 83, §70

Insurance other than life, chapter 515

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511.27 Commissioner as process agent.

Every life insurance company and association shall, before receiving a certificate to do business in this state or any renewal of a certificate to do business in this state, file in the office of the commissioner of insurance a power of attorney and an agreement in writing that service of notice or process of any kind may be made on the commissioner that shall be as valid, binding, and effective for all purposes as if served upon the company according to the laws of this or any other state, and waiving all claim or right of error due to the filing of the power of attorney and the agreement regarding service of notice or process.

[C73, §1165; C97, §1808; C24, 27, 31, 35, 39, §**8766;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §511.27]

2003 Acts, ch 91, §21

Referred to in §511.29

511.28 Service of process.

Service of process made on the commissioner as the agent for service of process shall be made as provided in section 505.30.

[C73, §1165; C97, §1808; C24, 27, 31, 35, 39, §**8767;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §511.28]

92 Acts, ch 1162, §15; 99 Acts, ch 165, §7; 2018 Acts, ch 1018, §5

Referred to in §511.29

511.29 Interpretation.

The provisions of sections 511.27 and 511.28 are merely additions to the general provisions of law on the subjects therein referred to, and are not to be construed to be exclusive.

[C97, §1809; C24, 27, 31, 35, 39, §**8768;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §511.29]

Service generally, chapter 617

511.30 Intoxication as defense. Repealed by 2003 Acts, ch 91, §51.

511.31 Physician's certificate — estoppel.

In any case where the medical examiner, or physician acting as such, of any life insurance company or association doing business in the state shall issue a certificate of health or declare the applicant a fit subject for insurance, or so report to the company or association or its agent under the rules and regulations of the company or association, the company or association shall be estopped from setting up in defense of the action on the policy or certificate that the assured was not in the condition of health required by the policy at the time of the issuance or delivery of the policy or certificate, unless the policy or certificate was procured by or through the fraud or deceit of the assured.

[C97, §1812; C24, 27, 31, 35, 39, §**8770;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §511.31]

2016 Acts, ch 1073, §147

511.32 Misrepresentation of age.

In all cases where it shall appear that the age of the person insured has been understated in the proposal, declaration or other instrument upon which a policy of life insurance has been founded or issued, then the amount payable under the policy shall be such as the premium paid would have purchased at the correct age; provided, however, that one who, by misstating one's age, obtains life insurance not otherwise obtainable shall be entitled to recover from the insurer on account of such policy only the aggregate premiums paid.

[C97, §1813; C24, 27, 31, 35, 39, §**8771;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §511.32]

511.33 Application for insurance — duty to attach to policy.

All life insurance companies or associations organized or doing business in this state under the provisions of the preceding chapters shall, upon the issue of any policy, attach to such policy, or endorse thereon, a true copy of any application or representation of the assured which by the terms of such policy are made a part thereof, or of the contract of insurance, or referred to therein, or which may in any manner affect the validity of such policy, or,

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upon reinstatement of a lapsed policy, shall attach to the renewal receipt a true copy of all representations made by the assured upon which the renewal or reinstatement is made.

[C97, §1819; C24, 27, 31, 35, 39, §**8772;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §511.33]

Referred to in §511.34
Similar provisions, §515.133

511.34 Failure to attach — defenses — estoppel.

The omission so to do shall not render the policy invalid, but if any company or association neglects to comply with the requirements of section 511.33, the company or association shall forever be precluded from pleading, alleging, or proving such application or representations, or any part thereof, or the falsity thereof, or any part thereof, in any action upon the policy, and the plaintiff in any such action shall not be required, in order to recover against the company or association, either to plead or prove such application or representation, but may do so at the plaintiff's option.

[C97, §1819; C24, 27, 31, 35, 39, §**8773;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §511.34]

2016 Acts, ch 1011, §94
Similar provisions, §515.134

511.35 Limitation on proofs of loss.

No stipulation or condition in any policy or contract of insurance or beneficiary certificate issued by any company or association mentioned or referred to in this chapter, limiting the time to a period of less than one year after knowledge by the beneficiary within which notice or proofs of death or the occurrence of other contingency insured against must be given, shall be valid.

[C97, §1820; S13, §1820; C24, 27, 31, 35, 39, §**8774;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §511.35]

511.36 Interest rates on policy loans.

1. Life insurance policies issued after July 1, 1984 may provide interest rates on policy loans in accordance with either of the following:

a. A maximum interest rate of not more than eight percent per annum.

b. An adjustable maximum interest rate established as permitted under this section.

2. The rate of interest charged on a policy loan made under subsection 1, paragraph *"b"*, shall not exceed the greater of the following:

a. The published monthly average for the calendar month ending two months before the date on which the rate is determined. For purposes of this subsection, *"published monthly average"* means one of the following:

(1) Moody's corporate bond yield average-monthly average corporates as published in Moody's investors service, inc., or any successor to the investors service.

(2) If Moody's corporate bond yield average-monthly average corporates is no longer published, a substantially similar average established by rule issued by the commissioner of insurance.

b. The rate used to compute the cash surrender values under the policy during the applicable period plus one percent per annum.

3. If the maximum rate of interest is determined under subsection 1, paragraph *"b"*, the policy shall state the frequency at which the rate is to be determined for that policy.

4. The maximum rate for the policy shall be determined at established intervals at least once every twelve months, but not more frequently than once every three months. At the intervals established in the policy the rate:

a. May be increased when an increase as determined under subsection 2 would increase the charged rate by one-half percent or more per annum.

b. Shall be reduced when a reduction as determined under subsection 2 would decrease the charged rate by one-half percent or more per annum.

5. When a cash loan is made, the insurer shall notify the policyholder of the initial interest rate on the loan. With respect to premium loans, the insurer shall notify the policyholder of the initial interest rate as soon as the insurer can reasonably do so after making the loan. An insurer need not inform the policyholder of the interest rate when an additional premium

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loan is made unless the interest rate increases. However, policyholders with either cash or premium loans shall receive reasonable advance notice of any increase in the interest rate. Notices required under this subsection shall also contain the following information:

a. The maximum interest rate on the loan if the loan is a fixed rate loan.

b. The fact that the interest rate is adjustable if the loan is an adjustable rate loan.

c. The frequency at which the rate is to be determined for that policy or if an adjustable interest rate, the established intervals at which the rate may be adjusted.

6. A policy shall not terminate in a policy year solely as the result of change in the interest rate during that year. The life insurer shall maintain coverage during that policy year until the time at which it would otherwise have terminated if there had been no change during that policy year.

7. Policies of insurance upon which a loan can be made shall state the following:

a. Whether fixed rate loans or adjustable rate loans are permitted.

b. If fixed rate loans are permitted, the maximum rate of interest on those loans.

c. If adjustable rate loans are permitted, the established intervals at which the rate may be adjusted.

8. Unless the context otherwise requires, for purposes of this section:

a. The rate of interest on policy loans includes the interest rate charged on reinstatement of policy loans for the period during and after a lapse of the policy.

b. *"Policy loan"* includes a premium loan made under a policy to pay a premium that was not paid to the insurer when due.

c. *"Policyholder"* includes the owner of the policy or the person designated, on the records of the insurer, to pay premiums.

d. *"Policy"* includes certificates issued by a fraternal benefit society and annuity contracts which provide for policy loans.

9. Other provisions of law do not apply to policy loan interest rates unless made specifically applicable to the rates.

84 Acts, ch 1017, §1; 97 Acts, ch 186, §8
Referred to in §511.38

511.37 Reserved.

511.38 Interest on delayed claims payments.

1. When an insurance policy provides for the payment of its proceeds to a beneficiary upon the death of an individual and, without the written consent of the beneficiary, the company fails or refuses to pay the proceeds within thirty days after receipt of satisfactory proof of death, the company shall pay interest on the proceeds or any amount of the proceeds not paid within the thirty days, provided, however, if the policy requires a beneficiary to survive for a designated period after the death of the insured, the company shall pay interest on the proceeds or any amount of the proceeds not paid within thirty days after the designated period.

2. The interest owed on any amount of the proceeds of a policy under this section shall be computed from the date of receipt of the proof of death. The rate of interest shall be the higher of the following:

a. The effective rate of interest charged by the company on policy loans under section 511.36 on the date of receipt of proof of death.

b. The effective rate of interest paid by the company on death proceeds left on deposit with the company.

3. A payment of interest shall not be required under this section in any case in which the beneficiary elects to receive the proceeds under the policy by any means other than a lump sum payment.

89 Acts, ch 321, §35
Referred to in §507B.4

511.39 Charitable organizations — insurable interest.

A charitable organization described in section 501(c)(3) of the Internal Revenue Code, as defined in section 422.3, has an insurable interest in the life of a person who, when

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purchasing a life insurance policy, makes a donation to the charitable organization or makes the charitable organization the beneficiary of all or a part of the proceeds of the policy or joins with a charitable organization in applying for an insurance policy which when issued will insure that person's life and name the organization as owner or beneficiary of all or any portion of the benefits of the life insurance policy.

92 Acts, ch 1162, §16
Referred to in §508E.13

511.40 Employer — insurable interest in employees.

1. As used in this section, *"employees"* includes officers, managers, and directors of an employer, and the shareholders, partners, members, proprietors, or other owners of the employer.

2. An employer and a trust established by the employer for the benefit of the employer or for the benefit of the employer's active or retired employees has an insurable interest in each of the lives of the employer's active or retired employees and may insure their lives on an individual or group basis.

3. The amount of coverage on the lives of nonmanagement or nonkey employees shall be reasonably related to the benefit provided to the employees.

4. On and after July 1, 2003, an employer or trust shall obtain the written consent of each employee being insured by an employer and trust pursuant to this section before insuring the employee's life. The consent shall include an acknowledgment by the employee that the employer or trust may maintain the life insurance after the employee is no longer employed by the employer. An employer shall not retaliate in any manner against an employee who refuses to consent.

5. *a.* The gross amount of premiums received by a life insurance company or association for an employer-owned life insurance contract which has not been allocated to another state shall be allocated to this state for purposes of section 432.1, subsection 1, if either of the following is applicable:

(1) The contract is issued or delivered in this state.

(2) The company or association is domiciled in this state.

b. To the extent that premiums are allocated to this state pursuant to paragraph *"a"*, the provisions of section 505.14 are not applicable to those premiums.

c. As used in this subsection, *"employer-owned life insurance contract"* means a policy which provides coverage on a life for which the employer has an insurable interest under this section or a similar provision of the laws of another state and the policy is owned by either the employer or a trust established by the employer for the benefit of the employer or the employer's active or retired employees.

2003 Acts, ch 91, §22; 2013 Acts, ch 124, §15
Referred to in §508E.13

511.41 Living organ donors.

1. As used in this section, unless the context otherwise requires:

a. *"Covered person"* means a policyholder, subscriber, enrollee, or other individual participating in a policy.

b. *"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 chapter 508, 514, 514A, 514B, or 514E.

c. *"Living organ donor"* means an individual who is not deceased and who has donated all or part of an organ.

d. *"Policy"* means a life insurance policy, disability insurance policy, or long-term care insurance policy.

2. An insurer shall not, based solely on an individual's status as a living organ donor, do any of the following:

a. Decline or limit coverage under a policy for a covered person that is a living organ donor.

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b. As a condition of continued coverage under a policy, preclude a covered person from becoming a living organ donor.

c. Discriminate against a covered person or individual in the offering, issuance, cancellation, coverage amount, price, or any other condition of a policy on the sole basis that the covered person or individual is a living organ donor.

3. The commissioner of insurance may adopt rules pursuant to chapter 17A to administer this section.

2026 Acts, ch 1110, §1
NEW section

CHAPTER 512
RESERVED

CHAPTER 512A
BENEVOLENT ASSOCIATIONS

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 507.1, 507B.2, 507C.3, 508C.3, 669.14, 670.7

Benevolent associations not to be incorporated on or after July 1, 1988; §512A.9

512A.1 Definitions.
512A.2 Rules promulgated.
512A.3 Incorporation mandatory.
512A.4 Records of transactions.
512A.5 Fees to commissioner.
512A.6 Contributions for expenses.
512A.7 Certificate of membership.
512A.8 Violation.
512A.9 Incorporation of benevolent associations prohibited.
512A.10 Articles, amendments to articles, and bylaws.

512A.1 Definitions.

When used in this chapter:

1. A *"benevolent association"* shall mean any person, firm, company, partnership, association or corporation, organized to enroll persons as members of a group for the purpose of providing an agency by which persons so enrolled may in the event of the death of any other member of the group make voluntary contributions to be distributed in whole or in part by the benevolent association to the beneficiary of the deceased member, or to members as contribution towards expense incurred by accident or sickness.

2. A *"member"* shall be any person who participates in a plan or agreement to make voluntary contribution through a benevolent association.

3. *"Commissioner"* when used in this chapter shall mean the commissioner of insurance.

[C71, 73, 75, 77, 79, 81, §512A.1]

512A.2 Rules promulgated.

The commissioner shall promulgate such reasonable rules as the commissioner deems necessary to assure the proper operation of benevolent associations.

[C71, 73, 75, 77, 79, 81, §512A.2]

512A.3 Incorporation mandatory.

Before a benevolent association shall operate in this state it shall first incorporate in accordance with the laws of this state, and the articles of incorporation and bylaws shall be submitted to the commissioner. If the commissioner finds they conform to the requirements of the law and all rules and regulations promulgated under this chapter, the commissioner shall approve the articles of incorporation and file them with the secretary of state. Every benevolent association at the time of its incorporation shall submit its general plan of

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operation to the commissioner and if the commissioner finds it conforms to the requirements of the law and all reasonable rules and regulations promulgated under this chapter, the commissioner shall issue a license to expire on the first day of June after issuance. The license shall be renewed from year to year upon application of the association, if the commissioner finds from examination that it has conformed to the requirements of all laws and regulations applicable thereto.

[C71, 73, 75, 77, 79, 81, §512A.3]

88 Acts, ch 1112, §106

512A.4 Records of transactions.

The association shall keep a record of all its transactions and shall file an annual report thereof for the preceding calendar year on or before the first day of March on a form prescribed by the commissioner. The commissioner shall also prescribe the method of keeping books and accounts of benevolent associations.

[C71, 73, 75, 77, 79, 81, §512A.4]

512A.5 Fees to commissioner.

The following fees shall be paid to the commissioner for services required under this chapter, which shall be accounted for by the commissioner in the same manner as other fees received in the discharge of the duties of the office:

1. For filing and examination of amendments to the articles of incorporation in this state and the accompanying general plan of operation of any benevolent association, and the issuing of the permission to do business, twenty dollars.
2. For filing an annual statement of a benevolent association, and issuing the renewal of the permission required by law to authorize continuance in business, twenty-five dollars per existing unit, not to exceed three hundred dollars in the aggregate.

[C71, 73, 75, 77, 79, 81, §512A.5]

91 Acts, ch 213, §10

512A.6 Contributions for expenses.

Such associations may operate without the establishment of reserves or surplus except for current expenses. Contributions for expenses shall be added as a separate item to contributions for membership benefits. A reasonable membership fee to cover initial expenses may be charged.

[C71, 73, 75, 77, 79, 81, §512A.6]

512A.7 Certificate of membership.

Within thirty days after acceptance to membership a certificate, the form of which has been approved by the commissioner, shall be delivered to each member. The certificate shall set forth the name of the association, the name of the member, a statement as to the benefits of membership, to whom such benefits are payable, and such other provisions as are, in the opinion of the commissioner, necessary to inform the member of the member's rights in the association. The commissioner before approving any certificate shall be satisfied that any benefits to be paid a member or the beneficiary of a member are reasonable in relationship to any and all charges made or assessed against the membership. The certificate shall not indicate therein that the plan or benefits constitute an insurance policy.

[C71, 73, 75, 77, 79, 81, §512A.7]

512A.8 Violation.

Except as otherwise provided by law, it shall be unlawful for any person or corporation to operate a benevolent association in this state except as provided for in this chapter.

[C71, 73, 75, 77, 79, 81, §512A.8]

2004 Acts, ch 1110, §33

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512A.9 Incorporation of benevolent associations prohibited.

Notwithstanding any provision of this chapter to the contrary, a benevolent association shall not be incorporated or reincorporated in this state on or after July 1, 1988. A benevolent association incorporated before July 1, 1988, continues to be subject to the provisions of this chapter.

88 Acts, ch 1111, §1

512A.10 Articles, amendments to articles, and bylaws.

1. 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. An organization shall file bylaws and subsequent amendments to bylaws with the commissioner within thirty days of adoption of the bylaws and amendments.

2. The directors of a benevolent association shall have the authority to enact such bylaws and regulations not inconsistent with law as they consider necessary for the regulation and conduct of the business. A change in the bylaws shall not limit coverage under existing certificates. A benevolent association shall file with the commissioner bylaws and amendments to the bylaws within thirty days of adoption of such bylaws or amendments.

2000 Acts, ch 1023, §19; 2006 Acts, ch 1010, §138; 2009 Acts, ch 145, §9

See §512A.3

CHAPTER 512B

FRATERNAL BENEFIT SOCIETIES

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 507.1, 507C.3, 508C.3, 513C.10, 514A.1, 514G.103, 515.1, 515B.2, 521A.1, 521E.1, 522B.1, 522F.1, 669.14, 670.7

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SUBCHAPTER I

STRUCTURE AND PURPOSE

512B.1 Scope of chapter.

Except as otherwise provided in this chapter, societies are governed by this chapter and are exempt from all other insurance laws of this state unless expressly included in this chapter, or unless specifically made applicable by this chapter.

90 Acts, ch 1148, §1

512B.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Alien society"* means an association organized under the laws of another country.
2. *"Benefit contract"* means the agreement for provision of benefits authorized by section 512B.16, as that agreement is described in section 512B.19, subsection 1.
3. *"Benefit member"* means an adult member who is designated by the laws or rules of the society to be a benefit member under a benefit contract.
4. *"Certificate"* means the document issued as written evidence of the benefit contract.
5. *"Commissioner"* means the commissioner of insurance or the commissioner's designee.
6. *"Domestic society"* means an association organized under the laws of this state.
7. *"Foreign society"* means an association organized under the laws of another state or territory of the United States.
8. *"Laws"* means the society's articles of incorporation, constitution, and bylaws, however designated.
9. *"Lodge"* means a subordinate member unit of the society, whether known as a camp, court, council, branch, or by any other designation.
10. *"Premium"* means a premium, rate, dues, or other required contribution by whatever name known, which is payable under the certificate.
11. *"Regulations"* means all regulations, or resolutions adopted by the supreme governing body or board of directors which are intended to have general application to the members of the society.
12. *"Society"* means a fraternal benefit society, unless otherwise indicated.

90 Acts, ch 1148, §2

512B.3 Fraternal benefit societies — defined.

An incorporated society, order, or supreme lodge, without capital stock, including one exempted under section 512B.36, subsection 1, paragraph *"b"*, whether incorporated or not, conducted solely for the benefit of its members and their beneficiaries and not for profit, operated on a lodge system with a ritualistic form of work, having a representative form of government, and which provides benefits in accordance with this chapter, is a fraternal benefit society.

90 Acts, ch 1148, §3
Referred to in §10A.519

512B.4 Lodge system.

1. A society is operating on the lodge system if it has a supreme governing body and subordinate lodges into which members are elected, initiated, or admitted in accordance with its laws, regulations, and ritual. Subordinate lodges shall be required by the laws of the

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society to hold regular meetings at least once in each month in furtherance of the purposes of the society.

2. A society may organize and operate lodges for children under the minimum age for adult membership. Membership and initiation in local lodges shall not be required of children, nor shall children have a voice or vote in the management of the society.

90 Acts, ch 1148, §4

512B.5 Representative form of government.

A society has a representative form of government if all of the following apply:

1. It has a supreme governing body constituted in one of the following ways:

a. Assembly. The supreme governing body is an assembly composed of delegates elected directly by the members or at intermediate assemblies or conventions of members or their representatives, together with other delegates as prescribed in the society's laws. A society may provide for election of delegates by mail. The elected delegates must constitute a majority of the delegates in number and have not less than two-thirds of the votes and not less than the number of votes required to amend the society's laws. The assembly must be elected and meet at least once every four years and must elect a board of directors to conduct the business of the society between meetings of the assembly. Vacancies on the board of directors between elections may be filled in the manner prescribed by the society's laws. The board of directors may appoint the officers of the society if authorized to do so by the articles or bylaws of the society. A board of directors elected by an assembly shall have such powers authorized the board by the articles or bylaws of the society, and may or may not be a supreme governing body as described in paragraph *"b"*, depending upon the powers authorized by the articles or bylaws.

b. Direct election. The supreme governing body is a board of directors composed of persons elected by the members, either directly or by their representatives in intermediate assemblies, and any other persons prescribed in the society's laws. A society may provide for election of the board by mail. Each term of a board member must not exceed four years. Vacancies on the board between elections may be filled in the manner prescribed by the society's laws. The elected board members must constitute a majority of the board members in number and have not less than the number of votes required to amend the society's laws. A person filling the unexpired term of an elected board member shall be considered to be an elected member. The board must meet at least quarterly to conduct the business of the society.

2. The officers of the society are elected by the supreme governing body or board of directors.

3. Only benefit members are eligible for election to the supreme governing body, board of directors, or any intermediate assembly.

4. Each voting member has one vote.

5. A voting member is not entitled to cast a vote by proxy.

90 Acts, ch 1148, §5

512B.6 Purposes and powers.

1. *a.* A society shall operate for the benefit of members and their beneficiaries by fulfilling both of the following purposes:

(1) Providing benefits as specified in section 512B.16.

(2) Operating for one or more social, intellectual, educational, charitable, benevolent, moral, fraternal, patriotic, or religious purposes for the benefit of its members, which may also be extended to others.

b. The purposes listed in this subsection may be carried out directly by the society, or indirectly through subsidiary corporations or affiliated organizations.

2. A society may adopt laws and regulations for the government of the society, the admission of its members, and the management of its affairs. A society may amend its laws

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and regulations, and has other powers as necessary and incidental to carrying into effect the objects and purposes of the society.

90 Acts, ch 1148, §6; 2012 Acts, ch 1023, §112

Referred to in §512B.13

SUBCHAPTER II

MEMBERSHIP

512B.7 Qualifications for membership.

1. In its laws or regulations, a society shall at minimum specify all of the following:

a. Eligibility standards for each membership class. If benefits are provided on the lives of children, the minimum age for adult membership shall be set at not less than age fifteen and not greater than age twenty-one.

b. The process for admission to membership for each membership class.

c. The rights and privileges of each membership class. Only benefit members shall have the right to vote on the management of the insurance affairs of the society.

2. A society may also admit social members. A social member shall have no voice or vote in the management of the insurance affairs of the society.

3. Membership rights in a society are personal to the member and are not assignable.

90 Acts, ch 1148, §7

512B.8 Location of office, meetings, communications to members, grievance procedures.

1. The principal office of a domestic society shall be located in this state. The meetings of its supreme governing body may be held anywhere the society has at least one subordinate lodge, or in another location as determined by the supreme governing body, and all business transacted at a meeting held out of state shall be as valid in all respects as if the meeting were held in this state. The minutes of the proceedings of the supreme governing body and of the board of directors shall be in the English language.

2. *a.* A society may provide in its laws for an official publication in which any notice, report, or statement required by law to be given to members, including notice of election, may be published. Such required reports, notices, and statements shall be printed conspicuously in the publication. If the records of a society show that two or more members have the same mailing address, an official publication mailed to one member is deemed to be mailed to all members at the same address unless a member requests a separate copy.

b. Not later than June 1 of each year, a synopsis of the society's annual statement providing an explanation of the facts concerning the condition of the society disclosed in the annual statement shall be printed and mailed to each benefit member of the society or, in lieu of mailing, the synopsis may be published in the society's official publication.

3. A society may provide in its laws or regulations for grievance or complaint procedures for members.

90 Acts, ch 1148, §8

512B.9 Personal liability.

1. The officers and members of the supreme governing body or any subordinate body of a society are not personally liable for any benefits provided by a society.

2. *a.* A person may be indemnified and reimbursed by a society for expenses reasonably incurred by, and liabilities imposed upon, the person in connection with or arising out of a proceeding, whether civil, criminal, administrative, or investigative, or a threat of action in which the person is or may be involved by reason of the person being a director, officer, employee, or agent of the society or of any other legal entity or position which the person served in any capacity at the request of the society.

b. However, a person shall not be so indemnified or reimbursed for either of the following:

(1) In relation to any matter to which the person is finally adjudged to be or have been guilty of breach of a duty as a director, officer, employee, or agent of the society.

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(2) In relation to any matter which has been made the subject of a compromise settlement.

c. However, if the person acted in good faith for a purpose the person reasonably believed to be in or not opposed to the best interests of the society and, in addition, in a criminal proceeding, had no reasonable cause to believe that the conduct was unlawful, paragraph "*b*", subparagraphs (1) and (2), do not apply. The determination whether the conduct of the person met the standard required in order to justify indemnification and reimbursement in relation to any matter described in paragraph "*b*", subparagraph (1) or (2), may only be made by the supreme governing body by a majority vote of a quorum consisting of persons who were not parties to the proceeding or by a court of competent jurisdiction. The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of no contest, as to a person, does not in itself create a conclusive presumption that the person met or did not meet the standard of conduct required in order to justify indemnification and reimbursement. The right of indemnification and reimbursement is not exclusive of other rights to which a person may be entitled as a matter of law and shall inure to the benefit of the person's heirs, executors, and administrators.

3. A society may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the society, or who is or was serving at the request of the society as a director, officer, employee, or agent of any other legal entity affiliated with the society against any liability asserted against the person and incurred by the person in any such capacity or arising out of the person's status in relation to the society, whether or not the society would have the power to indemnify the person against such liability under this section.

4. A volunteer serving without compensation, a director, officer, employee, or member of a society, is not liable, and no cause of action may be brought, for damages resulting from the exercise of judgment or discretion in connection with the duties or responsibilities of that person for the society unless the act or omission alleged to be an exercise of judgment or discretion involved willful or wanton misconduct.

90 Acts, ch 1148, §9; 2008 Acts, ch 1032, §66

512B.10 Waiver.

The laws of the society may provide that a subordinate body, or any of its subordinate officers or members, do not have the power or authority to waive any of the provisions of the laws of the society. A waiver prohibition provision is binding on the society and every member and beneficiary of a member.

90 Acts, ch 1148, §10

SUBCHAPTER III

GOVERNANCE

512B.11 Organization.

A domestic society organized on or after January 1, 1991, shall be formed as follows:

1. Seven or more citizens of the United States, a majority of whom are citizens of this state, who desire to form a fraternal benefit society, may sign and file with the secretary of state and commissioner of insurance an original or copy of a document containing, at minimum, the following:

a. The proposed corporate name of the society, which shall not so closely resemble the name of any other society or insurance company as to be misleading or confusing.

b. The purposes for which the society is being formed and the mode in which its corporate powers are to be exercised. The purposes shall not include more liberal powers than are granted by this chapter.

c. The names and residences of the incorporators.

d. The names, residences, and official titles of all the officers, trustees, directors, or other persons who are to have and exercise the general control of the management of the affairs and funds of the society for the first year or until the ensuing election at which officers shall

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be elected by the supreme governing body, or board of directors, which election shall be held not later than one year from the date of issuance of the permanent certificate of authority.

2. The articles of incorporation, duly certified copies of the society's regulations and laws, copies of all proposed forms of certificates, applications, and circulars to be issued by the society, and a bond conditioned upon the return to applicants of the advance premiums if the organization is not completed within one year shall be filed with the commissioner of insurance, who may require further information as the commissioner deems necessary. The bond with sureties approved by the commissioner shall be in an amount, not less than three hundred thousand dollars nor more than one million five hundred thousand dollars, as required by the commissioner. All documents filed are to be in the English language. If the purposes of the society conform to the requirements of this chapter and all provisions of the law have been complied with, the commissioner shall so certify, retain and file the articles of incorporation, and furnish the incorporators a preliminary certificate of authority authorizing the society to solicit members as provided in this chapter.

3. A preliminary certificate of authority granted under this section is not valid after one year from its date or after a further period, not exceeding one year, as may be authorized by the commissioner upon cause shown, unless the five hundred applicants required in this section have been secured and the organization has been completed as provided in this chapter. The articles of incorporation and all other proceedings become void in one year from the date of the preliminary certificate of authority, or at the expiration of the extended period, unless the society has completed its organization and received a certificate of authority to do business as provided in this chapter.

4. Upon receipt of a preliminary certificate of authority from the commissioner, the society may solicit members for the purpose of completing its organization, shall collect from each applicant the amount of not less than one regular monthly premium in accordance with its table of rates, and shall issue to each applicant a receipt for the amount so collected. A society shall not incur a liability other than for the return of advance premiums, shall not issue a certificate, nor pay, allow, offer, or promise to pay or allow, a benefit to any person until all of the following conditions are satisfied:

a. Actual bona fide applications for benefits have been secured on not less than five hundred applicants, and any necessary evidence of insurability has been furnished to and approved by the society.

b. At least ten subordinate lodges have been established into which the five hundred applicants have been admitted.

c. A list of the applicants has been submitted to the commissioner, under oath of the president or secretary, or corresponding officer of the society, giving the applicants' names and addresses, the date each applicant was admitted, the name and number of the subordinate lodge of which each applicant is a member, the amount of benefits to be granted, and the premiums for the benefits.

d. It has been shown to the commissioner, by sworn statement of the treasurer, or corresponding officer of the society, that at least one thousand applicants have each paid in cash at least one regular monthly premium, which premiums in the aggregate shall amount to at least three hundred thousand dollars. Advance premiums shall be held in trust during the period of organization and if the society has not qualified for a certificate of authority within the time permitted by this section, each premium shall be returned to the respective applicant.

5. The commissioner may make an examination and require further information as the commissioner deems advisable. Upon presentation of satisfactory evidence that the society has complied with all applicable provisions of law, the commissioner shall issue to the society a certificate of authority and the society is then authorized to transact business pursuant to this chapter. A certificate of authority is prima facie evidence of the existence of the society at the date of the certificate. The commissioner shall cause a record of each certificate of authority to be made. A certified copy of the record shall be accepted in evidence with like effect as the original certificate of authority.

6. An incorporated society authorized to transact business in this state on January 1, 1991, is not required to reincorporate. A certified copy of the current articles of incorporation

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of an existing society shall be filed with the commissioner and the commissioner may request additional records as the commissioner deems necessary before issuing a certificate of authority to an existing society.

90 Acts, ch 1148, §11; 2013 Acts, ch 90, §153

512B.12 Amendments to laws.

1. A domestic society may amend its laws in accordance with the provisions of its laws by action of its supreme governing body at any regular or special meeting or, if its laws so provide, by referendum. A referendum may be held in accordance with the provisions of the society's laws by the vote of the voting members of the society, by the vote of delegates or representatives of voting members, or by the vote of local lodges. A society may provide for voting by mail. An amendment submitted for adoption by referendum shall not be adopted unless, within six months from the date of submission of the referendum, a majority of the members voting have signified their consent to the amendment by one of the methods specified in this subsection.

2. An amendment to the laws of a domestic society shall not take effect unless approved by the commissioner. The commissioner shall approve an amendment if the commissioner finds that it has been duly adopted and is not inconsistent with the laws of this state or with the character, objects, and purposes of the society. An amendment shall be considered approved, unless the commissioner disapproves the amendment in writing, within thirty days after the filing of the amendment. The disapproval of the commissioner shall be in writing and mailed to the secretary or corresponding officer of the society at its principal office. If the commissioner disapproves an amendment, the reasons for disapproval shall be stated in the written notice.

3. Within ninety days from the approval of an amendment by the commissioner, the amendment, or a synopsis of it, shall be furnished to all members of the society either by mail or by publication in full in the official publication of the society. The affidavit of an officer of the society or of anyone authorized by the society to mail an amendment or synopsis of an amendment, stating facts which demonstrate compliance with this subsection, is prima facie evidence that the amendment or synopsis has been furnished to the addressees.

4. A foreign or alien society authorized to do business in this state shall file with the commissioner a duly certified copy of all amendments of its laws within ninety days after their enactment.

5. Printed copies of the laws as amended, certified by the secretary, or corresponding officer of the society, are prima facie evidence of the legal adoption of the laws and amendments.

90 Acts, ch 1148, §12

512B.13 Institutions.

A society may create, maintain, and operate, or may establish organizations to operate, not-for-profit institutions to further the purposes permitted by section 512B.6, subsection 1, paragraph *"a"*, subparagraph (2). The institutions may furnish services free or at a reasonable charge. Any real or personal property owned, held, or leased by the society for this purpose shall be reported in every annual statement. A not-for-profit institution so established is a charitable institution with all the rights, benefits, and privileges given to charitable institutions under the Constitution and laws of the State of Iowa. The commissioner may adopt appropriate rules and reporting requirements.

90 Acts, ch 1148, §13; 2006 Acts, ch 1010, §139; 2012 Acts, ch 1023, §153

512B.14 Reinsurance.

1. A domestic society may, by a reinsurance agreement, cede any individual risk or risks in whole or in part to an insurer, other than another fraternal benefit society, having the power to make such reinsurance agreements and authorized to do business in this state, or if not so authorized, one which is approved by the commissioner; but a society shall not reinsure substantially all of its insurance in force without the written permission of the commissioner. It may take credit for the reserves on ceded risks to the extent reinsured, but credit shall

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not be allowed as an admitted asset or as a deduction from liability, to a ceding society for reinsurance made, ceded, renewed, or otherwise becoming effective after January 1, 1991, unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding society under the contract or contracts reinsured without diminution because of the insolvency of the ceding society.

2. Notwithstanding the limitation in subsection 1, a society may reinsure the risks of another society in a consolidation or merger approved by the commissioner under section 512B.15.

90 Acts, ch 1148, §14

512B.15 Consolidations and mergers.

1. A domestic society may consolidate or merge with a domestic society, foreign society, or society chartered under the laws of Canada or a Canadian province or territory, by complying with this section. The society shall file with the commissioner all of the following:

a. A certified copy of the written contract containing in full the terms and conditions of the consolidation or merger.

b. A sworn statement by the president and secretary, or corresponding officers of each society, showing the financial condition of the society on a date fixed by the commissioner.

c. A certificate of each officer submitting a sworn statement pursuant to paragraph *"b"*, duly verified, that the consolidation or merger contract has been approved by a two-thirds vote of the supreme governing body of each society, the vote having been conducted at a regular or special meeting of each such body, or, if the society's laws so permit, by mail.

d. Evidence that at least sixty days prior to the action of the supreme governing body of each society to approve the consolidation or merger contract, the text of the contract has been furnished to all members of each society either by mail or by publication in full in the official publication of each society.

2. If the commissioner finds that the contract is in conformity with this section, that the financial statements are correct, and that the consolidation or merger is just and equitable to the members of each society, the commissioner shall approve the contract and issue a certificate to that effect. Upon the commissioner's approval, the contract shall be in full force and effect unless a society which is a party to the contract is incorporated under the laws of another state. In that event the consolidation or merger shall not become effective unless and until it has been approved as provided by the laws of the other state and a certificate of approval has been filed with the commissioner of this state or, if the laws of the other state contain no equivalent provision for issuing a certificate of consolidation or merger, then the consolidation or merger shall not become effective unless and until it has been approved by the commissioner of the other state and a certificate conforming with the laws of this state has been filed with the commissioner. If the contract is not approved it shall be inoperative, and the fact of submission and its contents shall not be disclosed by the commissioner. For the purposes of this subsection, *"state"* includes Canada and Canadian provinces and territories.

3. Upon the consolidation or merger becoming effective, all the rights, franchises, and interests of the consolidated or merged societies in and to every kind of property, real, personal, or mixed, belonging to the societies shall be vested in the successor society without any other instrument, except that conveyances of real property may be evidenced by proper deeds. The title to real property or an interest in real property, vested under the laws of this state in any of the societies consolidated or merged, shall not revert or be in any way impaired by reason of the consolidation or merger, but shall vest absolutely in the successor society.

4. The affidavit of an officer of the society or of a person authorized by the society to mail a notice or document, stating that the notice or document has been duly addressed and mailed, is prima facie evidence that the notice or document has been furnished the addressees.

90 Acts, ch 1148, §15; 91 Acts, ch 97, §56

Referred to in §512B.14

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512B.15A Conversion of fraternal benefit society into a mutual life insurance company.

A domestic fraternal benefit society may be converted and licensed as a mutual life insurance company by compliance with all the requirements of the general insurance laws for mutual life insurance companies. A plan of conversion shall be prepared in writing by the board of directors setting forth in full the terms and conditions of conversion. The affirmative vote of two-thirds of all members of the supreme governing body at a regular or special meeting is necessary for the approval of the plan of conversion. A conversion shall not take effect unless and until approved by the commissioner. The commissioner may give approval for the conversion if the commissioner finds that the proposed change is in conformity with the requirements of law and not prejudicial to the certificate holders of the society.

90 Acts, ch 1148, §16

SUBCHAPTER IV

CONTRACTUAL BENEFITS

512B.16 Benefits.

1. A society may provide any or all of the following contractual benefits in any form:

a. Death benefits.

b. Endowment benefits.

c. Annuity benefits.

d. Temporary or permanent disability benefits.

e. Hospital, medical, or nursing benefits.

f. Monument or tombstone benefits to the memory of deceased members.

g. Other benefits authorized for life insurers and which are not inconsistent with this chapter.

2. A society shall specify in its regulations those persons who may be issued, or covered by, the contractual benefits in subsection 1, consistent with providing benefits to members and their dependents. A society may provide benefits on the lives of children under the minimum age for adult membership upon application of an adult person.

90 Acts, ch 1148, §17

Referred to in §512B.2, 512B.6

512B.17 Beneficiaries.

1. The owner of a benefit contract may change the beneficiary or beneficiaries in accordance with the laws or regulations of the society unless the owner waives this right by specifically requesting in writing that the beneficiary designation be irrevocable. A society may, through its laws or regulations, limit the scope of beneficiary designations and shall provide that a revocable beneficiary shall not have or obtain a vested interest in the proceeds of a certificate until the certificate has become due and payable in conformity with the benefit contract.

2. A society may make provision for the payment of funeral benefits to the extent of the portion of a payment under a certificate which reasonably appears to be due to a person equitably entitled to the benefit by reason of having incurred expense occasioned by the burial of the member. However, the portion so paid shall not exceed the sum of one thousand dollars.

3. If, at the death of a person insured under a benefit contract, there is no lawful beneficiary to whom the proceeds are payable, the amount of the benefit, except to the extent that funeral benefits may be paid pursuant to subsection 2, shall be payable to the estate of the deceased insured the same as other property not exempt. However, if the owner of the certificate is other than the insured, the proceeds are payable to the owner.

90 Acts, ch 1148, §18

512B.18 Benefits not attachable.

Money or other benefit, charity, relief, or aid to be paid, provided, or rendered by a society, is not liable to attachment, garnishment, or other process, or to be seized, taken, appropriated,

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or applied by any legal or equitable process or operation of law to pay a debt or liability of a member or beneficiary, or any other person who may have a derivative right, either before or after payment by the society, except as provided in sections 627.11 and 627.12.

90 Acts, ch 1148, §19

512B.19 The benefit contract.

1. A society authorized to do business in this state shall issue to each owner of a benefit contract a certificate specifying the amount of benefits provided pursuant to the benefit contract. The certificate, together with any riders or endorsements attached to the certificate, the laws of the society, the application for membership, the application for insurance and declaration of insurability, if any, signed by the applicant, and all amendments, constitute the benefit contract, as of the date of issuance, between the society and the owner, and the certificate shall so state. A copy of the application for insurance and declaration of insurability, if any, shall be endorsed upon or attached to the certificate. Statements on the application are representations and not warranties. A waiver of this provision is void.

2. Additions or amendments to the laws of a society duly made or enacted subsequent to the issuance of the certificate, bind the owner and the beneficiaries, and govern and control the benefit contract in all respects the same as though the additions or amendments had been made before and were in force at the time of the application for insurance, except that an addition or amendment shall not destroy or diminish benefits which the society contracted to give the owner as of the date of issuance.

3. A person upon whose life a benefit contract is issued before the person attains the age of majority is bound by the terms of the application and certificate and by all the laws and regulations of the society to the same extent as though the person had attained the age of majority at the time of application.

4. *a.* A society shall provide in its laws that if its reserves as to all or any class of certificates become impaired, its supreme governing body or board of directors may require that there be paid by the owners to the society the amount of the owners' equitable proportion of the deficiency as ascertained by its governing body or board, and that if the payment is not made either of the following will apply:

(1) The required payment or assessment shall stand as an indebtedness against the certificate and draw interest not to exceed the rate specified for certificate loans under the certificates.

(2) In lieu of or in combination with subparagraph (1), the owner may accept a proportionate reduction in benefits under the certificate.

b. The society may specify the manner of the election and which alternative is to be presumed if no election is made.

5. Copies of any of the documents mentioned in this section, certified by the secretary or corresponding officer of the society, shall be received in evidence of the terms and conditions of the documents.

6. A certificate shall not be delivered or issued for delivery in this state unless a copy of the form has been filed with the commissioner in the manner provided for like policies issued by life insurers in this state. A life, accident, health, or disability insurance certificate and an annuity certificate issued on or after one year from January 1, 1991, shall meet the standard contract provision requirements not inconsistent with this chapter for like policies issued by life insurers in this state, except that a society may provide for a grace period for payment of premiums of one full month in its certificates. The certificate shall also contain a provision stating the amount of premiums which are payable under the certificate and a provision reciting or setting forth the substance of any sections of the society's laws or regulations in force at the time of issuance of the certificate which, if violated, will result in the termination or reduction of benefits payable under the certificate. If the laws of the society provide for expulsion or suspension of a member, the certificate shall also contain a provision that any member expelled or suspended, except for nonpayment of a premium or within the contestable period for material misrepresentation in the application for membership or insurance, may maintain the certificate in force by continuing payment of the required premium.

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7. A benefit contract issued on the life of a person below the society's minimum age for adult membership may provide for transfer of control of ownership to the insured at an age specified in the certificate. A society may require approval of an application for membership in order to effect this transfer, and may provide in all other respects for the regulation, government, and control of such certificates and the rights, obligations, and liabilities incident to, or connected with, the benefit contract. Ownership rights prior to a transfer shall be specified in the certificate.

8. A society may specify the terms and conditions on which benefit contracts may be assigned.

90 Acts, ch 1148, §20; 2012 Acts, ch 1023, §113
Referred to in §512B.2, 512B.22

512B.20 Nonforfeiture benefits, cash surrender values, certificate loans, and other options.

1. For certificates issued before January 1, 1991, the value of every paid-up nonforfeiture benefit and the amount of any cash surrendered value, loan, or other option granted shall comply with chapter 512, Code 1989.

2. For certificates issued on or after January 1, 1991, for which reserves are computed on the commissioner's 1980 standard mortality table, or any more recent table made applicable to life insurers, every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan, or other option granted shall not be less than the corresponding amount ascertained in accordance with the laws of this state applicable to life insurers issuing policies containing like benefits based upon the same tables.

90 Acts, ch 1148, §21

SUBCHAPTER V

FINANCIAL REQUIREMENTS

512B.21 Investments.

A society shall invest the society's funds only as authorized by the laws of this state for the investment of assets of life insurers and subject to the same limitations. A foreign or alien society permitted or seeking to do business in this state which invests its funds in accordance with the laws of the state or nation in which the foreign or alien society is incorporated, shall be held to meet the requirements of this section for the investment of funds.

90 Acts, ch 1148, §22; 2023 Acts, ch 36, §7
Referred to in §512B.21A

512B.21A Required reserves.

A society incorporated on or after July 1, 1993, shall have in cash, or in securities which are authorized for investment purposes for insurance companies pursuant to section 512B.21, surplus in an amount not less than five million dollars.

93 Acts, ch 88, §14

512B.22 Funds.

1. All assets shall be held, invested, and disbursed for the use and benefit of the society and a member or beneficiary shall not have or acquire individual rights in the society's assets or become entitled to an apportionment on the surrender of any part of the society's assets, except as provided in the benefit contract.

2. A society may create, maintain, invest, disburse, and apply any special fund or funds necessary to carry out any purpose permitted by the laws of the society.

3. A society may, pursuant to resolution of its supreme governing body, establish and operate one or more separate accounts and issue contracts on a variable basis, subject to the law regulating life insurers establishing equivalent accounts and issuing equivalent contracts. To the extent the society deems it necessary in order to comply with any applicable federal or state laws, regulations, or rules, the society may adopt special procedures for the conduct

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of the business and affairs of a separate account; may, for persons having beneficial interests in the account, provide special voting and other rights, including without limitation, special rights and procedures relating to investment policy, investment advisory services, selection of certified public accountants, and selection of a committee to manage the business and affairs of the account; and may issue contracts on a variable basis to which section 512B.19, subsections 2 and 4 shall not apply.

90 Acts, ch 1148, §23

SUBCHAPTER VI

REGULATION

512B.23 Valuation.

1. Standards of valuation for certificates issued before January 1, 1991, are those provided by chapter 512, Code 1989.

2. *a.* The minimum standards of valuation for certificates issued on or after January 1, 1991, shall be based on the following tables:

(1) For certificates of life insurance, the commissioner's 1980 standard ordinary mortality table or any more recent table made applicable to life insurers.

(2) For annuity and pure endowment certificates, for total and permanent disability benefits, for accidental death benefits and for noncancelable accident and health benefits, the tables authorized for use by life insurers in this state.

b. Paragraph "*a*", subparagraphs (1) and (2) are under valuation methods and standards, including interest assumptions, in accordance with the laws of this state applicable to life insurers issuing policies containing like benefits.

3. The commissioner may, in the commissioner's discretion, accept another standard for valuation if the commissioner finds that the reserves produced by the other standard will not be less in the aggregate than reserves computed in accordance with the minimum valuation standards prescribed by subsection 2. The commissioner may, in the commissioner's discretion, vary the standards of mortality applicable to all benefit contracts on substandard lives or other extra hazardous lives by any society authorized to do business in this state.

4. A society, with the consent of the commissioner of insurance of the state of domicile of the society and under conditions which the commissioner may impose, may establish and maintain reserves on its certificates in excess of the reserves otherwise required, but the contractual rights of a benefit member shall not be affected by the excess reserves.

90 Acts, ch 1148, §24; 2012 Acts, ch 1023, §114

Referred to in §512B.24

512B.24 Reports.

Reports shall be filed in accordance with this section.

1. A society transacting business in this state, on or before March 1 annually, unless for cause shown the time has been extended by the commissioner, shall file with the commissioner a true statement of its financial condition, transactions, and affairs for the preceding calendar year and shall pay a fee of fifty dollars. The statement may be in general form and content as approved by the national association of insurance commissioners for fraternal benefit societies and shall be supplemented by additional information as adopted by rule of the commissioner.

2. As part of the annual statement, a society shall, on or before March 1, file with the commissioner of insurance a valuation of its certificates in force on the last preceding December 31. However, the commissioner may, for cause shown, extend the time for filing the valuation for not more than two calendar months. The valuation shall be done in accordance with the standards specified in section 512B.23. The valuation and underlying data shall be certified by a qualified actuary or, at the expense of the society, verified by the actuary of the department of insurance of the state of domicile of the society.

3. A society failing to file the annual statement in the form and within the time provided by this section shall forfeit one hundred dollars for each day during which the default continues,

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and, upon notice by the commissioner to that effect, the society's authority to do business in this state shall cease while the default continues.

90 Acts, ch 1148, §25; 92 Acts, ch 1162, §17

512B.25 Annual license — renewal.

The authority of a society to transact business in this state may be renewed annually. A license terminates on the first day of June following issuance or renewal. 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 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.

90 Acts, ch 1148, §26; 92 Acts, ch 1162, §18; 2006 Acts, ch 1117, §55; 2007 Acts, ch 126, §90; 2009 Acts, ch 181, §71

512B.26 Examination of societies — no adverse publications.

1. The commissioner, or the commissioner's designee, may examine a domestic, foreign, or alien society transacting or applying for admission to transact business in this state in the same manner as authorized for examination of a domestic, foreign, or alien insurer. Requirements of notice and an opportunity to respond before findings are made public as provided in the laws regulating insurers are also applicable to the examination of a society.

2. The expense of each examination and of each valuation, including compensation and actual expense of examiners, shall be paid by the society examined or whose certificates are valued, upon statements furnished by the commissioner.

90 Acts, ch 1148, §27

512B.27 Foreign or alien society — admission.

A foreign or alien society shall not transact business in this state without a license issued by the commissioner. A society desiring admission to this state shall substantially comply with the requirements and limitations of this chapter applicable to domestic societies. A society may be licensed to transact business in this state upon filing with the commissioner all of the following:

1. A duly certified copy of its articles of incorporation.
2. A copy of its bylaws, certified by its secretary or a corresponding officer.
3. A power of attorney to the commissioner of insurance as prescribed in section 512B.33.
4. A statement of its business under oath of its president and secretary or corresponding officers in a form prescribed by the commissioner, duly verified by an examination made by the supervising insurance official of its state of domicile, satisfactory to the commissioner.
5. Certification from the proper official of its state of domicile that the society is legally incorporated and licensed to transact business in that state.
6. Copies of its certificate forms.
7. Other information the commissioner requires.
8. A showing that its assets are invested in accordance with this chapter.

90 Acts, ch 1148, §28

512B.28 Injunction — liquidation — receivership of domestic society.

1. When the commissioner upon investigation finds that a domestic society has exceeded its powers; failed to comply with a provision of this chapter; failed to fulfill a contract in good faith; failed to maintain a membership of not less than four hundred after an existence of one year or more; or conducted business fraudulently or in a manner hazardous to its members, creditors, the public, or the business, the commissioner shall notify the society of the deficiency or deficiencies and state in writing the reasons for the commissioner's dissatisfaction. The commissioner shall at once issue a written notice to the society requiring that the deficiency or deficiencies which exist be corrected. After the notice of deficiency the society has a thirty-day period in which to comply with the commissioner's request for

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correction, and if the society fails to comply the commissioner shall notify the society of a finding of noncompliance and require the society to show cause on or before a date named why it should not be enjoined from carrying on any business until the violation complained of has been corrected, or why an action seeking other legal or equitable relief should not be commenced against the society.

2. If by the date named to show cause the society does not present good and sufficient reasons why it should not be so enjoined or why an action should not be commenced, the commissioner may present the facts relating to the society to the attorney general who shall commence an action to enjoin the society from transacting business or other action requested by the commissioner.

3. The court in which an action is commenced pursuant to subsection 2 shall notify the officers of the society of a hearing. If after a full hearing it appears that the society should be enjoined or liquidated or a receiver appointed, or other legal or equitable relief awarded, the court shall enter the necessary order. A society so enjoined does not have the authority to do business unless and until all of the following conditions are satisfied:

a. The commissioner finds that the violation complained of has been corrected.

b. The costs of the action, including reasonable attorney fees for the state's attorneys and expenses related to the case in which the injunction was entered, have been paid by the society if the court finds that the society was in default as alleged.

c. The court has dissolved its injunction.

d. The commissioner has reinstated the certificate of authority of the society.

4. If the court orders the society liquidated, it shall be enjoined from carrying on any further business, and the receiver of the society shall proceed at once to take possession of the books, papers, money, and other assets of the society and, under the direction of the court, proceed to close the affairs of the society and to distribute its funds to those entitled to them.

5. If a receiver is to be appointed for a domestic society, the court shall appoint the commissioner of insurance as the receiver.

6. The provisions of this section relating to hearing by the commissioner, action by the attorney general at the request of the commissioner, hearing by the court, injunction, and receivership are applicable to a society which voluntarily determines to discontinue business.

90 Acts, ch 1148, §29

512B.29 Suspension, revocation, or refusal of license of foreign or alien society.

1. When the commissioner upon investigation finds that a foreign or alien society transacting or applying to transact business in this state has exceeded its powers; failed to comply with a provision of this chapter; failed to fulfill a contract in good faith; or conducted its business fraudulently or in a manner hazardous to its members or creditors or the public, the commissioner shall notify the society of the deficiency or deficiencies and state in writing the alleged facts or circumstances constituting a deficiency. The commissioner shall at once issue a written notice to the society requiring that the deficiency or deficiencies which exist be corrected on or before thirty days from entry of the notice of deficiency. After notice the society has a thirty-day period in which to comply with the commissioner's request for correction, and if the society fails to comply the commissioner shall notify the society of a finding of noncompliance and require the society to show cause on or before a date named why its license should not be suspended, revoked, or refused. If, on or before the date named, the society does not present good and sufficient reason why its license to do business in this state should not be suspended, revoked, or refused, the commissioner may suspend or refuse the license of the society to do business in this state until evidence satisfactory to the commissioner is furnished to the commissioner that the suspension or refusal should be withdrawn or the commissioner may revoke the license of the society to do business in this state.

2. A society whose license to do business in this state is suspended, revoked, or refused pursuant to subsection 1 shall continue in good faith all contracts made in this state during the time the society was legally authorized to transact business in this state. Lack of authority to transact business within the state is not a defense to an action by a person against the society

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to enforce a contract entered into by the society without compliance with this chapter, or prior applicable law.

90 Acts, ch 1148, §30

512B.30 Standing.

A petition or complaint for injunction against a domestic, foreign, or alien society, or lodge shall not be recognized in a court of this state unless made by the attorney general upon request of the commissioner.

90 Acts, ch 1148, §31

512B.31 Licensing of agents. Repealed by 2001 Acts, ch 16, §36, 37. See chapter 522B.

512B.32 Unfair methods of competition and unfair and deceptive acts and practices.

A society is subject to chapter 507B relating to unfair insurance trade practices. However, chapter 507B does not apply to or affect the right of a society to determine its eligibility requirements for membership, and does not apply to or affect the offering of benefits exclusively to members or persons eligible for membership in the society by a subsidiary corporation or affiliated organization of a society.

90 Acts, ch 1148, §33

SUBCHAPTER VII

MISCELLANEOUS

512B.33 Service of process.

1. A society authorized to do business in this state shall file in the office of the commissioner a power of attorney and an agreement in writing that service of process in any action or proceeding against the society may be served on the commissioner and shall be of the same legal force and validity as if served upon the society, and that the authority shall continue in force so long as any liability remains outstanding in this state. A copy of the power of attorney, certified by the commissioner, shall be deemed sufficient evidence of the appointment and shall be admitted in evidence with the same force and effect as the original.

2. Service of process made on the commissioner as the agent for service of process shall be made as provided in section 505.30. A society shall not be required to file its answer, pleading, or defense in less than thirty days from the date the commissioner sends a copy of the service of process to the society by certified mail as provided in section 505.30. Legal process shall not be made upon a society except in the manner provided in this section.

90 Acts, ch 1148, §34; 2003 Acts, ch 91, §23; 2018 Acts, ch 1018, §6

Referred to in §512B.27

512B.34 Review.

All decisions and findings of the commissioner made under this chapter are subject to review pursuant to chapter 17A.

90 Acts, ch 1148, §35

512B.35 False or fraudulent statements.

1. It shall be unlawful for a person knowingly to make a false or fraudulent statement or representation in or relating to an application for membership or for the purpose of obtaining money from or a benefit in a society.

2. It shall be unlawful for a person to willfully make a false or fraudulent statement in a verified report or declaration under oath required or authorized by this chapter, or of a material fact or thing contained in a sworn statement concerning the death or disability of an insured for the purpose of procuring payment of a benefit named in the certificate.

3. It shall be unlawful for a person to solicit membership for, or in any manner to assist in procuring membership in, a society not licensed to do business in this state.

90 Acts, ch 1148, §36; 2004 Acts, ch 1110, §34

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512B.36 Exemption of certain societies.

1. This chapter does not affect or apply to any of the following:

a. Grand or subordinate lodges of societies, orders, or associations now doing business in this state which provide benefits exclusively through local or subordinate lodges.

b. Orders, societies, or associations which admit to membership only persons engaged in one or more crafts or hazardous occupations, in the same or similar lines of business, insuring only their own members and their families, and the spouses' societies or spouses' auxiliaries to such orders, societies, or associations.

c. Domestic societies which limit their membership to employees of a particular city or town, designated firm, business house, or corporation which provide for a death benefit of not more than four hundred dollars or disability benefits of not more than three hundred fifty dollars to any person in any one year, or both.

d. Domestic societies or associations of a purely religious, charitable, or benevolent description, which provide for a death benefit of not more than four hundred dollars or for disability benefits of not more than three hundred fifty dollars to any one person in any one year, or both.

2. A society or association described in subsection 1, paragraph *"a"* or *"d"*, which provides for death or disability benefits for which benefit certificates are issued, and any such society or association included in paragraph *"d"* which has more than one thousand members, is not exempt from this chapter but shall comply with all requirements of this chapter.

3. A society which is exempt from the requirements of this chapter, except a society described in subsection 1, paragraph *"b"*, shall not give or allow, or promise to give or allow to any person any compensation for procuring new members.

4. A society which provides for benefits in case of death or disability resulting solely from accident, and which does not obligate itself to pay natural death or sick benefits, has all of the privileges and is subject to all the applicable provisions of this chapter and rules adopted by the commission pursuant to this chapter except that the provisions relating to medical examination, valuations of benefit certificates, and incontestability, do not apply to such a society.

5. The commissioner may require from a society, by examination or otherwise, information that will enable the commissioner to determine whether the society is exempt from this chapter.

6. A society exempt under this section, is also exempt from all other provisions of the general insurance laws of this state.

90 Acts, ch 1148, §37
Referred to in §512B.3

CHAPTER 513

EMPLOYEES MUTUAL INSURANCE

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

513.1 Exemption. 513.2 Power of commissioner.

513.1 Exemption.

Unless specific reference is made thereto, no provision of this subtitle shall include or apply to domestic societies which limit their membership to the employees of:

1. A particular city or
2. A designated firm, business house, or corporation.

[C24, 27, 31, 35, 39, §**8894;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §513.1]

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513.2 Power of commissioner.

The commissioner of insurance may require from any society such information as will enable the commissioner to determine whether such society is exempt from the provisions of the laws relating to insurance or to fraternal benefit societies.

[C24, 27, 31, 35, 39, §**8895;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §513.2]

CHAPTER 513A

THIRD-PARTY PAYORS OF HEALTH CARE BENEFITS

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 508.15A, 515.144, 669.14, 670.7

513A.1	Purpose.	513A.6	Production agency or administrator — disclosure.
513A.2	Authority and jurisdiction of commissioner.	513A.7	Unfair competition or unfair and deceptive acts or practices prohibited.
513A.3	How to show jurisdiction.		
513A.4	Examination.		
513A.5	Subject to state laws.	513A.8	Repealed by 97 Acts, ch 67, §3, 4.

513A.1 Purpose.

The purpose of this chapter is to give the commissioner jurisdiction over third-party payors of health care benefits, to indicate how a third-party payor of health care benefits may show the jurisdiction to which the third-party payor is subject, to allow for examinations by the commissioner if the third-party payor of health care benefits is unable to establish that a third-party payor is subject to another jurisdiction, to make a third-party payor of health care benefits subject to the laws of this state if the third-party payor cannot show that it is subject to another jurisdiction, and to disclose to purchasers of such health care benefits whether or not the plans are fully insured.

91 Acts, ch 213, §11

513A.2 Authority and jurisdiction of commissioner.

Except as provided in this chapter, a third-party payor providing coverage in this state for medical, surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric expenses, whether the coverage is by direct payment, reimbursement, or otherwise, is presumed to be subject to the jurisdiction of the commissioner of insurance, unless the person shows that while providing such services the person is subject to the jurisdiction of another agency of the state or the federal government.

91 Acts, ch 213, §12

Referred to in §513A.6

513A.3 How to show jurisdiction.

A third-party payor may establish that the third-party payor is subject to the jurisdiction of another agency of the state, any subdivision of the state, or the federal government, by providing to the insurance commissioner the appropriate certificate, license, or other document issued by the agency which permits or qualifies the third-party payor to provide those services.

91 Acts, ch 213, §13

Referred to in §513A.4

513A.4 Examination.

A third-party payor unable to establish under section 513A.3 that the third-party payor is subject to the jurisdiction of another agency of the state, any subdivision of the state, or the federal government, shall submit to an examination by the insurance commissioner to determine the organization and solvency of the third-party payor or the entity, and to

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determine whether or not the third-party payor complies with the applicable provisions of state law.

91 Acts, ch 213, §14
Referred to in §513A.6

513A.5 Subject to state laws.

A third-party payor unable to establish that the third-party payor is subject to the jurisdiction of another agency of the state, any subdivision of the state, or the federal government, is subject to all appropriate provisions of Title XIII, subtitle 1, regarding the conduct of the business of the third-party payor including, but not limited to, filing with and approval by the commissioner of the form of the health benefit policy, contract, or certificate.

91 Acts, ch 213, §15; 92 Acts, ch 1162, §19

513A.6 Production agency or administrator — disclosure.

1. A production agency or administrator which advertises, sells, transacts, or administers the coverage in this state as defined in section 513A.2 and which is required to submit to an examination by the insurance commissioner under section 513A.4, shall, if the coverage is not fully insured or otherwise fully covered by an admitted life or disability insurer, nonprofit hospital service plan, or nonprofit health care plan, advise every purchaser, prospective purchaser, and covered person of the lack of insurance or other coverage.

2. An administrator which advertises or administers the coverage in this state as defined in section 513A.2 and which is required to submit to an examination by the insurance commissioner under section 513A.4, shall advise any production agency of the elements of the coverage, including the amount of stop-loss insurance in effect.

91 Acts, ch 213, §16; 2021 Acts, ch 76, §150

513A.7 Unfair competition or unfair and deceptive acts or practices prohibited.

A third-party payor of health care benefits is subject to chapter 507B relating to unfair insurance trade practices.

93 Acts, ch 88, §15

513A.8 Repealed by 97 Acts, ch 67, §3, 4.

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CHAPTER 513B

SMALL GROUP HEALTH COVERAGE

Referred to in §87.4, 296.7, 331.301, 364.4, 505.8, 505.28, 505.29, 507A.4, 509.19, 513C.11, 514I.3, 514K.2, 669.14, 670.7

SUBCHAPTER I

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SUBCHAPTER II

BASIC BENEFIT COVERAGE

513B.31 through 513B.43 Repealed by 2001 Acts, ch 69, §38, 39.

SUBCHAPTER I

RATING PRACTICES — AVAILABILITY

513B.1 Title — purpose.

1. This subchapter shall be known and may be cited as the *"Model Small Group Rating Law"*.

2. The intent of this subchapter is to promote the availability of health insurance coverage to small employers, to prevent abusive rating practices, to require disclosure of rating practices to purchasers, to establish rules for continuity of coverage for employers and covered individuals, and to improve the efficiency and fairness of the small group health insurance marketplace.

91 Acts, ch 244, §1; 93 Acts, ch 80, §1

513B.2 Definitions.

As used in this subchapter, unless the context otherwise requires:

1. *"Actuarial certification"* means a written statement by a member of the American academy of actuaries or other individual acceptable to the commissioner that a small employer carrier is in compliance with the provisions of section 513B.4, based upon the person's examination, including a review of the appropriate records and of the actuarial assumptions and methods utilized by the small employer carrier in establishing premium rates for applicable health insurance coverages.

2. *"Base premium rate"* means, for each class of business as to a rating period, the lowest premium rate charged or which could have been charged under a rating system for that class of business, by the small employer carrier to small employers for health insurance plans with the same or similar coverage.

3. *"Basic health benefit plan"* means a plan established by the board of the small employer health reinsurance program pursuant to section 513B.13, subsection 8, paragraph *"a"*.

4. *"Carrier"* means an entity subject to the insurance laws and regulations of this state, or subject to the jurisdiction of the commissioner, that contracts or offers to contract to

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provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including an insurance company offering sickness and accident plans, a health maintenance organization, a nonprofit health service corporation, or any other entity providing a plan of health insurance, health benefits, or health services.

5. *"Case characteristics"* means demographic or other relevant characteristics of a small employer, as determined by a small employer carrier, which are considered by the insurer in the determination of premium rates for the small employer. Claim experience, health status, and duration of coverage since issue are not case characteristics for the purpose of this subchapter.

6. *"Class of business"* means all or a distinct grouping of small employers as shown on the records of the small employer carrier.

a. A distinct grouping may only be established by the small employer carrier on the basis that the applicable health insurance coverages meet one or more of the following requirements:

(1) The coverages are marketed and sold through individuals and organizations which are not participating in the marketing or sales of other distinct groupings of small employers for the small employer carrier.

(2) The coverages have been acquired from another small employer carrier as a distinct grouping of plans.

(3) The coverages are provided by a policy of group health insurance coverage through a bona fide association as provided in section 509.1, subsection 8, which meets the requirements for a class of business under section 513B.4. A small employer carrier may condition coverages under such a policy of group health insurance coverage on any of the following requirements:

(a) Minimum levels of participation by employees of each member of a bona fide association that offers the coverage to its employees.

(b) Minimum levels of contribution by each member of a bona fide association that offers the coverage to its employees.

(c) A specified policy term, subject to annual premium rate adjustments as permitted by section 513B.4.

(4) The coverages are provided by a policy of group health insurance coverage through two or more bona fide associations as provided in section 509.1, subsection 8, which a small employer carrier has aggregated as a distinct grouping that meets the requirements for a class of business under section 513B.4. After a distinct grouping of bona fide associations is established as a class of business, the small employer carrier shall not remove a bona fide association from the class based on the claims experience of that association. A small employer carrier may condition coverages under such a policy of group health insurance coverage on any of the following requirements:

(a) Minimum levels of participation by employees of each member of a bona fide association in the class that offers the coverage to its employees.

(b) Minimum levels of contribution by each member of a bona fide association in the class that offers the coverage to its employees.

(c) A specified policy term, subject to annual premium rate adjustments as permitted by section 513B.4.

b. A small employer carrier may establish additional groupings under each of the subparagraphs in paragraph *"a"* on the basis of underwriting criteria which are expected to produce substantial variation in the health care costs.

c. The commissioner may approve the establishment of additional distinct groupings upon application to the commissioner and a finding by the commissioner that such action would enhance the efficiency and fairness of the small employer insurance marketplace.

7. *"Commissioner"* means the commissioner of insurance.

8. *"Creditable coverage"* means health benefits or coverage provided to an individual under any of the following:

a. A group health plan.

b. Health insurance coverage.

c. Part A or Part B Medicare pursuant to Tit. XVIII of the federal Social Security Act.

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d. Medicaid pursuant to Tit. XIX of the federal Social Security Act, other than coverage consisting solely of benefits under section 1928 of that Act.

e. 10 U.S.C. ch. 55.

f. A health or medical care program provided through the Indian health service or a tribal organization.

g. A state health benefits risk pool.

h. A health plan offered under 5 U.S.C. ch. 89.

i. A public health plan as defined under federal regulations.

j. A health benefit plan under section 5(e) of the federal Peace Corps Act, 22 U.S.C. §2504(e).

k. A short-term limited duration policy.

l. The Hawki program authorized by chapter 514I.

9. *"Division"* means the division of insurance.

10. *"Eligible employee"* means an employee who works on a full-time basis and has a normal workweek of thirty or more hours. The term includes a sole proprietor, a partner of a partnership, and an independent contractor, if the sole proprietor, partner, or independent contractor is included as an employee under health insurance coverage of a small employer, but does not include an employee who works on a part-time, temporary, or substitute basis.

11. *a. "Group health plan"* means an employee welfare benefit plan as defined in section 3(1) of the federal Employee Retirement Income Security Act of 1974, to the extent that the plan provides medical care including items and services paid for as medical care to employees or their dependents as defined under the terms of the plan directly or through insurance, reimbursement, or otherwise.

b. For purposes of this subsection, *"medical care"* means amounts paid for any of the following:

(1) The diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for the purpose of affecting a structure or function of the body.

(2) Transportation primarily for and essential to medical care referred to in subparagraph (1).

(3) Insurance covering medical care referred to in subparagraph (1) or (2).

c. For purposes of this subsection, a partnership which establishes and maintains a plan, fund, or program to provide medical care to present or former partners in the partnership or to their dependents directly or through insurance, reimbursement, or other method, which would not be an employee benefit welfare plan but for this paragraph, shall be treated as an employee benefit welfare plan which is a group health plan.

(1) For purposes of a group health plan, an employer includes the partnership in relation to any partner.

(2) For purposes of a group health plan, the term *"participant"* also includes both of the following:

(a) An individual who is a partner in relation to a partnership which maintains a group health plan.

(b) An individual who is a self-employed individual in connection with a group health plan maintained by the self-employed individual where one or more employees are participants, if the individual is or may become eligible to receive a benefit under the plan or the individual's beneficiaries may be eligible to receive a benefit.

12. *a. "Health insurance coverage"* means benefits consisting of health care provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as health care under a hospital or health service policy or certificate, hospital or health service plan contract, or health maintenance organization contract offered by a carrier.

b. "Health insurance coverage" does not include any of the following:

(1) Coverage for accident-only, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Liability insurance, including general liability insurance and automobile liability insurance.

(4) Workers' compensation or similar insurance.

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(5) Automobile medical-payment insurance.
(6) Credit-only insurance.
(7) Coverage for on-site medical clinic care.
(8) Other similar insurance coverage, specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance coverage or benefits.

c. "Health insurance coverage" does not include benefits provided under a separate policy as follows:
(1) Limited scope dental or vision benefits.
(2) Benefits for long-term care, nursing home care, home health care, or community-based care.
(3) Any other similar limited benefits as provided by rule of the commissioner.

d. "Health insurance coverage" does not include benefits offered as independent noncoordinated benefits as follows:
(1) Coverage only for a specified disease or illness.
(2) A hospital indemnity or other fixed indemnity insurance.

e. "Health insurance coverage" does not include Medicare supplemental health insurance as defined under section 1882(g)(1) of the federal Social Security Act, coverage supplemental to the coverage provided under 10 U.S.C. ch. 55, and similar supplemental coverage provided to coverage under group health insurance coverage.

f. "Group health insurance coverage" means health insurance coverage offered in connection with a group health plan.

13. *"Index rate"* means, for each class of business for small employers, the average of the applicable base premium rate and the corresponding highest premium rate.

14. *"Late enrollee"* means an eligible employee or dependent who requests enrollment in a health benefit plan of a small employer following the initial enrollment period for which such individual is entitled to enroll under the terms of the health benefit plan, provided the initial enrollment period is a period of at least thirty days. An eligible employee or dependent shall not be considered a late enrollee if any of the following apply:

a. The individual meets all of the following:
(1) The individual was covered under creditable coverage at the time of the initial enrollment.
(2) The individual lost creditable coverage as a result of termination of the individual's employment or eligibility, the involuntary termination of the creditable coverage, death of the individual's spouse, or the individual's divorce.
(3) The individual requests enrollment within thirty days after termination of the creditable coverage.

b. The individual is employed by an employer that offers multiple health insurance coverages and the individual elects a different coverage during an open enrollment period.

c. A court has ordered that coverage be provided for a spouse or minor or dependent child under a covered employee's health insurance coverage and the request for enrollment is made within thirty days after issuance of the court order.

d. The individual changes status and becomes an eligible employee and requests enrollment within sixty-three days after the date of the change in status.

e. The individual was covered under a mandated continuation of group health plan or group health insurance coverage plan until the coverage under that plan was exhausted.

15. *"New business premium rate"* means, for each class of business as to a rating period, the lowest premium rate charged or offered by the small employer carrier to small employers for newly issued health insurance coverages with the same or similar coverage.

16. *"Preexisting conditions exclusion"* means, with respect to health insurance coverage, a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for such coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before such date.

17. *"Rating period"* means the calendar period for which premium rates established by a small employer carrier are assumed to be in effect, as determined by the small employer carrier.

18. *"Small employer"* means a person actively engaged in business who, on at least fifty

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percent of the employer's working days during the preceding year, employed at least one and not more than fifty full-time equivalent eligible employees. In determining the number of eligible employees, companies which are affiliated companies or which are eligible to file a combined tax return for purposes of state taxation are considered one employer.

19. *"Small employer carrier"* means any carrier which offers health benefit plans covering the employees of a small employer.

20. *"Standard health benefit plan"* means a plan established by the board of the small employer health reinsurance program pursuant to section 513B.13, subsection 8, paragraph *"a"*.

91 Acts, ch 244, §2; 92 Acts, ch 1167, §1; 93 Acts, ch 80, §2, 3; 94 Acts, ch 1176, §9; 95 Acts, ch 185, §9; 97 Acts, ch 103, §2 – 11; 98 Acts, ch 1057, §8; 2000 Acts, ch 1023, §20; 2001 Acts, ch 69, §13, 39; 2007 Acts, ch 57, §3 – 5, 8; 2007 Acts, ch 215, §255; 2009 Acts, ch 118, §20; 2011 Acts, ch 70, §26, 49; 2017 Acts, ch 148, §37; 2023 Acts, ch 19, §1189

Referred to in §135H.3, 509.1, 509.3, 509A.13B, 510D.1, 514A.3B, 514B.9A, 514C.14, 514C.15, 514C.16, 514C.17, 514C.22, 514C.27, 514C.31, 514F.5, 729.6

513B.3 Applicability and scope.

This subchapter applies to a health benefit plan providing coverage to the employees of a small employer in this state if any of the following apply:

1. Any portion of the premium or benefits is paid by or on behalf of the small employer.

2. An eligible employee or dependent is reimbursed in any manner by or on behalf of the small employer for any portion of the premium or benefits.

3. The health insurance coverage is treated by the employer or any of the eligible employees or dependents as part of a coverage or program for the purposes of section 106, 125, or 162 of the Internal Revenue Code as defined in section 422.3.

4. *a.* Except as provided in paragraph *"b"*, for purposes of this subchapter, carriers that are affiliated companies or that are eligible to file a consolidated tax return shall be treated as one carrier and any restrictions or limitations imposed by this subchapter shall apply as if all health insurance coverages delivered or issued for delivery to small employers in this state by such carriers were issued by one carrier.

b. An affiliated carrier which is a health maintenance organization possessing a certificate of authority issued pursuant to chapter 514B shall be considered to be a separate carrier for the purposes of this subchapter.

c. Unless otherwise authorized by the commissioner, a small employer carrier shall not enter into one or more ceding arrangements with respect to health insurance coverages delivered or issued for delivery to small employers in this state if the arrangements would result in less than fifty percent of the insurance obligation or risk for such health insurance coverages being retained by the ceding carrier.

91 Acts, ch 244, §3; 92 Acts, ch 1167, §2; 97 Acts, ch 103, §12, 13

513B.4 Restrictions relating to the premium rates.

1. Premium rates for health benefit plans subject to this subchapter are subject to the following requirements:

a. The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business by more than twenty percent.

b. For a class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage, or the rates which could be charged to such employers under the rating system for that class of business, shall not vary from the index rate by more than twenty-five percent of the index rate.

c. The percentage increase in the premium rate charged to a small employer for a new rating period shall not exceed the sum of the following:

(1) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the small employer carrier is not issuing new policies, the small employer carrier shall use the percentage change in the base premium rate, provided that the change does not exceed, on a percentage basis, the change in the new business premium rate for

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the most similar health insurance coverage into which the small employer carrier is actively enrolling new insureds who are small employers.

(2) An adjustment, not to exceed fifteen percent annually and adjusted pro rata for rating periods of less than one year, due to the claim experience, health status, or duration of coverage of the employees or dependents of the small employer as determined from the small employer carrier's rate manual for the class of business.

(3) Any adjustment due to change in coverage or change in the case characteristics of the small employer as determined from the small employer carrier's rate manual for the class of business.

d. Any adjustment in rates for claims experience, health status, and duration of coverage shall not be charged to individual employees or dependents. Any such adjustment shall be applied uniformly to the rates charged for all employees and dependents of the small employer.

2. *a.* This section does not affect the use by a small employer carrier of legitimate rating factors other than claim experience, health status, or duration of coverage in the determination of premium rates. Small employer carriers shall apply rating factors, including case characteristics, consistently with respect to all small employers in a class of business.

b. Case characteristics other than age, geographic area, family composition, and group size shall not be used by a small employer carrier without the prior approval of the commissioner.

c. Rating factors shall produce premiums for identical groups which differ only by amounts attributable to coverage design and do not reflect differences due to the nature of the groups assumed to select particular health benefit plans. A small employer carrier shall treat all health insurance coverages issued or renewed in the same calendar month as having the same rating period.

3. For purposes of this section, a health insurance coverage that contains a restricted network provision shall not be considered similar coverage to a health insurance coverage that does not contain such a provision, if the restriction of benefits to network providers results in substantial differences in claims costs.

4. A small employer shall not be involuntarily transferred by a small employer carrier into or out of a class of business. A small employer carrier shall not offer to transfer a small employer into or out of a class of business unless the offer is made to transfer all small employers in the class of business without regard to case characteristics, claim experience, health status, or duration since issue.

5. Notwithstanding subsection 1, the commissioner, with the concurrence of the board of the Iowa small employer health reinsurance program established in section 513B.13, may by order reduce or eliminate the allowed rating bands provided under subsection 1, paragraphs "*a*", "*b*", and "*c*", or otherwise limit or eliminate the use of experience rating.

6. Notwithstanding subsection 4, a small employer carrier may offer to transfer a small employer into a different class of business with a lower index rate based upon claims experience, implementation of managed care or wellness programs, or health status improvement of the small employer since issue.

91 Acts, ch 244, §4; 92 Acts, ch 1167, §3 – 7; 93 Acts, ch 80, §4; 94 Acts, ch 1176, §10 – 12; 97 Acts, ch 103, §14 – 17; 2001 Acts, ch 69, §14, 15, 39; 2002 Acts, ch 1111, §13; 2007 Acts, ch 57, §6, 8; 2012 Acts, ch 1023, §157

Referred to in §513B.2, 513B.4A, 513B.13, 513B.17

513B.4A Exemption from premium rate restrictions.

A Taft-Hartley trust or a carrier with the written authorization of such a trust may make a written request to the commissioner for an exemption from the application of any provisions of section 513B.4 with respect to health insurance coverage provided to such a trust. The commissioner may grant an exemption if the commissioner finds that application of section 513B.4 with respect to the trust would have a substantial adverse effect on the participants and beneficiaries of such trust, and would require significant modifications to one or more collective bargaining arrangements under which the trust is established or maintained.

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An exemption granted under this section shall not apply to an individual if the individual participates in a trust as an associate member of an employee organization.

93 Acts, ch 80, §5; 97 Acts, ch 103, §18

513B.4B Small employer incentives — suspension or modification of premium rate restrictions.

1. In order to encourage voluntary participation in wellness or disease management programs, a small employer carrier may offer premium credits or discounts to a small employer for the benefit of eligible employees of that small employer who participate in such a program. An employee shall not be penalized in any way for not participating in such a program.

2. The commissioner shall adopt, by rule or order, provisions allowing suspension or modification of premium rate restrictions to enable a small employer carrier to provide premium credits or discounts to a small employer based on measurable reductions in costs of that small employer, including but not limited to tobacco use cessation, participation in established wellness or disease management programs, and economies of acquisition or administration.

2007 Acts, ch 57, §7, 8

513B.5 Provisions on renewability of coverage.

1. Health insurance coverage subject to this chapter is renewable with respect to all eligible employees or their dependents, at the option of the small employer, except for one or more of the following reasons:

a. The health insurance coverage sponsor fails to pay, or to make timely payment of, premiums or contributions pursuant to the terms of the health insurance coverage.

b. The health insurance coverage sponsor performs an act or practice constituting fraud or makes an intentional misrepresentation of a material fact under the terms of the coverage.

c. Noncompliance with the carrier's minimum participation requirements.

d. Noncompliance with the carrier's employer contribution requirements.

e. A decision by the carrier to discontinue offering a particular type of health insurance coverage in the state's small employer market. Health insurance coverage may be discontinued by the carrier in that market only if the carrier does all of the following:

(1) Provides advance notice of its decision to discontinue such plan to the commissioner. Notice to the commissioner, at a minimum, shall be no less than three days prior to the notice provided for in subparagraph (2) to affected small employers, participants, and beneficiaries.

(2) Provides notice of its decision not to renew such plan to all affected small employers, participants, and beneficiaries no less than ninety days prior to the nonrenewal of the plan.

(3) Offers to each plan sponsor of the discontinued coverage, the option to purchase any other coverage currently offered by the carrier to other employers in this state.

(4) Acts uniformly, in opting to discontinue the coverage and in offering the option under subparagraph (3), without regard to the claims experience of the sponsors under the discontinued coverage or to a health status-related factor relating to any participants or beneficiaries covered or new participants or beneficiaries who may become eligible for the coverage.

f. A decision by the carrier to discontinue offering and to cease to renew all of its health insurance coverage delivered or issued for delivery to small employers in this state. A carrier making such decision shall do all of the following:

(1) Provide advance notice of its decision to discontinue such coverage to the commissioner. Notice to the commissioner, at a minimum, shall be no less than three days prior to the notice provided for in subparagraph (2) to affected small employers, participants, and beneficiaries.

(2) Provide notice of its decision not to renew such coverage to all affected small employers, participants, and beneficiaries no less than one hundred eighty days prior to the nonrenewal of the coverage.

(3) Discontinue all health insurance coverage issued or delivered for issuance to small employers in this state and cease renewal of such coverage.

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g. The membership of an employer in an association, which is the basis for the coverage which is provided through such association, ceases, but only if the termination of coverage under this paragraph occurs uniformly without regard to any health status-related factor relating to any covered individual.

h. The commissioner finds that the continuation of the coverage is not in the best interests of the policyholders or certificate holders, or would impair the carrier's ability to meet its contractual obligations.

i. At the time of coverage renewal, a carrier may modify the health insurance coverage for a product offered under group health insurance coverage in the small group market, for coverage that is available in such market other than only through one or more bona fide associations, if such modification is consistent with the laws of this state, and is effective on a uniform basis among group health insurance coverage with that product.

2. A carrier that elects not to renew health insurance coverage under subsection 1, paragraph *"f"*, shall not write any new business in the small employer market in this state for a period of five years after the date of notice to the commissioner.

3. This section, with respect to a carrier doing business in one established geographic service area of the state, applies only to such carrier's operations in that service area.

91 Acts, ch 244, §5; 92 Acts, ch 1167, §8, 9; 93 Acts, ch 80, §6; 97 Acts, ch 103, §19; 2017 Acts, ch 148, §38

Referred to in §513B.10

513B.6 Disclosure of rating practices and renewability provisions.

A small employer carrier shall make reasonable disclosure in solicitation and sales materials provided to small employers of all of the following:

1. The extent to which premium rates for a specific small employer are established or adjusted due to the claim experience, health status, or duration of coverage of the employees or dependents of the small employer.

2. The provisions concerning the small employer carrier's right to change premium rates and factors, including case characteristics, which affect changes in premium rates.

3. The provisions relating to any preexisting condition provision.

4. The provisions relating to renewability of coverage.

91 Acts, ch 244, §6; 92 Acts, ch 1167, §10; 97 Acts, ch 103, §20, 21; 2017 Acts, ch 148, §39, 40

513B.7 Maintenance of records.

1. A small employer carrier shall maintain at its principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation which demonstrate that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.

2. A small employer carrier shall file each March 1 with the commissioner an actuarial certification that the small employer carrier is in compliance with this section and that the rating methods of the small employer carrier are actuarially sound. A copy of the certification shall be retained by the small employer carrier at its principal place of business.

3. A small employer carrier shall make the information and documentation described in subsection 1 available to the commissioner upon request. The information is not a public record or otherwise subject to disclosure under chapter 22, and is considered proprietary and trade secret information and is not subject to disclosure by the commissioner to persons outside of the division except as agreed to by the small employer carrier or as ordered by a court of competent jurisdiction.

91 Acts, ch 244, §7; 97 Acts, ch 103, §22; 98 Acts, ch 1100, §68; 2017 Acts, ch 148, §41

513B.8 and 513B.9 Reserved.

513B.9A Eligibility to enroll.

1. A carrier offering group health insurance coverage shall not establish rules for

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eligibility, including continued eligibility, of an individual to enroll under the terms of the coverage based on any of the following health status-related factors in relation to the individual or a dependent of the individual:

a. Health status.

b. Medical condition, including both physical and mental conditions.

c. Claims experience.

d. Receipt of health care.

e. Medical history.

f. Genetic information.

g. Evidence of insurability, including conditions arising out of acts of domestic violence.

h. Disability.

2. Subsection 1 does not require group health insurance coverage to provide particular benefits other than those provided under the terms of the coverage, and does not prevent a coverage from establishing limitations or restrictions on the amount, level, extent, or nature of the benefits or coverage for similarly situated individuals enrolled in the coverage.

3. Rules for eligibility to enroll under group health insurance coverage include rules defining any applicable waiting periods for such enrollment.

4. *a.* A carrier offering health insurance coverage shall not require an individual, as a condition of enrollment or continued enrollment under the coverage, to pay a premium or contribution which is greater than a premium or contribution for a similarly situated individual enrolled in the coverage on the basis of a health status-related factor in relation to the individual or to a dependent of an individual enrolled under the coverage.

b. Paragraph "*a*" shall not be construed to do either of the following:

(1) Restrict the amount that an employer may be charged for health insurance coverage.

(2) Prevent a carrier offering group health insurance coverage from establishing premium discounts or rebates or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

97 Acts, ch 103, §23; 2017 Acts, ch 148, §42 - 44

513B.10 Availability of coverage.

1. *a.* A carrier that offers health insurance coverage in the small group market shall accept every small employer that applies for health insurance coverage and shall accept for enrollment under such coverage every eligible individual who applies for enrollment during the period in which the individual first becomes eligible to enroll under the terms of the health insurance coverage and shall not place any restriction which is inconsistent with eligibility rules established under this chapter.

b. A carrier that offers health insurance coverage in the small group market through a network plan may do either of the following:

(1) Limit employers that may apply for such coverage to those with eligible individuals who live, work, or reside in the service area for such network plan.

(2) Deny such coverage to such employers within the service area of such plan if the carrier has demonstrated to the applicable state authority both of the following:

(a) The carrier will not have the capacity to deliver services adequately to enrollees of any additional groups because of its obligations to existing group contract holders and enrollees.

(b) The carrier is applying this subparagraph uniformly to all employers without regard to the claims experience of those employers and their employees and their dependents, or any health status-related factor relating to such employees or dependents.

c. A carrier, upon denying health insurance coverage in any service area pursuant to paragraph "*b*", subparagraph (2), shall not offer coverage in the small group market within such service area for a period of one hundred eighty days after the date such coverage is denied.

d. A carrier may deny health insurance coverage in the small group market if the issuer has demonstrated to the commissioner both of the following:

(1) The carrier does not have the financial reserves necessary to underwrite additional coverage.

(2) The carrier is applying the provisions of this paragraph uniformly to all employers in

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the small group market in this state consistent with state law and without regard to the claims experience of those employers and the employees and dependents of such employers, or any health status-related factor relating to such employees and their dependents.

e. A carrier, upon denying health insurance coverage pursuant to paragraph *"d"*, shall not offer coverage in connection with health insurance coverages in the small group market in this state for a period of one hundred eighty days after the date such coverage is denied or until the carrier has demonstrated to the commissioner that the carrier has sufficient financial reserves to underwrite additional coverage, whichever is later. The commissioner may provide for the application of this paragraph on a service area-specific basis.

f. Paragraph *"a"* shall not be construed to preclude a carrier from establishing employer contribution rules or group participation rules for the offering of health insurance coverage in the small group market.

2. A carrier, subject to subsection 1, shall issue health insurance coverage to an eligible small employer that applies for the coverage and agrees to make the required premium payments and satisfy the other reasonable provisions of the health insurance coverage not inconsistent with this chapter. A carrier is not required to issue health insurance coverage to a self-employed individual who is covered by, or is eligible for coverage under, health insurance coverage offered by an employer.

3. Health insurance coverage for small employers shall satisfy all of the following:

a. A carrier offering group health insurance coverage, with respect to a participant or beneficiary, may impose a preexisting condition exclusion only as follows:

(1) The exclusion relates to a condition, whether physical or mental, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the six-month period ending on the enrollment date. However, genetic information shall not be treated as a condition under this subparagraph in the absence of a diagnosis of the condition related to such information.

(2) The exclusion extends for a period of not more than twelve months, or eighteen months in the case of a late enrollee, after the enrollment date.

(3) The period of any such preexisting condition exclusion is reduced by the aggregate of the periods of creditable coverage applicable to the participant or beneficiary as of the enrollment date.

b. A carrier offering group health insurance coverage shall not impose any preexisting condition exclusion as follows:

(1) In the case of a child who is adopted or placed for adoption before attaining eighteen years of age and who, as of the last day of the thirty-day period beginning on the date of the adoption or placement for adoption, is covered under creditable coverage. This subparagraph shall not apply to coverage before the date of such adoption or placement for adoption.

(2) In the case of an individual who, as of the last day of the thirty-day period beginning with the date of birth, is covered under creditable coverage.

(3) Relating to pregnancy as a preexisting condition.

c. A carrier shall waive any waiting period applicable to a preexisting condition exclusion or limitation period with respect to particular services under health insurance coverage for the period of time an individual was covered by creditable coverage, provided that the creditable coverage was continuous to a date not more than sixty-three days prior to the effective date of the new coverage. Any period that an individual is in a waiting period for any coverage under group health insurance coverage, or is in an affiliation period, shall not be taken into account in determining the period of continuous coverage. A health maintenance organization that does not use preexisting condition limitations in any of its health insurance coverage may impose an affiliation period. For purposes of this section, *"affiliation period"* means a period of time not to exceed sixty days for new entrants and not to exceed ninety days for late enrollees during which no premium shall be collected and coverage issued is not effective, so long as the affiliation period is applied uniformly, without regard to any health status-related factors. This paragraph does not preclude application of a waiting period applicable to all new enrollees under the health insurance coverage, provided that any carrier-imposed waiting period is no longer than sixty days and is used in lieu of a preexisting condition exclusion.

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d. Health insurance coverage may exclude coverage for late enrollees for preexisting conditions for a period not to exceed eighteen months.

e. (1) Requirements used by a carrier in determining whether to provide coverage to a small employer shall be applied uniformly among all small employers applying for coverage or receiving coverage from the carrier.

(2) In applying minimum participation requirements with respect to a small employer, a carrier shall not consider employees or dependents who have other creditable coverage in determining whether the applicable percentage of participation is met.

(3) A carrier shall not increase any requirement for minimum employee participation or modify any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage.

f. (1) If a carrier offers coverage to a small employer, the carrier shall offer coverage to all eligible employees of the small employer and the employees' dependents. A carrier shall not offer coverage to only certain individuals or dependents in a small employer group or to only part of the group.

(2) Except as provided under paragraphs *"a"* and *"d"*, a carrier shall not modify health insurance coverage with respect to a small employer or any eligible employee or dependent through riders, endorsements, or other means, to restrict or exclude coverage or benefits for certain diseases, medical conditions, or services otherwise covered by the health insurance coverage.

g. A carrier offering coverage through a network plan shall not be required to offer coverage or accept applications pursuant to subsection 1 with respect to a small employer where any of the following applies:

(1) The small employer does not have eligible individuals who live, work, or reside in the service area for the network plan.

(2) The small employer does have eligible individuals who live, work, or reside in the service area for the network plan, but the carrier, if required, has demonstrated to the commissioner that it will not have the capacity to deliver services adequately to enrollees of any additional groups because of its obligations to existing group contract holders and enrollees and that it is applying the requirements of this lettered paragraph uniformly to all employers without regard to the claims experience of those employers and their employees and the employees' dependents, or any health status-related factor relating to such employees and dependents.

(3) A carrier, upon denying health insurance coverage in a service area pursuant to subparagraph (2), shall not offer coverage in the small employer market within such service area for a period of one hundred eighty days after the coverage is denied.

4. A carrier shall not be required to offer coverage to small employers pursuant to subsection 1 for any period of time where the commissioner determines that the acceptance of the offers by small employers in accordance with subsection 1 would place the carrier in a financially impaired condition.

5. A carrier shall not be required to provide coverage to small employers pursuant to subsection 1 if the carrier elects not to offer new coverage to small employers in this state. However, a carrier that elects not to offer new coverage to small employers under this subsection shall be allowed to maintain its existing policies in the state, subject to the requirements of section 513B.5.

6. A carrier that elects not to offer new coverage to small employers pursuant to subsection 5 shall provide notice to the commissioner and is prohibited from writing new business in the small employer market in this state for a period of five years from the date of notice to the commissioner.

92 Acts, ch 1167, §11; 93 Acts, ch 80, §7 – 9, 20; 97 Acts, ch 103, §24; 98 Acts, ch 1100, §69; 2001 Acts, ch 69, §16, 17, 39; 2017 Acts, ch 148, §45

Referred to in §513B.12

513B.11 Notice of intent to operate as a risk-assuming carrier or reinsuring carrier.

1. *a.* Upon the approval of a plan of operation by the commissioner under section 513B.13, subsection 4, a small employer carrier authorized to transact the business of insurance in this

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state shall notify the commissioner of the carrier's intention to operate as a risk-assuming carrier or a reinsuring carrier. The notification shall be made as deemed appropriate by the commissioner. A small employer carrier seeking to operate as a risk-assuming carrier shall make an application pursuant to section 513B.12.

b. The notification of the commissioner concerning the carrier's intention pursuant to paragraph *"a"* is binding for a five-year period from the date notification is given, except that the initial notification given by carriers after July 1, 1992, is binding for a two-year period. The commissioner may permit a carrier to modify the carrier's decision at any time for good cause.

c. The commissioner shall establish an application process for small employer carriers seeking to change their status pursuant to this subsection. If a small employer carrier has been acquired by another such carrier, the commissioner may waive or modify the time periods established in paragraph *"b"*.

2. A reinsuring carrier that applies and is approved to operate as a risk-assuming carrier shall not be permitted to continue to reinsure any health insurance coverage with the program. The carrier shall pay a prorated assessment based upon business issued as a reinsuring carrier for any portion of the year that the business was reinsured.

92 Acts, ch 1167, §12; 93 Acts, ch 80, §10; 97 Acts, ch 103, §25

513B.12 Application to become a risk-assuming carrier.

1. A small employer carrier may apply to become a risk-assuming carrier by filing an application with the commissioner in a form and manner prescribed by the commissioner.

2. In evaluating an application made pursuant to this section, the commissioner shall consider the following factors:

a. The carrier's financial condition.

b. The carrier's history of rating and underwriting small employer groups.

c. The carrier's commitment to market fairly to all small employers in the state or the carrier's established geographic service area, as applicable.

d. The carrier's experience with managing the risk of small employer groups.

3. The commissioner shall provide public notice of an application by a small employer carrier to be a risk-assuming carrier and shall provide at least a sixty-day period for public comment prior to making a decision on the application. If the application is not acted upon within ninety days of the receipt of the application by the commissioner, the carrier may request a hearing.

4. The commissioner may rescind the approval granted to a risk-assuming carrier under this section if the commissioner finds any of the following:

a. The carrier's financial condition will no longer support the assumption of risk from issuing coverage to small employers in compliance with section 513B.10 without the protection provided by the program.

b. The carrier has failed to market fairly to all small employers in the state or the carrier's established geographic service area, as applicable.

c. The carrier has failed to provide coverage to eligible small employers as required under section 513B.10.

5. A small employer carrier electing to be a risk-assuming carrier shall not be subject to the provisions of section 513B.13.

6. During the period of time that the operation of the small employer carrier reinsurance program is suspended pursuant to section 513B.13, subsection 14, a small employer carrier is not required to make an application to become a risk-assuming carrier pursuant to this section.

92 Acts, ch 1167, §13; 2005 Acts, ch 70, §8
Referred to in §513B.11

513B.13 Small employer carrier reinsurance program.

1. A nonprofit corporation is established to be known as the Iowa small employer health reinsurance program.

2. A reinsuring carrier is subject to this program.

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3. *a.* The program shall operate subject to the supervision and control of a board. Subject to the provisions of paragraph *"b"*, the board shall consist of nine members appointed by the commissioner, and the commissioner or the commissioner's designee, who shall serve as an ex officio member and as chairperson of the board.

b. In appointing the members of the board, the commissioner shall include representatives of small employers and small employer carriers and such other individuals as determined to be qualified by the commissioner. At least five of the members of the board shall be representatives of carriers and shall be selected from individuals nominated by small employer carriers in this state pursuant to procedures and guidelines provided by rule of the commissioner.

c. Members shall be appointed for terms of three years. A board member's term shall continue until the member's successor is appointed.

d. A vacancy in the board shall be filled by the commissioner for the remainder of the term. A member of the board may be removed by the commissioner for cause.

e. During the period of time that the program is suspended pursuant to subsection 14, the size of the board may be reduced with the approval of the commissioner.

4. The board may submit a plan of operation to the commissioner. The commissioner, after notice and hearing, may approve a plan of operation if the commissioner determines that the plan is suitable to assure the fair, reasonable, and equitable administration of the program, and provides for the sharing of program gains and losses on an equitable and proportionate basis in accordance with the provisions of this section. A plan of operation is effective upon written approval of the commissioner.

5. The board may submit to the commissioner any amendments to the plan necessary or suitable to assure the fair, reasonable, and equitable administration of the program. The amendments shall be effective upon the written approval of the commissioner.

6. The plan of operation shall do all of the following:

a. Establish procedures for the handling and accounting of program assets and moneys, and for an annual fiscal reporting to the commissioner.

b. Establish procedures for selecting an administering carrier and setting forth the powers and duties of the administering carrier.

c. Establish procedures for reinsuring risks in accordance with the provisions of this section.

d. Establish procedures for collecting assessments from reinsuring carriers to fund claims and administrative expenses incurred or estimated to be incurred by the program.

e. Establish a methodology for applying the dollar thresholds contained in this section for carriers that pay or reimburse health care providers through capitation or a salary.

f. Provide for any additional matters necessary to implement and administer the program.

7. The same general powers and authority granted under the laws of this state to insurance companies and health maintenance organizations licensed to transact business in this state may be exercised by the board under the program, except the power to issue health insurance coverages directly to either groups or individuals. Additionally, the board is granted the specific authority to do all or any of the following:

a. Enter into contracts as necessary or proper to administer the provisions and purposes of this subchapter, including the authority, with the approval of the commissioner, to enter into contracts with similar programs in other states for the joint performance of common functions or with persons or other organizations for the performance of administrative functions.

b. Sue or be sued, including taking any legal action necessary or proper to recover any assessments and penalties for, on behalf of, or against the program or any reinsuring carriers.

c. Take any legal action necessary to avoid the payment of improper claims made against the program.

d. Define the health insurance coverages for which reinsurance will be provided, and issue reinsurance policies, pursuant to this subchapter.

e. Establish rules, conditions, and procedures for reinsuring risks under the program.

f. Establish and implement actuarial functions as appropriate for the operation of the program.

g. Assess reinsuring carriers in accordance with the provisions of subsection 11, and make

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advance interim assessments as may be reasonable and necessary for organizational and interim operating expenses. Any interim assessments shall be credited as offsets against any regular assessments due following the close of the calendar year.

h. Appoint appropriate legal, actuarial, and other committees as necessary to provide technical assistance in the operation of the program, policy and other contract design, and any other function within the authority of the program.

i. Borrow money to effect the purposes of the program. Any notes or other evidence of indebtedness of the program not in default are legal investments for carriers and may be carried as admitted assets.

8. A reinsuring carrier may reinsure with the program as provided in this section.

a. The program shall reinsure up to the level of coverage provided in either a basic health benefit plan or standard health benefit plan established by the board.

b. A small employer carrier may reinsure an entire employer group within sixty days of the commencement of the group's coverage under health insurance coverage.

c. A reinsuring carrier may reinsure an eligible employee or dependent within a period of sixty days following the commencement of the coverage with the small employer. A newly eligible employee or dependent of a reinsured small employer may be reinsured within sixty days of the commencement of such person's coverage.

d. (1) The program shall not reimburse a reinsuring carrier with respect to the claims of a reinsured employee or dependent until the small employer carrier has incurred an initial level of claims for such employee or dependent of five thousand dollars in a calendar year for benefits covered by the program. In addition, the reinsuring carrier is responsible for ten percent of the next fifty thousand dollars of incurred claims during a calendar year and the program shall reinsure the remainder. A reinsuring carrier's liability under this subparagraph shall not exceed a maximum limit of ten thousand dollars in any one calendar year with respect to any reinsured individual.

(2) The board annually shall adjust the initial level of claims and the maximum limit to be retained by the small employer carrier to reflect increases in costs and utilization within the standard market for health benefit plans within the state. The adjustment shall not be less than the annual change in the medical component of the "consumer price index for all urban consumers" of the United States department of labor, bureau of labor statistics, unless the board proposes and the commissioner approves a lower adjustment factor.

e. A small employer carrier may terminate reinsurance for one or more of the reinsured employees or dependents of a small employer on any plan anniversary date.

f. Premium rates charged for reinsurance by the program to a health maintenance organization that is federally qualified under 42 U.S.C. §300e(c)(2)(A), and is thereby subject to requirements that limit the amount of risk that may be ceded to the program that are more restrictive than those specified in paragraph *"d"*, shall be reduced to reflect that portion of the risk above the amount set forth in paragraph *"d"* that may not be ceded to the program, if any.

9. *a.* The board, as part of the plan of operation, shall establish a methodology for determining premium rates to be charged by the program for reinsuring small employers and individuals pursuant to this section. The methodology shall include a system for classification of small employers that reflects the types of case characteristics commonly used by small employer carriers in the state. The methodology shall provide for the development of base reinsurance premium rates, which shall be multiplied by the factors set forth in paragraph *"b"* to determine the premium rates for the program. The base reinsurance premium rates shall be established by the board, subject to the approval of the commissioner, and shall be set at levels which reasonably approximate gross premiums charged to small employers by small employer carriers for health insurance coverages with benefits similar to the standard health benefit plan.

b. Premiums for the program shall be as follows:

(1) An entire small employer group may be reinsured for a rate that is one and one-half times the base reinsurance premium rate for the group established pursuant to this subsection.

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(2) An eligible employee or dependent may be reinsured for a rate that is five times the base reinsurance premium rate for the individual established pursuant to this subsection.

c. The board periodically shall review the methodology established under paragraph "*a*", including the system of classification and any rating factors, to assure that it reasonably reflects the claims experience of the program. The board may propose changes to the methodology which shall be subject to the approval of the commissioner.

10. If health insurance coverage for a small employer is entirely or partially reinsured with the program, the premium charged to the small employer for any rating period for the coverage issued shall meet the requirements relating to premium rates set forth in section 513B.4.

11. *a.* Prior to March 1 of each year, the board shall determine and report to the commissioner the program net loss for the previous calendar year, including administrative expenses and incurred losses for the year, taking into account investment income and other appropriate gains and losses.

b. Any net loss for the year shall be recouped by assessments of reinsuring carriers.

(1) The board shall establish, as part of the plan of operation, a formula by which to make assessments against reinsuring carriers. The assessment formula shall be based on both of the following:

(a) Each reinsuring carrier's share of the total premiums earned in the preceding calendar year from health insurance coverages delivered or issued for delivery to small employers in this state by reinsuring carriers.

(b) Each reinsuring carrier's share of the premiums earned in the preceding calendar year from newly issued health insurance coverages delivered or issued for delivery during such calendar year to small employers in this state by reinsuring carriers.

(2) The formula established pursuant to subparagraph (1) shall not result in any reinsuring carrier having an assessment share that is less than fifty percent nor more than one hundred fifty percent of an amount which is based on the proportion of the reinsuring carrier's total premiums earned in the preceding calendar year from health insurance coverages delivered or issued for delivery to small employers in this state by reinsuring carriers to total premiums earned in the preceding calendar year from health insurance coverages delivered or issued for delivery to small employers in this state by all reinsuring carriers.

(3) The board, with approval of the commissioner, may change the assessment formula established pursuant to subparagraph (1) from time to time as appropriate. The board may provide for the shares of the assessment base attributable to premiums from all health insurance coverages and to premiums from newly issued health insurance coverages to vary during a transition period.

(4) Subject to the approval of the commissioner, the board shall make an adjustment to the assessment formula for reinsuring carriers that are approved health maintenance organizations which are federally qualified under 42 U.S.C. §300e et seq., to the extent, if any, that restrictions are placed on them that are not imposed on other small employer carriers.

(5) Premiums and benefits paid by a reinsuring carrier that are less than an amount determined by the board to justify the cost of collection shall not be considered for purposes of determining assessments.

c. (1) Prior to March 1 of each year, the board shall determine and file with the commissioner an estimate of the assessments needed to fund the losses incurred by the program in the previous calendar year.

(2) If the board determines that the assessments needed to fund the losses incurred by the program in the previous calendar year will exceed the amount specified in subparagraph (3), the board shall evaluate the operation of the program and report its findings, including any recommendations for changes to the plan of operation, to the commissioner within ninety days following the end of the calendar year in which the losses were incurred. The evaluation shall include: an estimate of future assessments, the administrative costs of the program, the appropriateness of the premiums charged, and the level of insurer retention under the program and the costs of coverage for small employers. If the board fails to file the report with the commissioner within ninety days following the end of the applicable

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calendar year, the commissioner may evaluate the operations of the program and implement such amendments to the plan of operation the commissioner deems necessary to reduce future losses and assessments.

(3) For any calendar year, the amount specified in this subparagraph is five percent of total premiums earned in the previous year from health insurance coverages delivered or issued for delivery to small employers in this state by reinsuring carriers.

(4) If assessments in each of two consecutive calendar years exceed by ten percent the amount specified in subparagraph (3), the commissioner may relieve carriers from any or all of the regulations of this subchapter or take such other actions as the commissioner deems equitable and necessary to spread the risk of loss and assure portability of coverages and continuity of benefits so as to reduce assessments to ten percent or less of that amount specified in subparagraph (3).

d. If assessments exceed net losses of the program, the excess shall be held in an interest-bearing account and used by the board to offset future losses or to reduce program premiums. As used in this paragraph, *"future losses"* includes reserves for incurred but not reported claims.

e. Each reinsuring carrier's proportion of the assessment shall be determined annually by the board based on annual statements and other reports deemed necessary by the board and filed by the reinsuring carriers with the board.

f. The plan of operation shall provide for the imposition of an interest penalty for late payment of assessments.

g. A reinsuring carrier may seek from the commissioner a deferment from all or part of an assessment imposed by the board. The commissioner may defer all or part of the assessment of a reinsuring carrier if the commissioner determines that the payment of the assessment would place the reinsuring carrier in a financially impaired condition. If all or part of an assessment against a reinsuring carrier is deferred, the amount deferred shall be assessed against the other participating carriers in a manner consistent with the basis for assessment set forth in this subsection. The reinsuring carrier receiving such deferment shall remain liable to the program for the amount deferred and shall be prohibited from reinsuring any individuals or groups in the program until such time as it pays such assessments.

12. The participation in the program as reinsuring carriers, the establishment of rates, forms, or procedures, or any other joint or collective action required by this subchapter shall not be the basis of any legal action, criminal or civil liability, or penalty against the program or any of its reinsuring carriers either jointly or separately.

13. The program is exempt from any and all state or local taxes.

14. The board of the Iowa small employer health reinsurance program, on an ongoing basis, shall review the program and make recommendations as to the continued cost effectiveness of the program to the commissioner, which recommendations may include proposed modifications or suspension of operation of the program. In making such a review, the board shall consider such factors as the population reinsured by the program, the premiums and assessments paid to the program, the number and percentage of carriers electing to utilize the program, health care reform measures implemented in the state, as well as other factors deemed relevant by the board. The commissioner, upon finding that the program is not cost effective, may make modifications to the program or suspend the operation of the program by rule.

92 Acts, ch 1167, §14; 93 Acts, ch 80, §11, 12; 97 Acts, ch 103, §26 – 32; 99 Acts, ch 165, §8; 2001 Acts, ch 69, §18 – 22, 39; 2005 Acts, ch 70, §9; 2014 Acts, ch 1092, §182, 183

Referred to in §513B.2, 513B.4, 513B.11, 513B.12

513B.14 Health benefit plan standards. Repealed by 2001 Acts, ch 69, §38, 39.

513B.15 Periodic market evaluation.

The board shall study and report at least every three years to the commissioner on the effectiveness of this subchapter. The report shall analyze the effectiveness of the subchapter in promoting rate stability, product availability, and coverage affordability. The report may contain recommendations for actions to improve the overall effectiveness, efficiency, and

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fairness of the small group health insurance marketplace. The report shall address whether carriers and producers are fairly and actively marketing or issuing health insurance coverages to small employers in fulfillment of the purposes of this subchapter. The report may contain recommendations for market conduct or other regulatory standards or action.

92 Acts, ch 1167, §16; 97 Acts, ch 103, §33

513B.16 Applicability of certain state laws. Repealed by 2001 Acts, ch 69, §38, 39.

513B.17 Discretion of the commissioner.

1. The commissioner may suspend all or any part of section 513B.4 as to the premium rates applicable to one or more small employers for one or more rating periods upon a filing by the small employer carrier and a finding by the commissioner that the suspension is reasonable in light of the financial condition of the carrier or that the suspension would enhance the efficiency and fairness of the marketplace for small employer health insurance.

2. The commissioner may suspend or modify the normal workweek requirement of thirty or more hours under the definition of eligible employee upon a finding by the commissioner that the suspension would enhance the availability of health insurance to employees of small employers.

3. The commissioner may adopt, by rule or order, transition provisions to facilitate the implementation and administration of this chapter.

91 Acts, ch 244, §8
CS91, §513B.8
92 Acts, ch 1167, §18
C93, §513B.17
93 Acts, ch 80, §14; 97 Acts, ch 103, §34; 2005 Acts, ch 70, §10

513B.17A Restoration of terminated coverage. Repealed by 2001 Acts, ch 69, §38, 39.

513B.18 Uniform application form.

The commissioner shall develop, by rule, a uniform application form for use by small employers applying for new health insurance coverage under group health plans offered by small employer carriers. Small employer carriers shall be required to use the uniform application form not less than six months after the rules developing the form become effective under chapter 17A.

2007 Acts, ch 169, §1

513B.19 through 513B.30 Reserved.

SUBCHAPTER II

BASIC BENEFIT COVERAGE

513B.31 through 513B.43 Repealed by 2001 Acts, ch 69, §38, 39.

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CHAPTER 513C

INDIVIDUAL HEALTH INSURANCE MARKET REFORM

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 514E.2, 514E.7, 514I.3, 514K.2, 669.14, 670.7

513C.1 Short title.
513C.2 Purpose.
513C.3 Definitions.
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513C.7 Availability of coverage.
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513C.9 Standards to assure fair marketing.
513C.10 Iowa individual health benefit reinsurance association.
513C.11 Self-funded employer-sponsored health benefit plan participation in reinsurance association.
513C.12 Commissioner's duties.

513C.1 Short title.

This chapter shall be known and may be cited as the *"Individual Health Insurance Market Reform Act"*.

95 Acts, ch 5, §3

513C.2 Purpose.

The purpose and intent of this chapter is to promote the availability of health insurance coverage to individuals regardless of their health status or claims experience, to prevent abusive rating practices, to require disclosure of rating practices to purchasers, to establish rules regarding the renewal of coverage, to establish limitations on the use of preexisting condition exclusions, to assure fair access to health plans, and to improve the overall fairness and efficiency of the individual health insurance market.

95 Acts, ch 5, §4

513C.3 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Actuarial certification"* means a written statement by a member of the American academy of actuaries or other individual acceptable to the commissioner that an individual carrier is in compliance with the provisions of section 513C.5 which is based upon the actuary's or individual's examination, including a review of the appropriate records and the actuarial assumptions and methods used by the carrier in establishing premium rates for applicable individual health benefit plans.

2. *"Affiliate"* or *"affiliated"* means any entity or person who directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person.

3. *"Basic or standard health benefit plan"* means the core group of health benefits developed pursuant to section 513C.8.

4. *"Block of business"* means all the individuals insured under the same individual health benefit plan.

5. *"Carrier"* means any entity that provides individual health benefit plans in this state. For purposes of this chapter, carrier includes an insurance company, a group hospital or medical service corporation, a fraternal benefit society, a health maintenance organization, and any other entity providing an individual plan of health insurance or health benefits subject to state insurance regulation.

6. *"Commissioner"* means the commissioner of insurance.

7. *"Eligible individual"* means an individual who is a resident of this state and who either has qualifying existing coverage or has had qualifying existing coverage within the immediately preceding thirty days, or an individual who has had a qualifying event occur within the immediately preceding thirty days.

8. *"Established service area"* means a geographic area, as approved by the commissioner and based upon the carrier's certificate of authority to transact business in this state, within which the carrier is authorized to provide coverage.

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9. *"Filed rate"* means, for a rating period related to each block of business, the rate charged to all individuals with similar rating characteristics for individual health benefit plans.

10. *"Individual health benefit plan"* means any hospital or medical expense incurred policy or certificate, hospital or medical service plan, or health maintenance organization subscriber contract sold to an individual, or any discretionary group trust or association policy, whether issued within or outside of the state, providing hospital or medical expense incurred coverage to individuals residing within this state. Individual health benefit plan does not include a self-insured group health plan, a self-insured multiple employer group health plan, a group conversion plan, an insured group health plan, accident-only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, Medicare supplement, long-term care, or disability income insurance coverage, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance.

11. *"Premium"* means all moneys paid by an individual and eligible dependents as a condition of receiving coverage from a carrier or an organized delivery system, including any fees or other contributions associated with an individual health benefit plan.

12. *"Qualifying event"* means any of the following:

a. Loss of eligibility for medical assistance provided pursuant to chapter 249A or Medicare coverage provided pursuant to Tit. XVIII of the federal Social Security Act.

b. Loss or change of dependent status under qualifying previous coverage.

c. The attainment by an individual of the age of majority.

d. Loss of eligibility for the Hawki program authorized in chapter 514I.

13. *a. "Qualifying existing coverage"* or *"qualifying previous coverage"* means benefits or coverage provided under any of the following:

(1) Any group health insurance that provides benefits similar to or exceeding benefits provided under the standard health benefit plan, provided that such policy has been in effect for a period of at least one year.

(2) An individual health insurance benefit plan, including coverage provided under a health maintenance organization contract, a hospital or medical service plan contract, or a fraternal benefit society contract, that provides benefits similar to or exceeding the benefits provided under the standard health benefit plan, provided that such policy has been in effect for a period of at least one year.

b. For purposes of this subsection, an association policy under chapter 514E is not considered *"qualifying existing coverage"* or *"qualifying previous coverage"*.

14. *"Rating characteristics"* means demographic characteristics of individuals which are considered by the carrier in the determination of premium rates for the individuals and which are approved by the commissioner.

15. *"Rating period"* means the period for which premium rates established by a carrier are in effect.

16. *"Restricted network provision"* means a provision of an individual health benefit plan that conditions the payment of benefits, in whole or in part, on the use of health care providers that have entered into a contractual arrangement with the carrier to provide health care services to covered individuals.

95 Acts, ch 5, §5; 2002 Acts, ch 1111, §14; 2003 Acts, ch 108, §131; 2004 Acts, ch 1110, §35; 2004 Acts, ch 1158, §1; 2012 Acts, ch 1023, §79, 157; 2017 Acts, ch 148, §46 - 51; 2023 Acts, ch 19, §1190

Referred to in §514A.3B

513C.4 Applicability and scope.

1. Except as provided in subsection 2, for purposes of this chapter, carriers that are affiliated companies or that are eligible to file a consolidated tax return shall be treated as one carrier and any restrictions or limitations imposed by this chapter shall apply as if all individual health benefit plans delivered or issued for delivery to residents of this state by such affiliated carriers were issued by one carrier.

2. An affiliated carrier that is a health maintenance organization having a certificate of

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authority under section 514B.5 shall be considered to be a separate carrier for the purposes of this chapter.

95 Acts, ch 5, §6; 96 Acts, ch 1034, §48

513C.5 Restrictions relating to premium rates.

1. Premium rates for any block of individual health benefit plan business issued on or after January 1, 1996, or the date rules are adopted by the commissioner of insurance and become effective, whichever date is later, by a carrier subject to this chapter shall be limited to the composite effect of allocating costs among the following:

a. After making actuarial adjustments based upon benefit design and rating characteristics, the filed rate for any block of business shall not exceed the filed rate for any other block of business by more than twenty percent.

b. The filed rate for any block of business shall not exceed the filed rate for any other block of business by more than thirty percent due to factors relating to rating characteristics.

c. The filed rate for any block of business shall not exceed the filed rate for any other block of business by more than thirty percent due to any other factors approved by the commissioner.

d. Premium rates for individual health benefit plans shall comply with the requirements of this section notwithstanding any assessments paid or payable by the carrier pursuant to any reinsurance program or risk adjustment mechanism.

e. An adjustment applied to a single block of business shall not exceed the adjustment applied to all blocks of business by more than fifteen percent due to the claim experience or health status of that block of business.

f. For purposes of this subsection, an individual health benefit plan that contains a restricted network provision shall not be considered similar coverage to an individual health benefit plan that does not contain such a provision, provided that the differential in payments made to network providers results in substantial differences in claim costs.

2. Notwithstanding subsection 1, the commissioner, with the concurrence of the board established under chapter 514E, may by order reduce or eliminate the allowed rating bands provided under subsection 1, paragraphs *"a"*, *"b"*, *"c"*, and *"e"*, or otherwise limit or eliminate the use of experience rating.

3. A carrier shall not transfer an individual involuntarily into or out of a block of business.

4. The commissioner may suspend for a specified period the application of subsection 1, paragraph *"a"*, as to the premium rates applicable to one or more blocks of business of a carrier for one or more rating periods upon a filing by the carrier requesting the suspension and a finding by the commissioner that the suspension is reasonable in light of the financial condition of the carrier.

5. A carrier shall make a reasonable disclosure at the time of the offering for sale of any individual health benefit plan of all of the following:

a. The extent to which premium rates for a specified individual are established or adjusted based upon rating characteristics.

b. The carrier's right to change premium rates, and the factors, other than claim experience, that affect changes in premium rates.

c. The provisions relating to the renewal of policies and contracts.

d. Any provisions relating to any preexisting condition.

e. All plans offered by the carrier, the prices of such plans, and the availability of such plans to the individual.

6. A carrier shall maintain at its principal place of business a complete and detailed description of its rating practices, including information and documentation that demonstrate that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.

7. A carrier shall file with the commissioner annually on or before March 15, an actuarial certification certifying that the carrier is in compliance with this chapter and that the rating methods of the carrier are actuarially sound. The certification shall be in a form and manner and shall contain information as specified by the commissioner. A copy of the certification

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shall be retained by the carrier at its principal place of business. Rate adjustments made in order to comply with this section are exempt from loss ratio requirements.

8. A carrier shall make the information and documentation maintained pursuant to subsection 6 available to the commissioner upon request. The information and documentation shall be considered proprietary and trade secret information and shall not be subject to disclosure by the commissioner to persons outside of the division except as agreed to by the carrier or as ordered by a court of competent jurisdiction.

95 Acts, ch 5, §7; 2001 Acts, ch 125, §2; 2002 Acts, ch 1119, §65; 2017 Acts, ch 148, §52
Referred to in §513C.3

513C.6 Provisions on renewability of coverage.

1. An individual health benefit plan subject to this chapter is renewable with respect to an eligible individual or dependents, at the option of the individual, except for one or more of the following reasons:

a. The individual fails to pay, or to make timely payment of, premiums or contributions pursuant to the terms of the individual health benefit plan.

b. The individual performs an act or practice constituting fraud or makes an intentional misrepresentation of a material fact under the terms of the individual health benefit plan.

c. A decision by the individual carrier to discontinue offering a particular type of individual health benefit plan in the state's individual insurance market. An individual health benefit plan may be discontinued by the carrier in that market with the approval of the commissioner and only if the carrier does all of the following:

(1) Provides advance notice of its decision to discontinue such plan to the commissioner. Notice to the commissioner, at a minimum, shall be no less than three days prior to the notice provided for in subparagraph (2) to affected individuals.

(2) Provides notice of its decision not to renew such plan to all affected individuals no less than ninety days prior to the nonrenewal date of any discontinued individual health benefit plans.

(3) Offers to each individual of the discontinued plan the option to purchase any other health plan currently offered by the carrier to individuals in this state.

(4) Acts uniformly in opting to discontinue the plan and in offering the option under subparagraph (3), without regard to the claims experience of any affected eligible individual or beneficiary under the discontinued plan or to a health status-related factor relating to any covered individuals or beneficiaries who may become eligible for the coverage.

d. A decision by the carrier to discontinue offering and to cease to renew all of its individual health benefit plans delivered or issued for delivery to individuals in this state. A carrier making such decision shall do all of the following:

(1) Provide advance notice of its decision to discontinue such plan to the commissioner. Notice to the commissioner, at a minimum, shall be no less than three days prior to the notice provided for in subparagraph (2) to affected individuals.

(2) Provide notice of its decision not to renew such plan to all individuals and to the commissioner in each state in which an individual under the discontinued plan is known to reside, no less than one hundred eighty days prior to the nonrenewal of the plan.

e. The commissioner finds that the continuation of the coverage is not in the best interests of the individuals, or would impair the carrier's ability to meet its contractual obligations.

2. At the time of coverage renewal, a carrier may modify the health insurance coverage for a policy form offered to individuals in the individual market so long as such modification is consistent with state law and effective on a uniform basis among all individuals with that policy form.

3. An individual carrier that elects not to renew an individual health benefit plan under subsection 1, paragraph *"d"*, shall not write any new business in the individual market in this state for a period of five years after the date of notice to the commissioner.

4. This section, with respect to a carrier doing business in one established geographic service area of the state, applies only to such carrier's operations in that service area.

5. A carrier offering coverage through a network plan is not required to renew or continue in force coverage or to accept applications from an individual who no longer resides or lives in,

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or is no longer employed in, the service area of such carrier, or no longer resides or lives in, or is no longer employed in, a service area for which the carrier is authorized to do business, but only if coverage is not offered or terminated uniformly without regard to health status-related factors of a covered individual.

6. A carrier offering coverage through a bona fide association is not required to renew or continue in force coverage or to accept applications from an individual through an association if the membership of the individual in the association on which the basis of coverage is provided ceases, but only if the coverage is not offered or terminated under this paragraph uniformly without regard to health status-related factors of a covered individual.

7. An individual who has coverage as a dependent under a basic or standard health benefit plan may, when that individual is no longer a dependent under such coverage, elect to continue coverage under the basic or standard health benefit plan if the individual so elects immediately upon termination of the coverage under which the individual was covered as a dependent.

95 Acts, ch 5, §8; 97 Acts, ch 103, §36; 2005 Acts, ch 70, §11, 51; 2017 Acts, ch 148, §53

513C.7 Availability of coverage.

1. *a.* A carrier shall file with the commissioner, in a form and manner prescribed by the commissioner, the basic or standard health benefit plan. A basic or standard health benefit plan filed pursuant to this paragraph may be used by a carrier beginning thirty days after it is filed unless the commissioner disapproves of its use.

b. The commissioner may at any time, after providing notice and an opportunity for a hearing to the carrier, disapprove the continued use by a carrier of a basic or standard health benefit plan on the grounds that the plan does not meet the requirements of this chapter.

2. The individual basic or standard health benefit plan shall not deny, exclude, or limit benefits for a covered individual for losses incurred more than twelve months following the effective date of the individual's coverage due to a preexisting condition. A preexisting condition shall not be defined more restrictively than any of the following:

a. A condition that would cause an ordinarily prudent person to seek medical advice, diagnosis, care, or treatment during the twelve months immediately preceding the effective date of coverage.

b. A condition for which medical advice, diagnosis, care, or treatment was recommended or received during the twelve months immediately preceding the effective date of coverage.

c. A pregnancy existing on the effective date of coverage.

3. A carrier shall not modify a basic or standard health benefit plan with respect to an individual or dependent through riders, endorsements, or other means to restrict or exclude coverage for certain diseases or medical conditions otherwise covered by the health benefit plan.

95 Acts, ch 5, §9; 97 Acts, ch 103, §37 – 39; 99 Acts, ch 165, §9, 10; 2003 Acts, ch 91, §24; 2004 Acts, ch 1158, §2, 21; 2008 Acts, ch 1188, §40, 41, 43; 2012 Acts, ch 1023, §157; 2017 Acts, ch 148, §54, 55

513C.8 Health benefit plan standards.

The board of directors of the Iowa comprehensive health insurance association, with the approval of the commissioner, shall adopt the form and level of coverage of the basic health benefit plan and the standard health benefit plan for the individual market which shall provide benefits substantially similar to the current state of the individual market.

95 Acts, ch 5, §10; 2001 Acts, ch 125, §3; 2004 Acts, ch 1110, §36; 2004 Acts, ch 1158, §3

Referred to in §513C.3

513C.9 Standards to assure fair marketing.

1. A carrier or an agent shall not do either of the following:

a. Encourage or direct individuals to refrain from filing an application for coverage with the carrier because of the health status, claims experience, industry, occupation, or geographic location of the individuals.

b. Encourage or direct individuals to seek coverage from another carrier because of

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the health status, claims experience, industry, occupation, or geographic location of the individuals.

2. Subsection 1, paragraph *"a"*, shall not apply with respect to information provided by a carrier or an agent to an individual regarding the established geographic service area of the carrier or the restricted network provision of the carrier.

3. A carrier shall not, directly or indirectly, enter into any contract, agreement, or arrangement with an agent that provides for, or results in, the compensation paid to an agent for a sale of a basic or standard health benefit plan to vary because of the health status or permitted rating characteristics of the individual or the individual's dependents.

4. Notwithstanding subsection 3, a commission shall be paid to an agent related to the sale of a basic or standard health benefit plan under this chapter. A commission paid pursuant to this subsection shall not be considered by the board for purposes of section 513C.10, subsection 5.

5. Subsection 3 does not apply with respect to the compensation paid to an agent on the basis of percentage of premium, provided that the percentage shall not vary because of the health status or other permitted rating characteristics of the individual or the individual's dependents.

6. Denial by a carrier of an application for coverage from an individual shall be in writing and shall state the reason or reasons for the denial.

7. A violation of this section by a carrier or an agent is an unfair trade practice under chapter 507B.

8. If a carrier enters into a contract, agreement, or other arrangement with a third-party administrator to provide administrative, marketing, or other services related to the offering of individual health benefit plans in this state, the third-party administrator is subject to this section as if it were a carrier.

95 Acts, ch 5, §11; 97 Acts, ch 103, §40; 2006 Acts, ch 1117, §56; 2017 Acts, ch 148, §56

513C.10 Iowa individual health benefit reinsurance association.

1. The Iowa individual health benefit reinsurance association is established as a nonprofit corporation.

a. All persons that provide health benefit plans in this state including insurers providing accident and sickness insurance under chapter 509, 514, or 514A, whether on an individual or group basis; fraternal benefit societies providing hospital, medical, or nursing benefits under chapter 512B; and health maintenance organizations, other entities providing health insurance or health benefits subject to state insurance regulation, and all other insurers as designated by the board of directors of the Iowa comprehensive health insurance association with the approval of the commissioner shall be members of the association. However, the state, including a department, an independent agency, the state board of regents, and an institution under the control of the state board of regents, shall not be a member of the association.

b. The association shall be incorporated under chapter 504, shall operate under a plan of operation established and approved pursuant to chapter 504, and shall exercise its powers through the board of directors established under chapter 514E.

2. *a.* Rates for basic and standard coverages as provided in this chapter shall be determined by each carrier as the product of a basic and standard factor and the lowest rate available for issuance by that carrier adjusted for rating characteristics and benefits. Basic and standard factors shall be established annually by the Iowa comprehensive health insurance association board with the approval of the commissioner. Multiple basic and standard factors for a distinct grouping of basic and standard policies may be established. A basic and standard factor is limited to a minimum value defined as the ratio of the average of the lowest rate available for issuance and the maximum rate allowable by law divided by the lowest rate available for issuance. A basic and standard factor is limited to a maximum value defined as the ratio of the maximum rate allowable by law divided by the lowest rate available for issuance. The maximum rate allowable by law and the lowest rate available for issuance is determined based on the rate restrictions under this chapter. For policies written after January 1, 2002, rates for the basic and standard coverages as provided in this

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chapter shall be calculated using the basic and standard factors and shall be no lower than the maximum rate allowable by law. However, to maintain assessable loss assessments at or below one percent of total health insurance premiums or payments as determined in accordance with subsection 6, the Iowa comprehensive health insurance association board with the approval of the commissioner may increase the value for any basic and standard factor greater than the maximum value.

b. The Iowa individual health benefit reinsurance association may, with the approval of the commissioner, increase cost-sharing provisions including, but not limited to, basic and standard plan deductibles, coinsurance, or copayments.

3. Following the close of each calendar year, the association, in conjunction with the commissioner, shall require each carrier to report the amount of earned premiums and the associated paid losses for all basic and standard plans issued by the carrier. The reporting of these amounts must be certified by an officer of the carrier.

4. The board shall develop procedures and assessment mechanisms and make assessments and distributions as required to equalize the individual carrier gains or losses so that each carrier receives the same ratio of paid claims to ninety percent of earned premiums as the aggregate of all basic and standard plans insured by all carriers in the state.

5. If the statewide aggregate ratio of paid claims to ninety percent of earned premiums is greater than one, the dollar difference between ninety percent of earned premiums and the paid claims shall represent an assessable loss.

6. The assessable loss plus necessary operating expenses for the association, plus any additional expenses as provided by law, shall be assessed by the association to all members in proportion to their respective shares of total health insurance premiums or payments for subscriber contracts received in Iowa during the second preceding calendar year, or with paid losses in the year, coinciding with or ending during the calendar year, or on any other equitable basis as provided in the plan of operation. In sharing losses, the association may abate or defer any part of the assessment of a member, if, in the opinion of the board, payment of the assessment would endanger the ability of the member to fulfill its contractual obligations. The association may also provide for an initial or interim assessment against the members of the association to meet the operating expenses of the association until the next calendar year is completed. For purposes of this subsection, *"total health insurance premiums"* and *"payments for subscriber contracts"* include, without limitation, premiums or other amounts paid to or received by a member for individual and group health plan care coverage provided under any chapter of the Code or Acts, and *"paid losses"* includes, without limitation, claims paid by a member operating on a self-funded basis for individual and group health plan care coverage provided under any chapter of the Code or Acts. For purposes of calculating and conducting the assessment, the association shall have the express authority to require members to report on an annual basis each member's total health insurance premiums and payments for subscriber contracts and paid losses. A member is liable for its share of the assessment calculated in accordance with this section regardless of whether it participates in the individual insurance market.

7. The board shall develop procedures for distributing the assessable loss assessments to each carrier in proportion to the carrier's respective share of premium for basic and standard plans to the statewide total premium for all basic and standard plans.

8. The board shall ensure that procedures for collecting and distributing assessments are as efficient as possible for carriers. The board may establish procedures which combine, or offset, the assessment from, and the distribution due to, a carrier.

9. A carrier may petition the association board to seek remedy from writing a significantly disproportionate share of basic and standard policies in relation to total premiums written in this state for health benefit plans. Upon a finding that a carrier has written a disproportionate share, the board may agree to compensate the carrier either by paying to the carrier an additional fee not to exceed two percent of earned premiums from basic and standard policies for that carrier or by petitioning the commissioner for remedy.

10. The commissioner, upon a finding that the acceptance of the offer of basic and standard coverage by individuals pursuant to this chapter would place the carrier in a

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financially impaired condition, shall not require the carrier to offer coverage or accept applications for any period of time the financial impairment is deemed to exist.

95 Acts, ch 5, §12; 2000 Acts, ch 1023, §21; 2001 Acts, ch 125, §4 – 6; 2002 Acts, ch 1119, §66; 2003 Acts, ch 91, §25, 26, 53; 2004 Acts, ch 1049, §191; 2004 Acts, ch 1110, §37, 38; 2004 Acts, ch 1158, §4, 5; 2004 Acts, ch 1175, §394; 2012 Acts, ch 1023, §157; 2017 Acts, ch 148, §57 – 59; 2025 Acts, ch 159, §24 – 26

Referred to in §507A.4, 513C.9, 513C.11, 513D.1

2025 amendment to subsection 1, paragraph a applies retroactively to January 1, 2020; 2025 Acts, ch 159, §26

513C.11 Self-funded employer-sponsored health benefit plan participation in reinsurance association.

1. A self-funded employer-sponsored health benefit plan qualified under the federal Employee Retirement Income Security Act of 1974 may voluntarily elect to participate in the Iowa individual health benefit reinsurance association established in section 513C.10 in accordance with the plan of operation and subject to such terms and conditions adopted by the board of the association established in section 514E.2 to provide portability and continuity to its covered employees and their covered spouses and dependents subject to the same terms and conditions as a participating insurer.

2. If the federal Employee Retirement Income Security Act of 1974 is amended such that the state may require the participation of a self-funded employer, the individual reinsurance requirements shall apply equally to such employers.

3. When and if the federal government imposes conditions of portability and continuity on self-funded employers qualified under the federal Employee Retirement Income Security Act of 1974 that the commissioner deems are substantially similar to those required of Iowa insurers, coverage under such qualified plans shall be deemed qualified prior coverage for purposes of chapter 513B and this chapter.

95 Acts, ch 5, §13; 2002 Acts, ch 1119, §67

513C.12 Commissioner's duties.

The commissioner shall adopt rules administering this chapter.

97 Acts, ch 103, §41

CHAPTER 513D

MULTIPLE EMPLOYER WELFARE ARRANGEMENTS

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 507A.4, 509.1, 509.19, 510B.1, 669.14, 670.7

513D.1 Multiple employer welfare arrangements and association health plans.
513D.2 Rules and enforcement.

513D.1 Multiple employer welfare arrangements and association health plans.

1. As used in this chapter, unless the context otherwise requires:

a. "Association health plan" or *"AHP"* means a multiple employer welfare arrangement formed as an association health plan pursuant to 29 C.F.R. pt. 2510.

b. "Commissioner" means the commissioner of insurance.

c. "Multiple employer welfare arrangement" or *"MEWA"* means a multiple employer welfare arrangement as defined in section 3 of the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. §1002, paragraph 40.

2. An AHP or MEWA that offers a plan to, or maintains a group health plan for, any resident of this state shall be subject to the jurisdiction of the commissioner and shall comply with all of the following requirements:

a. The AHP or MEWA must be administered by an insurer authorized to do the business of insurance in this state or an authorized third-party administrator that holds a current certificate of registration pursuant to section 510.21.

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b. The AHP or MEWA must be established by a trade, industry, or professional association of employers that has a constitution or bylaws, is organized and maintained in good faith, and has membership stability as defined by rules adopted by the commissioner.

c. The AHP or MEWA must register with the commissioner and obtain and maintain a certificate of registration issued by the commissioner.

d. The AHP or MEWA shall comply with all rules and solvency standards established by rules adopted by the commissioner.

3. An AHP or MEWA that does not meet the solvency standards pursuant to subsection 2, paragraph "*d*", shall be subject to chapter 507C.

4. An AHP or MEWA that meets all of the requirements of subsection 2 shall not be considered any of the following:

a. An insurance company or association of whatever kind or character under section 432.1.

b. A member of the Iowa individual health benefit reinsurance association pursuant to section 513C.10, subsection 1.

c. A member insurer of the Iowa life and health insurance guaranty association pursuant to section 508C.5.

5. An AHP or MEWA that is registered with the commissioner pursuant to subsection 2, paragraph "*c*", shall annually file with the commissioner on or before March 1 a copy of the report required to be filed by the AHP or MEWA with the United States department of labor pursuant to 29 C.F.R. §2520.101-2.

6. An AHP or MEWA that is registered with the commissioner pursuant to subsection 2, paragraph "*c*", shall annually file with the commissioner a report on or before March 1 for the preceding calendar year. The annual report shall contain the information and be in a form and manner as prescribed by the commissioner.

7. A foreign or domestic AHP or MEWA doing business in the state shall pay fees as prescribed by the commissioner unless otherwise provided by law.

8. A MEWA that is recognized as tax-exempt under Internal Revenue Code section 501(c)(9) and that is registered with the commissioner prior to January 1, 2018, shall not be considered an AHP unless the MEWA affirmatively elects to be treated as an AHP.

2018 Acts, ch 1063, §5; 2018 Acts, ch 1172, §68; 2019 Acts, ch 59, §183; 2021 Acts, ch 181, §11

513D.2 Rules and enforcement.

1. The commissioner of insurance shall adopt rules as necessary pursuant to chapter 17A to administer this chapter.

2. The commissioner of insurance may take any enforcement action under the commissioner's authority to enforce compliance with this chapter.

2018 Acts, ch 1063, §6; 2019 Acts, ch 59, §184; 2019 Acts, ch 89, §16; 2021 Acts, ch 181, §12

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CHAPTER 514

NONPROFIT HEALTH SERVICE CORPORATIONS

Referred to in §87.4, 135B.30, 249A.4, 296.7, 331.301, 364.4, 423.3, 432.2, 432B.1, 505.16, 505.28, 505.29, 507.1, 507B.2, 507B.4A, 507C.3, 508C.3, 509.19, 509A.6, 509B.1, 510.11, 511.41, 513C.10, 514B.5, 514B.6, 514B.9, 514B.20, 514B.32, 514C.1, 514C.2, 514C.3, 514C.3A, 514C.4, 514C.4A, 514C.6, 514C.10, 514C.11, 514C.12, 514C.12A, 514C.18, 514C.19, 514C.20, 514C.21, 514C.23, 514C.24, 514C.25, 514C.26, 514C.29, 514C.30, 514C.32, 514C.33, 514C.34, 514C.36, 514D.1, 514D.2, 514D.6, 514E.1, 514E.2, 514F.4, 514F.8A, 514F.8B, 514F.8C, 514G.103, 514L.1, 515.1, 515B.2, 515B.9, 518C.10, 521A.1, 521A.14, 521E.1, 521F.2, 521F.10, 533C.103, 669.14, 670.7

514.1 Applicability — definitions.
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514.2A Service of process.
514.3 Approval by commissioner.
514.4 Directors.
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514.6 Rates — approval by commissioner. Repealed by 2004 Acts, ch 1110, §71, 72.
514.7 Contracts — approval by commissioner — provisions to be available.
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514.16 Governmental employees included.
514.17 Physicians and surgeons, podiatric physicians, or dentists — number required.
514.18 Podiatric physicians.
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514.22 Reserved.
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514.1 Applicability — definitions.

1. A corporation organized under chapter 504, Code 1989, or current chapter 504 for the purpose of establishing, maintaining, and operating a nonprofit hospital service plan, whereby hospital service may be provided by the corporation or by a hospital with which it has a contract for service, to the public who become subscribers to this plan under a contract which entitles each subscriber to hospital service; or a corporation organized for the purpose of establishing, maintaining, and operating a plan whereby health care service may be provided at the expense of this corporation, by licensed physicians and surgeons, dentists, podiatric physicians, osteopathic physicians, osteopathic physicians and surgeons or chiropractors, to subscribers under contract, entitling each subscriber to health care service, as provided in the contract; or a corporation organized for the purpose of establishing, maintaining, and operating a nonprofit pharmaceutical service plan or optometric service plan, whereby pharmaceutical or optometric service may be provided by this corporation or by a licensed pharmacy with which it has a contract for service, to the public who become subscribers to this plan under a contract which entitles each subscriber to pharmaceutical or optometric service; shall be governed by this chapter and is exempt from all other provisions of the insurance laws of this state, unless specifically designated in this chapter, not only in governmental relations with the state but for every other purpose, and additions enacted after July 1, 1939, shall not apply to these corporations unless they are expressly designated in the additions.

2. For the purposes of this chapter:

a. "Health care" means that care necessary for the purpose of preventing, alleviating, curing, or healing human physical or mental illness, injury, or disability.

b. "Provider" means a person as defined in section 4.1, subsection 20, which is licensed or authorized in this state to furnish health care services.

c. "Subscriber" means an individual who enters into a contract for health care services with a corporation subject to this chapter and includes a person eligible for mandatory medical assistance or optional medical assistance as defined under chapter 249A, with respect to whom the department of health and human services has entered into a contract with a firm operating under this chapter.

[C39, §**8895.01;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §514.1]

83 Acts, ch 27, §11; 83 Acts, ch 96, §157, 159; 84 Acts, ch 1122, §3; 86 Acts, ch 1180, §3; 96 Acts, ch 1034, §68; 2003 Acts, ch 108, §96; 2004 Acts, ch 1049, §191; 2004 Acts, ch 1175,

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§394; 2007 Acts, ch 22, §86; 2013 Acts, ch 138, §76; 2014 Acts, ch 1026, §114; 2023 Acts, ch 19, §1191

514.2 Incorporation.

Persons desiring to form a nonprofit hospital service corporation, or a nonprofit medical service corporation, or a nonprofit pharmaceutical or optometric service corporation shall have been incorporated under the provisions of chapter 504, Code 1989, or shall incorporate under the provisions of current chapter 504.

[C39, §**8895.02;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §514.2]

2003 Acts, ch 108, §97; 2004 Acts, ch 1049, §191; 2004 Acts, ch 1086, §87; 2004 Acts, ch 1175, §394; 2006 Acts, ch 1030, §62

514.2A Service of process.

A nonprofit health service corporation authorized to do business in this state shall file in the office of the commissioner a power of attorney and an agreement in writing that service of process in any action or proceeding against the corporation may be made on the commissioner and shall be of the same legal force and validity as if made upon the corporation, and that the authority shall continue in force so long as any liability remains outstanding in this state. A copy of the power of attorney, certified by the commissioner, shall be deemed sufficient evidence of the appointment and shall be admitted in evidence with the same force and effect as the original. Service of process made on the commissioner as the attorney for service of process shall be made as provided in section 505.30.

2003 Acts, ch 91, §27; 2018 Acts, ch 1018, §7

514.3 Approval by commissioner.

The articles of incorporation, and any subsequent amendments, of a corporation shall have endorsed on or annexed to those articles or amendments the approval of the commissioner of insurance before the same shall be filed for record. A corporation shall file with the commissioner bylaws and subsequent amendments to the bylaws within thirty days of the adoption of the bylaws and amendments.

[C39, §**8895.03;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §514.3]

2000 Acts, ch 1023, §22; 2002 Acts, ch 1119, §180

514.4 Directors.

1. *a.* At least two-thirds of the directors of a hospital service corporation, medical service corporation, dental service corporation, or pharmaceutical or optometric service corporation subject to this chapter shall be at all times subscribers and not more than one-third of the directors shall be providers as provided in this section. The board of directors of each corporation shall consist of at least nine members.

b. A subscriber director is a director of the board of a corporation who is a subscriber and who is not a provider of health care pursuant to section 514B.1, subsection 7, a person who has material financial or fiduciary interest in the delivery of health care services or a related industry, an employee of an institution which provides health care services, or a spouse or a member of the immediate family of such a person. However, a subscriber director of a dental service corporation may be an employee, officer, director, or trustee of a hospital that does not contract with the dental service corporation. A subscriber director of a hospital or medical service corporation shall be a subscriber of the services of that corporation.

c. A provider director of a corporation subject to this chapter shall be at all times a person who has a material financial interest in or is a fiduciary to or an employee of or is a spouse or member of the immediate family of a provider having a contract with such corporation to render to its subscribers the services of such corporation or who is a hospital trustee.

2. A director may serve on a board of only one corporation at a time subject to this chapter.

3. The commissioner of insurance shall adopt rules pursuant to chapter 17A to implement the process of the election of subscriber directors of the board of directors of a corporation to ensure the representation of a broad spectrum of subscriber interest on each board and establish criteria for the selection of nominees. The rules shall provide for an independent

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subscriber nominating committee to serve until the composition of the board of directors meets the percentage requirements of this section. Once the composition requirements of this section are met, the nominations for subscriber directors shall be made by the subscriber directors of the board under procedures the board establishes which shall also permit nomination by a petition of at least fifty subscribers. The board shall also establish procedures to permit nomination of provider directors by petition of at least fifty participating providers. A member of the board of directors of a corporation subject to this chapter shall not serve on the independent subscriber nominating committee. The nominating committee shall consist of subscribers as defined in this section. The rules of the commissioner of insurance shall also permit nomination of subscriber directors by a petition of at least fifty subscribers, and nomination of provider directors by a petition of at least fifty participating providers. These petitions shall be considered only by the independent nominating committee during the duration of the committee. Following the discontinuance of the committee, the petition process shall be continued and the board of directors of the corporation shall consider the petitions. The independent subscriber nominating committee is not subject to chapter 17A. The nominating committee shall not receive per diem or expenses for the performance of their duties.

4. Population factors, representation of different geographic regions, and the demography of the service area of the corporation subject to this chapter shall be considered when making nominations for the board of directors of a corporation subject to this chapter.

5. A corporation serving states in addition to Iowa shall be required to implement this section only for directors who are residents of Iowa and elected as board members from Iowa.

[C39, §**8895.04;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §514.4]

83 Acts, ch 27, §12, 15; 84 Acts, ch 1282, §1; 91 Acts, ch 258, §58; 2000 Acts, ch 1023, §23; 2007 Acts, ch 137, §10; 2015 Acts, ch 29, §73

514.5 Contracts for service.

1. A hospital service corporation organized under chapter 504, Code 1989, or current chapter 504, and governed by this chapter, may enter into contracts for the rendering of hospital service to any of its subscribers with hospitals maintained and operated by the state or any of its political subdivisions, or by any corporation, association, or individual. Such hospital service corporation may also contract with an ambulatory surgical facility to provide surgical services to the corporation's subscribers. Hospital service is meant to include bed and board, general nursing care, use of the operating room, use of the delivery room, ordinary medications and dressings and other customary routine care. *"Ambulatory surgical facility"* means a facility constructed and operated for the specific purpose of providing surgery to patients admitted to and discharged from the facility within the same day.

2. A medical service corporation organized under chapter 504, Code 1989, or current chapter 504, and governed by this chapter, may enter into contracts with subscribers to furnish health care service through physicians and surgeons, dentists, podiatric physicians, osteopathic physicians, osteopathic physicians and surgeons, or chiropractors.

3. Any pharmaceutical or optometric service corporation organized under chapter 504, Code 1989, or current chapter 504, and governed by this chapter, may enter into contracts for the rendering of pharmaceutical or optometric service to any of its subscribers. Membership in any pharmaceutical service corporation shall be open to all pharmacies licensed under chapter 155A.

4. A hospital service corporation or medical service corporation organized under chapter 504, Code 1989, or current chapter 504, and governed by this chapter, may enter into contracts with subscribers and providers to furnish health care services not otherwise allocated by this section.

[C39, §**8895.05;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §514.5]

83 Acts, ch 27, §13; 84 Acts, ch 1122, §4; 86 Acts, ch 1180, §4; 87 Acts, ch 215, §48; 96 Acts, ch 1034, §68; 2003 Acts, ch 108, §98; 2004 Acts, ch 1049, §191; 2004 Acts, ch 1175, §394; 2016 Acts, ch 1011, §121; 2017 Acts, ch 29, §146

514.6 Rates — approval by commissioner. Repealed by 2004 Acts, ch 1110, §71, 72.

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514.7 Contracts — approval by commissioner — provisions to be available.

1. The contracts by any such corporation with the subscribers for health care service shall at all times be subject to the approval of the commissioner of insurance. The commissioner shall require that participating pharmacies be reimbursed by the pharmaceutical service corporation at rates or prices equal to rates or prices charged nonsubscribers, unless the commissioner determines otherwise to prevent loss to subscribers.

2. A provision shall be available in approved contracts with hospital and medical service corporate subscribers under group subscriber contracts or plans covering vision care services or procedures, for payment of necessary medical or surgical care and treatment provided by an optometrist licensed under chapter 154, if the care and treatment are provided within the scope of the optometrist's license and if the subscriber contract would pay for the care and treatment if it were provided by a person engaged in the practice of medicine or surgery as licensed under chapter 148. The subscriber contract shall also provide that the subscriber may reject the coverage or provision if the coverage or provision for services which may be provided by an optometrist is rejected for all providers of similar vision care services as licensed under chapter 148 or 154. This subsection applies to group subscriber contracts delivered after July 1, 1983, and to group subscriber contracts on their anniversary or renewal date, or upon the expiration of the applicable collective bargaining contract, if any, whichever is the later. This subsection does not apply to contracts designed only for issuance to subscribers eligible for coverage under Tit. XVIII of the Social Security Act, or any other similar coverage under a state or federal government plan.

3. A provision shall be made available in approved contracts with hospital and medical subscribers under group subscriber contracts or plans covering diagnosis and treatment of human ailments, for payment or reimbursement for necessary diagnosis or treatment provided by a chiropractor licensed under chapter 151 if the diagnosis or treatment is provided within the scope of the chiropractor's license and if the subscriber contract would pay or reimburse for the diagnosis or treatment of the human ailments, irrespective of and disregarding variances in terminology employed by the various licensed professions in describing the human ailments or their diagnosis or treatment, if it were provided by a person licensed under chapter 148. The subscriber contract shall also provide that the subscriber may reject the coverage or provision if the coverage or provision for diagnosis or treatment of a human ailment by a chiropractor is rejected for all providers of diagnosis or treatment for similar human ailments licensed under chapter 148 or 151. A group subscriber contract may limit or make optional the payment or reimbursement for lawful diagnostic or treatment service by all licensees under chapters 148 and 151 on any rational basis which is not solely related to the license under or the practices authorized by chapter 151 or is not dependent upon a method of classification, categorization, or description based upon differences in terminology used by different licensees in describing human ailments or their diagnosis or treatment. This subsection applies to group subscriber contracts delivered after July 1, 1986, and to group subscriber contracts on their anniversary or renewal date, or upon the expiration of the applicable collective bargaining contract, if any, whichever is the later. This subsection does not apply to contracts designed only for issuance to subscribers eligible for coverage under Tit. XVIII of the Social Security Act, or any other similar coverage under a state or federal government plan.

4. A provision shall be available in approved contracts with hospital and medical service corporate subscribers under group subscriber contracts or plans covering medical and surgical service, for payment of covered services determined to be medically necessary provided by certified registered nurses certified by a national certifying organization, which organization shall be identified by the Iowa board of nursing pursuant to rules adopted by the board, if the services are within the practice of the profession of a registered nurse as that practice is defined in section 152.1, under terms and conditions agreed upon between the corporation and subscriber group, subject to utilization controls. This subsection shall not require payment for nursing services provided by a certified registered nurse practicing in a hospital, nursing facility, health care institution, a physician's office, or other noninstitutional setting if the certified registered nurse is an employee of the hospital, nursing facility, health care institution, physician, or other health care facility or health care

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provider. This subsection applies to group subscriber contracts delivered in this state on or after July 1, 1989, and to group subscriber contracts on their anniversary or renewal date, or upon the expiration of the applicable collective bargaining contract, if any, whichever is the later. This subsection does not apply to limited or specified disease or individual contracts or contracts designed only for issuance to subscribers eligible for coverage under Tit. XVIII of the federal Social Security Act, contracts which are rated on a community basis, or any other similar coverage under a state or federal government plan.

[C39, §**8895.07;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §514.7]

83 Acts, ch 166, §2; 84 Acts, ch 1122, §6; 84 Acts, ch 1290, §2; 86 Acts, ch 1180, §5; 89 Acts, ch 164, §3; 99 Acts, ch 75, §3; 2000 Acts, ch 1058, §46; 2008 Acts, ch 1088, §126; 2010 Acts, ch 1061, §180

Referred to in §514.21, 514.23

514.8 Contracts with providers — approval.

The contracts by any such corporation with participating hospitals for hospital service or with participating physicians and surgeons, dentists, podiatric physicians, osteopathic physicians, or osteopathic physicians and surgeons for medical and surgical service, or with participating pharmacies for pharmaceutical service, or with participating optometrists for optometric service, or with other providers shall at all times be subject to the approval of the commissioner of insurance.

[C39, §**8895.08;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §514.8]

84 Acts, ch 1122, §7; 96 Acts, ch 1034, §68

514.9 Annual report.

Every such corporation shall annually, on or before the first day of March, file in the office of the commissioner of insurance a statement verified by at least two of the principal officers of said corporation showing its condition on the thirty-first day of December then next preceding, which shall be in such form and shall contain such matters as the commissioner of insurance shall prescribe.

[C39, §**8895.09;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §514.9]

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 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.

2006 Acts, ch 1117, §57; 2009 Acts, ch 181, §72

514.10 Examination.

Every such corporation shall be subject to examination under the provisions of chapter 507 and any acts amendatory thereto, so far as the chapter may be applicable.

[C39, §**8895.10;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §514.10]

514.11 Costs approved.

All acquisition costs in connection with the solicitation of subscribers to such hospital service plan or medical service plan or pharmaceutical or optometric service plan, and administration costs including salaries paid its officers, if any, shall at all times be subject to the approval of the commissioner of insurance.

[C39, §**8895.11;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §514.11]

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514.12 Investment of funds.

The funds of any corporation subject to the provisions of this chapter shall be invested only in securities permitted by the laws of this state for the investment of funds of life insurance companies.

[C39, §**8895.12;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §514.12]

514.13 Arbitration of disputes.

Any dispute arising between a corporation organized under chapter 504, Code 1989, or current chapter 504, and governed by this chapter, and a provider may be submitted to the commissioner of insurance for a decision. All decisions and findings of the commissioner of insurance may be judicially reviewed in accordance with the terms of chapter 17A.

[C39, §**8895.13;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §514.13]

84 Acts, ch 1122, §8; 2017 Acts, ch 29, §147

514.14 Dissolution or merger.

Any dissolution, merger, or liquidation of a corporation organized under chapter 504, Code 1989, or current chapter 504, and governed by this chapter shall be under the supervision of the commissioner of insurance who shall have all powers with respect thereto granted to the commissioner under the insurance laws of this state.

[C39, §**8895.14;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §514.14]

2017 Acts, ch 29, §148

514.15 Nonexempt from taxation.

Every corporation organized under chapter 504, Code 1989, or current chapter 504, and governed by this chapter, is hereby declared to be a charitable and benevolent institution but its property and funds, including subscribers' contracts, shall not be exempt from taxation. For purposes of this section, the term *"subscriber contract"* shall mean only those benefit contracts issued or delivered in Iowa by corporations subject to this chapter, including certificates issued under such contracts, and which provide coverage to residents of Iowa on a risk basis.

[C39, §**8895.15;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §514.15; 82 Acts, ch 1003, §6]

85 Acts, ch 239, §3; 2017 Acts, ch 29, §149

Rate of tax; §432.2

514.16 Governmental employees included.

An employee or employees of the state, or of any county, city or of any institution supported in whole or in part by public funds, or any subdivisions thereof, may authorize the deduction from their salary or wages of the amount of their subscription payments to any corporation operating a nonprofit hospital service plan or medical service plan or pharmaceutical or optometric service plan, as provided in this chapter. The governing body of the state, or of the county, city or of any institution supported in whole or in part by public funds, or any subdivisions thereof, may authorize deductions from the salaries or wages of employees subscribing to such nonprofit hospital service plan or medical service plan or pharmaceutical or optometric service plan. The authorization by an employee or employees for deductions from the employee's or employees' salaries or wages shall be evidenced by a written request signed by the employee directed to and filed with the treasurer of the state, county, city or of any institution supported in whole or in part by public funds, or any subdivisions thereof, and said treasurer is authorized to draw and deliver checks in favor of the hospital service corporation or medical service corporation or pharmaceutical or optometric service corporation stipulated in such authorization for the amount covering the sum total of the deductions authorized. The foregoing provisions are not to be deemed an assignment of salaries or wages.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §514.16]

Referred to in §509A.3, 514B.21

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514.17 Physicians and surgeons, podiatric physicians, or dentists — number required.

No nonprofit medical service corporation shall be permitted to operate until it shall have entered into contracts with at least one hundred fifty physicians and surgeons licensed to practice medicine and surgery pursuant to chapter 148, or one hundred fifty dentists licensed to practice dentistry pursuant to chapter 153, or at least one hundred fifty osteopathic physicians and surgeons licensed to practice osteopathic medicine and surgery pursuant to chapter 148, or at least twenty-five podiatric physicians licensed to practice podiatry pursuant to chapter 149, who agree to furnish medical and surgical, podiatric, or dental service and be governed by the bylaws of the corporation.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §514.17]

96 Acts, ch 1034, §68; 2008 Acts, ch 1088, §127

514.18 Podiatric physicians.

Medical or surgical services or procedures constituting the practice of podiatry, also known as chiropody, as provided in chapter 149, and covered by the terms of any individual, group, blanket, or franchise policy providing accident or health benefits hereafter delivered or hereafter issued for delivery in Iowa and covering an Iowa risk may be performed by any practitioner, selected by the insured, licensed under chapter 149 to perform such medical or surgical services or procedures. Any provision of such policy or exclusion or limitation denying an insured the free choice of such licensed podiatric physician, also known as chiropodist, shall to the extent of the denial, be void, but such voidance shall not affect the validity of the other provisions of the policy.

[C66, 71, 73, 75, 77, 79, 81, §514.18]

95 Acts, ch 108, §18; 2017 Acts, ch 29, §150

514.19 Combined service corporations.

A corporation subject to this chapter may combine with any other corporation subject to this chapter as permitted under chapter 504 and upon the approval by the commissioner of insurance. Each corporation shall comply with chapter 504, the corporation's articles of incorporation, and the corporation's bylaws. The combined service corporation shall continue the service benefits previously provided by each corporation and may, subject to the approval of the commissioner of insurance, offer other service benefits not previously provided by the corporations before combining, which are permitted under this chapter.

83 Acts, ch 27, §14; 2004 Acts, ch 1049, §191; 2004 Acts, ch 1175, §393; 2007 Acts, ch 22, §87

514.20 Reserved.

514.21 Utilization review program.

A utilization review program shall be established for purposes of health care cost control, according to usual and customary third-party insurance payment or reimbursement procedures, by a corporation subject to this chapter and by physician providers as defined in section 135.1 and registered nurse providers licensed under chapter 152. This utilization review program shall not be used directly or indirectly to circumvent the provisions for payment or reimbursement to providers of health care services as provided in section 509.3, subsection 1, paragraphs *"f"* and *"g"*, and section 514.7.

86 Acts, ch 1180, §9; 89 Acts, ch 164, §4

Utilization and cost control; see also chapter 514F

514.22 Reserved.

514.23 Mutualization plan.

1. A corporation organized under chapter 504, Code 1989, or current chapter 504, and governed by this chapter, may become a mutual insurer under a plan which is approved by the commissioner of insurance. The plan shall state whether the insurer will be organized as a for-profit corporation pursuant to chapter 490 or 491 or a nonprofit corporation pursuant

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to chapter 504. Upon consummation of the plan, the corporation shall fully comply with the requirements of the law that apply to a mutual insurance company. If the insurer is to be organized under chapter 504, then at least seventy-five percent of the initial board of directors of the mutual insurer so formed shall be policyholders who are also nonproviders of health care. All directors comprising this initial board of directors shall be selected by an independent committee appointed by the state commissioner of insurance. This independent committee shall consist of seven to eleven persons who are current policyholders, who are nonproviders of health care, and who are not directors of a corporation subject to this chapter. For purposes of this subsection, a *"nonprovider of health care"* is an individual who is not any of the following:

a. A "provider" as defined in section 514B.1, subsection 7.

b. A person who has material financial or fiduciary interest in the delivery of health care services or a related industry.

c. An employee of an institution which provides health care services.

d. A spouse or a member of the immediate family of a person described in paragraphs *"a"* through *"c"*.

2. A corporation organized under chapter 504, Code 1989, or current chapter 504, and governed by this chapter, which becomes a mutual insurer under this section shall continue as a mutual insurer to be governed by the provisions of section 514.7 and shall also be governed by section 509.3, subsection 1, paragraph *"f"*.

85 Acts, ch 239, §4; 86 Acts, ch 1180, §6; 90 Acts, ch 1205, §36; 2004 Acts, ch 1049, §191; 2004 Acts, ch 1175, §393; 2017 Acts, ch 29, §151, 152

Referred to in §504.1108, 514E.1

CHAPTER 514A

ACCIDENT AND HEALTH INSURANCE

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 507B.4A, 509.14, 510.11, 511.41, 513C.10, 514C.1, 514C.2, 514C.3, 514C.3A, 514C.4, 514C.4A, 514C.6, 514C.10, 514C.11, 514C.12, 514C.12A, 514C.18, 514C.19, 514C.20, 514C.21, 514C.23, 514C.24, 514C.25, 514C.26, 514C.29, 514C.30, 514C.32, 514C.33, 514C.34, 514C.36, 514D.1, 514D.2, 514E.1, 514E.2, 514F.4, 514F.8A, 514F.8B, 514F.8C, 514L.1, 669.14, 670.7

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514A.1 Definition of accident and sickness insurance policy.

1. As used in this chapter, *"policy of accident and sickness insurance"* includes a policy or contract covering insurance against loss resulting from sickness, or from bodily injury or death by accident, or both. For the purposes of this chapter the words *"policy of accident and sickness insurance"* are interchangeable without deviation of meaning with the words *"policy of accident and health insurance"* or the words *"policy of accident or health insurance"*.

2. This chapter applies to all individual policies of such accident and sickness insurance written by Iowa or non-Iowa companies or associations duly licensed under chapter 508, 515, or 520 and, societies, orders, or associations licensed under chapter 512B writing sickness and accident policies providing benefits for loss of time.

3. Orders, societies or associations which admit to membership only persons engaged in

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one or more crafts or hazardous occupations in the same or similar lines of business and the societies or auxiliaries to such orders shall not be subject to the provisions of this chapter nor shall any religious order be subject to the provisions of this chapter.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §514A.1]

89 Acts, ch 83, §72, 73; 2012 Acts, ch 1023, §115

Referred to in §514D.2, 514D.3, 514D.7

514A.2 Form of policy.

1. No policy of accident and sickness insurance shall be delivered or issued for delivery to any person in this state unless:

a. The entire money and other considerations therefor are expressed therein; and

b. The time at which the insurance takes effect and terminates is expressed therein; and

c. It purports to insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policyholder, any two or more eligible members of that family, including husband, wife, dependent children or any children under a specified age which shall not exceed nineteen years and any other person dependent upon the policyholder; and

d. The style, arrangement and over-all appearance of the policy give no undue prominence to any portion of the text, and unless every printed portion of the text of the policy and of any endorsements or attached papers is plainly printed in light-faced type of a style in general use, the size of which shall be uniform and not less than ten point with a lower-case unspaced alphabet length not less than one hundred and twenty point (the "text" shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description if any, and captions and subcaptions); and

e. The exceptions and reductions of indemnity are set forth in the policy and, except those which are set forth in section 514A.3, are printed, at the insurer's option, either included with the benefit provision to which they apply, or under an appropriate caption such as "exceptions", or "exceptions and reductions", provided that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies; and

f. Each such form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof; and

g. It contains no provision purporting to make any portion of the charter, rules, constitution, or bylaws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short-rate table filed with the commissioner.

2. If any policy is issued by an insurer domiciled in this state for delivery to a person residing in another state, and if the official having responsibility for the administration of the insurance laws of such other state shall have advised the commissioner that any such policy is not subject to approval or disapproval by such official, the commissioner may by ruling require that such policy meet the standards set forth in subsection 1 of this section and in section 514A.3.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §514A.2]

Referred to in §514A.12, 514D.3, 514D.7

514A.3 Accident and sickness policy provisions.

1. *Required provisions.* Except as provided in subsection 3 of this section, each such policy delivered or issued for delivery to any person in this state shall contain the provisions specified in this subsection in the words in which the same appear in this section; provided, however, that the insurer may, at its option, substitute for one or more of such provisions corresponding provisions of different wording approved by the commissioner which are in each instance not less favorable in any respect to the insured or the beneficiary. Such provisions shall be preceded individually by the caption appearing in this subsection or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may approve.

a. A provision as follows:

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Entire contract — changes: This policy, including the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No agent has authority to change this policy or to waive any of its provisions.

b. A provision as follows:

Time limit on certain defenses: (1) After two years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of this two-year period.

(The foregoing policy provision shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during such initial two-year period, nor to limit the application of subsection 2, paragraphs *"a"*, *"b"*, *"c"*, *"d"* and *"e"*, in the event of misstatement with respect to age or occupation or other insurance.)

(A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium *(a)* until at least age fifty or, *(b)* in the case of a policy issued after age forty-four, for at least five years from its date of issue, may contain in lieu of the foregoing the following provision (from which the clause in parentheses may be omitted at the insurer's option) under the caption "incontestable":

After this policy has been in force for a period of two years during the lifetime of the insured, (excluding any period during which the insured is disabled), it shall become incontestable as to the statements contained in the application.)

(2) No claim for loss incurred or disability (as defined in the policy) commencing after two years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy.

c. A provision as follows:

Grace period: A grace period of ..... (insert a number not less than "7" for weekly premium policies, "10" for monthly premium policies and "31" for all other policies) days will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force.

(A policy which contains a cancellation provision may add, at the end of the above provision, subject to the right of the insurer to cancel in accordance with the cancellation provision hereof.

A policy in which the insurer reserves the right to refuse any renewal shall have, at the beginning of the above provision,

Unless not less than five days prior to the premium due date the insurer has delivered to the insured or has mailed to the insured's last address as shown by the records of the insurer written notice of its intention not to renew this policy beyond the period for which the premium has been accepted.)

d. A provision as follows:

Reinstatement: If any renewal premium be not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent duly authorized by the insurer to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate the policy; provided, however, that if the insurer or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the insurer or, lacking such approval, upon the forty-fifth day following the date of such conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than ten days after such date. In all other respects the insured and insurer shall have the same rights thereunder as they had under the policy immediately before the due date of the defaulted premium, subject to any provisions endorsed hereon or attached hereto in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium

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has not been previously paid, but not to any period more than sixty days prior to the date of reinstatement.

(The last sentence of the above provision may be omitted from any policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (1) until at least age fifty or, (2) in the case of a policy issued after age forty-four, for at least five years from its date of issue.)

e. A provision as follows:

Notice of claim: Written notice of claim must be given to the insurer within twenty days after the occurrence or commencement of any loss covered by the policy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the insurer at ..... (insert the location of such office as the insurer may designate for the purpose), or to any authorized agent of the insurer, with information sufficient to identify the insured, shall be deemed notice to the insurer.

(In a policy providing a loss-of-time benefit which may be payable for at least two years, an insurer may at its option insert the following between the first and second sentences of the above provision:

Subject to the qualifications set forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least two years, the insured shall, at least once in every six months after having given notice of claim, give to the insurer notice of continuance of said disability, except in the event of legal incapacity. The period of six months following any filing of proof by the insured or any payment by the insurer on account of such claim or any denial of liability in whole or in part by the insurer shall be excluded in applying this provision. Delay in the giving of such notice shall not impair the insured's right to any indemnity which would otherwise have accrued during the period of six months preceding the date on which such notice is actually given.)

f. A provision as follows:

Claim forms: The insurer, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not furnished within fifteen days after the giving of such notice the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting, within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made.

g. A provision as follows:

Proofs of loss: Written proof of loss must be furnished to the insurer at its said office in case of claim for loss for which this policy provides any periodic payment contingent upon continuing loss within ninety days after the termination of the period for which the insurer is liable and in case of claim for any other loss within ninety days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one year from the time proof is otherwise required.

h. A provision as follows:

Time of payment of claims: Indemnities payable under this policy for any loss other than loss for which this policy provides any periodic payment will be paid immediately upon receipt of due written proof of such loss. Subject to due written proof of loss, all accrued indemnities for loss for which this policy provides periodic payment will be paid ..... (insert period for payment which must not be less frequently than monthly) and any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof.

i. A provision as follows:

Payment of claims: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured.

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(The following provisions, or either of them, may be included with the foregoing provision at the option of the insurer:

If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding $..... (insert an amount which shall not exceed one thousand dollars), to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of such payment.

Subject to any written direction of the insured in the application or otherwise all or a portion of any indemnities provided by this policy on account of hospital, nursing, medical, or surgical services may, at the insurer's option and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services; but it is not required that the service be rendered by a particular hospital or person.)

j. A provision as follows:

Physical examinations and autopsy: The insurer at its own expense shall have the right and opportunity to examine the person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death where it is not forbidden by law.

k. A provision as follows:

Legal actions: No action at law or in equity shall be brought to recover on this policy prior to the expiration of sixty days after written proof of loss has been furnished in accordance with the requirements of this policy. No such action shall be brought after the expiration of three years after the time written proof of loss is required to be furnished.

l. A provision as follows:

Change of beneficiary: Unless the insured makes an irrevocable designation of beneficiary, the right to change of beneficiary is reserved to the insured and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy or to any change of beneficiary or beneficiaries, or to any other changes in this policy.

(The first clause of this provision, relating to the irrevocable designation of beneficiary, may be omitted at the insurer's option.)

m. (1) A provision as follows:

Right to return policy: The insured has the right, within ten days after receipt of this policy, to return it to the company at its home office or branch office or to the agent through whom it was purchased, and if so returned the premium paid will be refunded and the policy will be void from the beginning and the parties shall be in the same position as if a policy had not been issued.

(2) The foregoing provision shall be prominently printed on the first page of the policy or attached to the policy.

(3) The provisions of this paragraph *"m"* shall apply to any insurance policy which is delivered or issued for delivery or renewed in this state on or after July 1, 1978.

2. *Other provisions.* Except as provided in subsection 3 of this section, no such policy delivered or issued for delivery to any person in this state shall contain provisions respecting the matters set forth below unless such provisions are in the words in which the same appear in this section; provided, however, that the insurer may, at its option, use in lieu of any such provision a corresponding provision of different wording approved by the commissioner which is not less favorable in any respect to the insured or the beneficiary. Any such provision contained in the policy shall be preceded individually by the appropriate caption appearing in this subsection or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may approve.

a. A provision as follows:

Change of occupation: If the insured be injured or contract sickness after having changed the insured's occupation to one classified by the insurer as more hazardous than that stated in this policy or while doing for compensation anything pertaining to an occupation so classified, the insurer will pay only such portion of the indemnities provided in this

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policy as the premium paid would have purchased at the rates and within the limits fixed by the insurer for such more hazardous occupation. If the insured changes the insured's occupation to one classified by the insurer as less hazardous than that stated in this policy, the insurer, upon receipt of proof of such change of occupation, will reduce the premium rate accordingly, and will return the excess pro rata unearned premium from the date of change of occupation or from the policy anniversary date immediately preceding receipt of such proof, whichever is the more recent. In applying this provision, the classification of occupational risk and the premium rates shall be such as have been last filed by the insurer prior to the occurrence of the loss for which the insurer is liable or prior to date of proof of change in occupation with the state official having supervision of insurance in the state where the insured resided at the time this policy was issued; but if such filing was not required, then the classification of occupational risk and the premium rates shall be those last made effective by the insurer in such state prior to the occurrence of the loss or prior to the date of proof of change in occupation.

b. A provision as follows:

Misstatement of age: If the age of the insured has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age.

c. (1) A provision as follows:

Other insurance in this insurer: If an accident or sickness or accident and sickness policy or policies previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for ..... (insert type of coverage or coverages) in excess of $..... (insert maximum limit of indemnity or indemnities) the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured or to the insured's estate.

(2) Or, in lieu thereof:

Insurance effective at any one time on the insured under a like policy or policies in this insurer is limited to the one such policy elected by the insured, or the insured's beneficiary or estate, as the case may be, and the insurer will return all premiums paid for all other such policies.

d. A provision as follows:

Insurance with other insurers: If there be other valid coverage, not with this insurer, providing benefits for the same loss on a provision of service basis or on an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability under any expense incurred coverage of this policy shall be for such proportion of the loss as the amount which would otherwise have been payable hereunder plus the total of the like amounts under all such other valid coverages for the same loss of which this insurer had notice bears to the total like amounts under all valid coverages for such loss, and for the return of such portion of the premiums paid as shall exceed the pro rata portion for the amount so determined. For the purpose of applying this provision when other coverage is on a provision of service basis, the "like amount" of such other coverage shall be taken as the amount which the services rendered would have cost in the absence of such coverage.

(If the foregoing policy provision is included in a policy which also contains the next following policy provision there shall be added to the caption of the foregoing provision the phrase " — expense incurred benefits". The insurer may, at its option, include in this provision a definition of "other valid coverage", approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and by hospital or medical service organizations, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance, automobile medical payments insurance, or coverage provided by hospital or medical service organizations or by union welfare plans or employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workers' compensation or employer's liability statute) whether provided by a

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governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage".)

e. A provision as follows:

Insurance with other insurers: If there be other valid coverage, not with this insurer, providing benefits for the same loss on other than an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability for such benefits under this policy shall be for such proportion of the indemnities otherwise provided hereunder for such loss as the like indemnities of which the insurer had notice (including the indemnities under this policy) bear to the total amount of all like indemnities for such loss, and for the return of such portion of the premium paid as shall exceed the pro rata portion for the indemnities thus determined.

(If the foregoing policy provision is included in a policy which also contains the next preceding policy provision there shall be added to the caption of the foregoing provision the phrase " — other benefits". The insurer may, at its option, include in this provision a definition of "other valid coverage", approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance, or benefits provided by union welfare plans or by employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workers' compensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage".)

f. A provision as follows:

Relation of earnings to insurance: If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or the insured's average monthly earnings for the period of two years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for such proportionate amount of such benefits under this policy as the amount of such monthly earnings or such average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of such part of the premiums paid during such two years as shall exceed the pro rata amount of the premiums for the benefits actually paid hereunder; but this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of two hundred dollars or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time.

(The foregoing policy provision may be inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (1) until at least age fifty or, (2) in the case of a policy issued after age forty-four, for at least five years from its date of issue. The insurer may, at its option, include in this provision a definition of "valid loss of time coverage", approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, or to any other coverage the inclusion of which may be approved by the commissioner or any combination of such coverages. In the absence of such definition such term shall not include any coverage provided for such insured pursuant to any compulsory benefit statute (including any workers' compensation or employer's liability statute), or benefits provided by union welfare plans or by employer or employee benefit organizations.)

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g. A provision as follows:

Unpaid premium: Upon the payment of a claim under this policy, any premium then due and unpaid or covered by any note or written order may be deducted therefrom.

h. A provision as follows:

Cancellation: The insurer may cancel this policy at any time by written notice delivered to the insured, or mailed to the insured's last address as shown by the records of the insurer, stating when, not less than five days thereafter, such cancellation shall be effective; and after the policy has been continued beyond its original term the insured may cancel this policy at any time by written notice delivered or mailed to the insurer, effective upon receipt or on such later date as may be specified in such notice. In the event of cancellation, the insurer will return promptly the unearned portion of any premium paid. If the insured cancels, the earned premium shall be computed by the use of the short-rate table last filed with the state official having supervision of insurance in the state where the insured resided when the policy was issued. If the insurer cancels, the earned premium shall be computed pro rata. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation.

i. A provision as follows:

Conformity with state statutes: Any provision of this policy which, on its effective date, is in conflict with the statutes of the state in which the insured resides on such date is hereby amended to conform to the minimum requirements of such statutes.

j. A provision as follows:

Illegal occupation: The insurer shall not be liable for any loss to which a contributing cause was the insured's commission of or attempt to commit a felony or to which a contributing cause was the insured's being engaged in an illegal occupation.

k. A provision as follows:

Intoxicants and narcotics: The insurer shall not be liable for any loss sustained or contracted in consequence of the insured's being intoxicated or under the influence of any narcotic unless administered on the advice of a physician. This provision shall not be used with respect to a medical expense policy. For purposes of this provision, *"medical expense policy"* means an accident and sickness insurance policy that provides hospital, medical, and surgical expense coverage.

3. *Inapplicable or inconsistent provisions.* If any provision of this section is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of policy, the insurer, with the approval of the commissioner, shall omit from such policy any inapplicable provision or part of a provision, and shall modify any inconsistent provision or part of the provision in such manner as to make the provision as contained in the policy consistent with the coverage provided by the policy.

4. *Order of certain policy provisions.* The provisions which are the subject of subsections 1 and 2 of this section, or any corresponding provisions which are used in lieu thereof in accordance with such subsections, shall be printed in the consecutive order of the provisions in such subsections or, at the option of the insurer, any such provision may appear as a unit in any part of the policy, with other provisions to which it may be logically related, provided the resulting policy shall not be in whole or in part unintelligible, uncertain, ambiguous, abstruse, or likely to mislead a person to whom the policy is offered, delivered or issued.

5. *Third party ownership.* The word *"insured"*, as used in this chapter, shall not be construed as preventing a person other than the insured with a proper insurable interest from making application for and owning a policy covering the insured or from being entitled under such a policy to any indemnities, benefits and rights provided therein.

6. *Requirements of other jurisdictions.*

a. Any policy of a foreign or alien insurer, when delivered or issued for delivery to any person in this state, may contain any provision which is not less favorable to the insured or the beneficiary than the provisions of this chapter and which is prescribed or required by the law of the state under which the insurer is organized.

b. Any policy of a domestic insurer may, when issued for delivery in any other state or country, contain any provision permitted or required by the laws of such other state or country.

7. *Filing procedure.* The commissioner may make such reasonable rules and regulations

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concerning the procedure for the filing or submission of policies subject to this chapter as are necessary, proper or advisable to the administration of this chapter. This provision shall not abridge any other authority granted the commissioner by law.

[S13, §1820; C24, 27, 31, 35, 39, §**8775;** C46, 50, §511.36; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §514A.3]

90 Acts, ch 1234, §31; 2002 Acts, ch 1111, §15; 2002 Acts, ch 1119, §68; 2023 Acts, ch 64, §80, 81

Referred to in §514A.2, 514A.4, 514A.12, 514D.3, 514D.6, 514D.7

514A.3A Refund of unearned premium upon death of insured.

In the event of the death of the insured of any policy covered by this chapter, the insurer, upon receipt of notice of the insured's death supported by a certified copy of a valid death certificate and a request for a pro rata refund by a party entitled to claim such a refund, shall refund the unearned premium prorated to the month of the insured's death. Refund of the premium and termination of the coverage shall be without prejudice to any claim originating prior to the date of the insured's death. The commissioner of insurance shall adopt by rule the minimum amount required for issuance of a refund.

2004 Acts, ch 1110, §39

Referred to in §514D.3, 514D.7

514A.3B Additional requirements.

1. An insurer which accepts an individual for coverage under an individual policy or contract of accident and health insurance shall waive any time period applicable to a preexisting condition exclusion or limitation period requirement of the policy or contract with respect to particular services in an individual health benefit plan for the period of time the individual was previously covered by qualifying previous coverage as defined in section 513C.3, by chapter 249A or 514I, or by Medicare coverage provided pursuant to Tit. XVIII of the federal Social Security Act that provided benefits with respect to such services, provided that the coverage was continuous to a date not more than sixty-three days prior to the effective date of the new policy or contract.

2. An insurer issuing an individual policy or contract of accident and health insurance which provides coverage for children of the insured shall permit continuation of existing coverage or reenrollment in previously existing coverage for an individual who meets the requirements of section 513B.2, subsection 14, paragraph *"a"*, *"b"*, *"c"*, *"d"*, or *"e"*, and who is an unmarried child of an insured or enrollee who so elects, at least through the policy anniversary date on or after the date the child marries, ceases to be a resident of this state, or attains the age of twenty-five years old, whichever occurs first, or so long as the unmarried child maintains full-time status as a student in an accredited institution of postsecondary education.

3. For the purposes of any policies of accident and sickness insurance issued in this state, *"creditable coverage"* means health benefits or coverage provided to an individual under any of the following:

a. A group health plan.

b. Health insurance coverage.

c. Part A or Part B Medicare pursuant to Tit. XVIII of the federal Social Security Act.

d. Medicaid pursuant to Tit. XIX of the federal Social Security Act, other than coverage consisting solely of benefits under section 1928 of that Act.

e. 10 U.S.C. ch. 55.

f. A health or medical care program provided through the Indian health service or a tribal organization.

g. A state health benefits risk pool.

h. A health plan offered under 5 U.S.C. ch. 89.

i. A public health plan as defined under federal regulations.

j. A health benefit plan under section 5(e) of the federal Peace Corps Act, 22 U.S.C. §2504(e).

k. A short-term limited duration policy.

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l. The Hawki program authorized by chapter 514I.

2008 Acts, ch 1188, §42, 43; 2009 Acts, ch 118, §9, 11, 21, 22; 2017 Acts, ch 148, §60; 2023 Acts, ch 19, §1192
Referred to in §514D.3, 514D.7

514A.3C Health savings accounts and qualified high-deductible health plans — cost sharing.

If a copayment, coinsurance, or deductible paid as cost sharing by an enrollee under this chapter may result in the enrollee becoming ineligible for a health savings account associated with the enrollee's qualified high-deductible health plan under section 223 of the Internal Revenue Code, the cost sharing shall apply only to the enrollee's qualified high-deductible health plan after the enrollee satisfies the enrollee's minimum deductible, except for items or services determined to be preventive care under section 223(c)(2)(C) of the Internal Revenue Code.

2026 Acts, ch 1105, §2
Referred to in §514D.3, 514D.7
NEW section

514A.4 Conforming to statute.

1. *Other policy provisions.* A policy provision which is not subject to section 514A.3 shall not make a policy, or any portion of a policy, less favorable in any respect to the insured or the beneficiary than the provisions of the policy which are subject to this chapter.

2. *Policy conflicting with this chapter.* A policy delivered or issued for delivery to any person in this state in violation of this chapter shall be held valid but shall be construed as provided in this chapter. When any provision in a policy subject to this chapter is in conflict with any provision of this chapter, the rights, duties and obligations of the insurer, the insured and the beneficiary shall be governed by the provisions of this chapter.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §514A.4]
2019 Acts, ch 59, §185
Referred to in §514A.12, 514D.3, 514D.7

514A.5 Application.

1. The insured shall not be bound by any statement made in an application for a policy unless a copy of such application is endorsed on the policy when issued as a part thereof or is furnished to the policyholder within thirty days after the policy is issued. If any such policy delivered or issued for delivery to any person in this state shall be reinstated or renewed, and the insured or the beneficiary or assignee of such policy shall make written request to the insurer for a copy of the application, if any, for such reinstatement or renewal, the insurer shall within fifteen days after the receipt of such request at its home office or any branch office of the insurer, deliver or mail to the person making such request, a copy of such application. If such copy shall not be so delivered or mailed, the insurer shall be precluded from introducing such application as evidence in any action or proceeding based upon or involving such policy or its reinstatement or renewal.

2. No alteration of any written application for any such policy shall be made by any person other than the applicant without the applicant's written consent, except that insertions may be made by the insurer, for administrative purposes only, in such manner as to indicate clearly that such insertions are not to be ascribed to the applicant.

3. The falsity of any statement in the application for any policy covered by this chapter may not bar the right to recovery thereunder unless such false statement materially affected either the acceptance of the risk or the hazard assumed by the insurer.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §514A.5]
2005 Acts, ch 70, §12
Referred to in §514D.3, 514D.7

514A.6 Notice — waiver.

The acknowledgment by any insurer of the receipt of notice given under any policy covered by this chapter, or the furnishing of forms for filing proofs of loss, or the acceptance of such

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proofs, or the investigation of any claim thereunder shall not operate as a waiver of any of the rights of the insurer in defense of any claim arising under such policy.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §514A.6]
Referred to in §514D.3, 514D.7

514A.7 Age limit.

If any such policy contains a provision establishing, as an age limit or otherwise, a date after which the coverage provided by the policy will not be effective, and if such date falls within a period for which premium is accepted by the insurer or if the insurer accepts a premium after such date, the coverage provided by the policy will continue in force subject to any right of cancellation until the end of the period for which premium has been accepted. In the event the age of the insured has been misstated and if, according to the correct age of the insured, the coverage provided by the policy would not have become effective, or would have ceased prior to the acceptance of such premium or premiums, then the liability of the insurer shall be limited to the refund, upon request, of all premiums paid for the period not covered by the policy.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §514A.7]
Referred to in §514D.3, 514D.7

514A.8 Nonapplication to certain policies.

Nothing in this chapter shall apply to or affect any of the following:

1. Any policy of workers' compensation insurance or any policy of liability insurance with or without supplementary expense coverage therein.
2. Any policy or contract of reinsurance.
3. Any blanket or group policy of insurance.
4. Life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to accident and sickness insurance as provide additional benefits in case of death or dismemberment or loss of sight by accident, or as operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant shall become totally and permanently disabled, as defined by the contract or supplemental contract.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §514A.8]
2018 Acts, ch 1041, §102
Referred to in §514D.3, 514D.7

514A.9 Violation. Repealed by 2004 Acts, ch 1110, §71.

514A.10 Judicial review.

Judicial review of the actions of the commissioner may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §514A.10]
2003 Acts, ch 44, §114
Referred to in §514D.3, 514D.7

514A.11 Inconsistent acts not applicable.

All Acts or parts of Acts inconsistent with this chapter shall not apply to the provisions hereof to the extent of said inconsistency.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §514A.11]
Referred to in §514D.3, 514D.7

514A.12 Title and effective date of chapter.

This chapter may be cited as the "*Uniform Individual Accident and Sickness Act.*" This chapter shall take effect on the fourth day of July, 1951. A policy, filed with and approved by the insurance commissioner prior to the effective date of this chapter for use, delivery, or issue for delivery to any person in this state, may continue to be used, or delivered, or issued for delivery to any person in this state for a period of five years from and after said effective date without being subject to the provisions of sections 514A.2, 514A.3 and 514A.4; and any rider or endorsement filed with and approved by the insurance commissioner at any time

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may be used, or delivered, or issued for delivery to any person holding such a policy without being subject to the provisions of sections 514A.2, 514A.3 and 514A.4.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §514A.12]
Referred to in §514D.3, 514D.7

514A.13 Filing requirement — prior approval.

1. A policy of insurance against loss or expense from sickness or from the bodily injury or death by accident of the insured shall not be issued or delivered to any person in this state and an application, rider, or endorsement shall not be used in connection with the policy until a copy of the policy form and of the classification of risks and the premium rates, or, in the case of cooperatives or assessment companies the estimated costs pertaining to the policy, have been filed with and approved by the commissioner.

2. A filing is deemed to be approved unless disapproved by the commissioner within thirty days of receipt of the filing by the commissioner. Subsequent rate changes are also subject to this section.

91 Acts, ch 213, §17; 92 Acts, ch 1162, §20; 2018 Acts, ch 1041, §127
Referred to in §514A.14

514A.14 Disapproval of filing.

1. The commissioner shall notify an insurer which has filed a policy form pursuant to section 514A.13 that does not comply with this chapter or chapter 514D, or rules adopted pursuant to those chapters. The notice shall inform the insurer that it is unlawful for the insurer to issue the form or use it in connection with any policy, if the commissioner finds upon review of the form, either of the following:

a. The benefits provided are unreasonable in relation to the premium charged.

b. The form contains a provision which is unjust, unfair, inequitable, misleading, deceptive, or which encourages misrepresentation of the policy.

2. In a notice provided under subsection 1, the commissioner shall specify the reasons for disapproval and state that a hearing will be granted within twenty days after request in writing by the insurer.

91 Acts, ch 213, §18
Referred to in §514A.15

514A.15 Withdrawal of approval.

The commissioner may at any time, after opportunity for hearing, withdraw the commissioner's previously given approval of any such form on any of the grounds stated in section 514A.14. It shall be unlawful for the insurer to issue a form or use the form in connection with any policy after the effective date of the withdrawal of approval. The notice of any hearing granted under this section shall specify the matters to be considered at the hearing. Any decision affirming disapproval or directing withdrawal of approval under this section shall be in writing and shall specify the reasons for the disapproval or withdrawal of approval.

91 Acts, ch 213, §19

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CHAPTER 514B

HEALTH MAINTENANCE ORGANIZATIONS

Referred to in §87.4, 296.7, 331.301, 364.4, 505.16, 505.28, 505.29, 507.1, 507C.3, 509.19, 509B.1, 510.11, 511.41, 513B.3, 514C.2, 514C.3, 514C.4, 514C.4A, 514C.6, 514C.9, 514C.10, 514C.11, 514C.12, 514C.12A, 514C.18, 514C.19, 514C.20, 514C.21, 514C.23, 514C.24, 514C.25, 514C.26, 514C.29, 514C.30, 514C.32, 514C.33, 514C.34, 514C.36, 514D.7, 514E.1, 514E.11, 514F.4, 514F.8A, 514F.8B, 514F.8C, 514G.103, 514L.1, 515.1, 521.1, 521.2, 521A.1, 521E.1, 521F.2, 521I.1, 533C.103, 669.14, 670.7

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514B.1 Definitions — services required or available.

As provided in this chapter, unless the context otherwise requires:

1. *"Basic health care services"* means services which an enrollee might reasonably require in order to be maintained in good health, including as a minimum, emergency care, inpatient hospital and physician care, and outpatient medical services rendered within or outside of a hospital.

2. *"Commissioner"* means the commissioner of insurance.

3. *"Enrollee"* means an individual who is enrolled in a health maintenance organization.

4. *"Evidence of coverage"* means any certificate, agreement or contract issued to an enrollee setting out the coverage to which the enrollee is entitled.

5. *a. "Health care services"* means services included in the furnishing to any individual of medical or dental care, or hospitalization, or incident to the furnishing of such care or hospitalization, as well as the furnishing to any person of all other services for the purposes of preventing, alleviating, curing, or healing human illness, injury, or physical disability.

b. The health care services available to enrollees under prepaid group plans covering vision care services or procedures shall include a provision for payment of necessary medical or surgical care and treatment provided by an optometrist licensed under chapter 154, if performed within the scope of the optometrist's license, and the plan would pay for the care and treatment when the care and treatment were provided by a person engaged in the practice of medicine or surgery as licensed under chapter 148. The plan shall provide that the plan enrollees may reject the coverage for services which may be provided by an optometrist if the coverage is rejected for all providers of similar vision care services as licensed under chapter 148 or 154. This paragraph applies to services provided under plans made after July 1, 1983, and to existing group plans on their next anniversary or renewal date, or upon the expiration of the applicable collective bargaining contract, if any, whichever is the later. This paragraph does not apply to enrollees eligible for coverage under Tit. XVIII of the Social Security Act or any other similar coverage under a state or federal government plan.

c. The health care services available to enrollees under prepaid group plans covering diagnosis and treatment of human ailments shall include a provision for payment of necessary diagnosis or treatment provided by a chiropractor licensed under chapter 151 if the diagnosis or treatment is provided within the scope of the chiropractor's license and if the plan would pay or reimburse for the diagnosis or treatment of human ailment, irrespective of and disregarding variances in terminology employed by the various licensed

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professions in describing the human ailment or its diagnosis or its treatment, if it were provided by a person licensed under chapter 148. The plan shall also provide that the plan enrollees may reject the coverage for diagnosis or treatment of a human ailment by a chiropractor if the coverage is rejected for all providers of diagnosis or treatment for similar human ailments licensed under chapter 148 or 151. A prepaid group plan of health care services may limit or make optional the payment or reimbursement for lawful diagnostic or treatment service by all licensees under chapters 148 and 151 on any rational basis which is not solely related to the license under or the practices authorized by chapter 151 or is not dependent upon a method of classification, categorization, or description based upon differences in terminology used by different licensees in describing human ailments or their diagnosis or treatment. This paragraph applies to services provided under plans made after July 1, 1986, and to existing group plans on their next anniversary or renewal date, or upon the expiration of the applicable collective bargaining contract, if any, whichever is the later. This paragraph does not apply to enrollees eligible for coverage under Tit. XVIII of the Social Security Act, or any other similar coverage under a state or federal government plan.

d. The health care services available to enrollees under prepaid group plans covering hospital, medical, or surgical expenses, may include, at the option of the employer purchaser, a provision for payment of covered services determined to be medically necessary provided by a certified registered nurse certified by a national certifying organization, which organization shall be identified by the Iowa board of nursing pursuant to rules adopted by the board, if the services are within the practice of the profession of a registered nurse as that practice is defined in section 152.1, under terms and conditions agreed upon between the employer purchaser and the health maintenance organization, subject to utilization controls. This paragraph shall not require payment for nursing services provided by a certified registered nurse practicing in a hospital, nursing facility, health care institution, a physician's office, or other noninstitutional setting if the certified registered nurse is an employee of the hospital, nursing facility, health care institution, physician, or other health care facility or health care provider. This paragraph applies to services provided under plans within this state made on or after July 1, 1989, and to existing group plans on their next anniversary or renewal date, or upon the expiration of the applicable collective bargaining contract, if any, whichever is later. This paragraph does not apply to enrollees eligible for coverage under an individual contract or coverage designed only for issuance to enrollees eligible for coverage under Tit. XVIII of the federal Social Security Act, or under coverage which is rated on a community basis, or any other similar coverage under a state or federal government plan.

6. *"Health maintenance organization"* means any person, who:

a. Provides either directly or through arrangements with others, health care services to enrollees on a fixed prepayment basis;

b. Provides either directly or through arrangements with other persons for basic health care services; and,

c. Is responsible for the availability, accessibility and quality of the health care services provided or arranged.

7. *"Provider"* means any physician, hospital, or person as defined in chapter 4 which is licensed or otherwise authorized in this state to furnish health care services.

[C75, 77, 79, 81, §514B.1]

83 Acts, ch 166, §3; 84 Acts, ch 1290, §3; 86 Acts, ch 1180, §7; 89 Acts, ch 164, §5; 99 Acts, ch 75, §4; 2008 Acts, ch 1088, §128; 2010 Acts, ch 1061, §180; 2010 Acts, ch 1193, §71

Referred to in §135.61, 432B.1, 508C.5, 510D.1, 514.4, 514.23

514B.2 Establishment of health maintenance organizations.

Any person may apply to the commissioner for and obtain a certificate of authority to establish and operate a health maintenance organization in compliance with this chapter. A person shall not establish or operate a health maintenance organization in this state, nor sell, offer to sell, or solicit offers to purchase or receive advance or periodic consideration

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in conjunction with a health maintenance organization without obtaining a certificate under this chapter.

[C75, 77, 79, 81, §514B.2]

514B.3 Application for a certificate of authority.

1. An application for a certificate of authority shall be verified by an officer or authorized representative of the health maintenance organization, shall be in a form prescribed by the commissioner, and shall set forth or be accompanied by the following:

a. A copy of the basic organizational document, if any, of the applicant such as the articles of incorporation, articles of association, partnership agreement, trust agreement, or other applicable documents, and all of its amendments.

b. A copy of the bylaws, rules or similar document, if any, regulating the conduct of the internal affairs of the applicant.

c. A list of the names, addresses and official positions of the persons who are to be responsible for the conduct of the affairs of the applicant, including all members of the board of directors, board of trustees, executive committee, or other governing board or committee, the principal officers if a corporation and the partners or members if a partnership or association.

d. A copy of any contract made or to be made between any providers or persons listed in paragraph "*c*" and the applicant.

e. A statement generally describing the health maintenance organization including, but not limited to, a description of its facilities and personnel.

f. A copy of the form of evidence of coverage.

g. A copy of the form of the group contract, if any, which is to be issued to employers, unions, trustees or other organizations.

h. Financial statements showing the applicant's assets, liabilities and sources of financial support. If the applicant's financial affairs are audited by an independent certified public accountant, a copy of the applicant's most recent regular certified financial statement shall satisfy this requirement unless the commissioner directs that additional financial information is required for the proper administration of this chapter.

i. A description of the proposed method of marketing the plan, a financial plan which includes a three-year projection of operating results anticipated, and a statement as to the sources of funding.

j. A power of attorney executed by any applicant appointing the commissioner, the commissioner's successors in office, and deputies to receive process in any legal action or proceeding against the health maintenance organization on a cause of action arising in this state.

k. A statement reasonably describing the geographic area to be served.

l. A description of the complaint procedures to be utilized as required under section 514B.14.

m. A description of the procedures and programs to be implemented to meet the requirements for quality of health care as determined by the director of health and human services under section 514B.4.

n. A description of the mechanism by which enrollees shall be allowed to participate in matters of policy and operation as required by section 514B.7.

o. Other information the commissioner finds reasonably necessary to make the determinations required in section 514B.5.

2. A health maintenance organization shall, unless otherwise provided for in this chapter, file notice with the commissioner and receive approval from the commissioner before modifying the operations described in the information required by this section.

3. Upon receipt of an application for a certificate of authority, the commissioner shall immediately transmit copies of the application and accompanying documents to the director

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of health and human services and the affected regional health planning council, as authorized by Pub. L. No. 89-749, 42 U.S.C. §246(b)2b, for their nonbinding consultation and advice.

[C75, 77, 79, 81, §514B.3]

2003 Acts, ch 91, §28; 2006 Acts, ch 1010, §140; 2012 Acts, ch 1023, §116; 2023 Acts, ch 19, §1193, 1194

Referred to in §514B.5, 514B.12

514B.3A Articles — approval — bylaws.

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

2000 Acts, ch 1023, §24; 2009 Acts, ch 145, §10

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 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.

2006 Acts, ch 1117, §58; 2009 Acts, ch 181, §73

Referred to in §514B.33

514B.4 Applicant for certificate of authority.

1. The commissioner shall determine whether the applicant for a certificate of authority, with respect to health care services to be furnished:

a. Has demonstrated the willingness and potential ability to assure the availability, accessibility, and continuity of service through adequate personnel and facilities.

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

c. Has a procedure established in accordance with rules adopted by the commissioner to develop, compile, evaluate, and report statistics relating to the cost of its operations, the pattern of utilization of its services, the availability and accessibility of its services, and other matters as may be reasonably required by the commissioner.

2. The commissioner, in administering this section and sections 514B.25 and 514B.26, may contract with qualified persons to make recommendations concerning the determinations required to be made by the commissioner. Such recommendations may be accepted in full or in part by the commissioner.

[C75, 77, 79, 81, §514B.4]

92 Acts, ch 1162, §21; 99 Acts, ch 165, §11; 2012 Acts, ch 1023, §157

Referred to in §514B.3, 514B.5

514B.4A Direct provision of health care services.

1. An application for a certificate of authority to provide health care services, directly, shall be forwarded by the commissioner to the director of health and human services for review, comment, and recommendation, with respect to the health care services to be provided directly, to assure that the applicant has demonstrated the willingness and potential ability to provide the health care services through adequate personnel and facilities.

2. Rules proposed by the commissioner for adoption for the direct provision of health care

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services by a health maintenance organization, shall be forwarded by the commissioner to the director of health and human services for review, comment, and recommendation, prior to submission to the administrative rules coordinator pursuant to section 17A.4.

3. The director of health and human services shall respond to the commissioner, with respect to an application or proposed rule, with any comments or recommendations within thirty days of the forwarding of the application or proposed rules to the director of health and human services.

92 Acts, ch 1237, §12; 2023 Acts, ch 19, §1195

514B.5 Issuance and denial of a certificate of authority.

1. The commissioner shall issue or deny a certificate of authority to any person filing an application pursuant to section 514B.3 within a reasonable period of time. Issuance of a certificate of authority shall be granted upon payment of the application fee prescribed in section 514B.22 if the commissioner is satisfied that the following conditions are met:

a. The persons responsible for the conduct of the affairs of the applicant are competent and trustworthy.

b. The commissioner finds that the health maintenance organization's proposed plan of operation meets the requirements of section 514B.4.

c. The health maintenance organization provides or arranges for the provision of basic health care services on a prepaid basis, except that the health maintenance organization may impose deductible and coinsurance charges subject to approval by the commissioner. The commissioner has the authority to promulgate rules pursuant to chapter 17A establishing reasonable maximum deductible and coinsurance charges which may be imposed by health maintenance organizations.

d. The health maintenance organization is fiscally sound and may reasonably be expected to meet its obligations to enrollees. In making this determination, the commissioner may consider:

(1) The financial soundness of the health maintenance organization's arrangements for health care services in relation to its schedule of charges.

(2) The adequacy of the health maintenance organization's working capital.

(3) Any agreement made by the health maintenance organization with an insurer, a corporation authorized under chapter 514 or any other organization for insuring the payment of the cost of health care services or for providing immediate alternative coverage in the event of discontinuance of the health maintenance organization.

(4) Any agreement made with providers for the provision of health care services.

(5) Any surety bond or deposit of cash or securities submitted in accordance with section 514B.16.

e. The enrollees may participate in matters of policy and operation pursuant to section 514B.7.

f. Nothing in the proposed method of operation as shown by the information submitted pursuant to section 514B.3 or by independent investigation is contrary to the public interest.

2. A certificate of authority shall be denied only after compliance with the requirements of section 514B.26.

[C75, 77, 79, 81, §514B.5]

92 Acts, ch 1162, §22, 23; 2012 Acts, ch 1023, §117

Referred to in §513C.4, 514B.3, 514B.9

514B.6 Powers of health maintenance organizations.

1. The powers of a health maintenance organization include, but are not limited to, the following:

a. The purchase, lease, construction, renovation, operation or maintenance of hospitals, medical facilities, or both, and their ancillary equipment, and such property as may reasonably be required for transacting the business of the organization.

b. The making of loans to a medical group under contract with it or to a corporation under its control for the purpose of acquiring or constructing medical facilities and hospitals or in furtherance of a program providing health care services to enrollees.

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c. The furnishing of health care services to the public through providers which are under contract with or employed by the health maintenance organization.

d. The contracting with any person for the performance on its behalf of certain functions such as marketing, enrollment and administration.

e. The contracting with an insurance company authorized to insure groups or individuals in this state for the cost of health care or with a corporation authorized under chapter 514 for the provision of insurance, indemnity, or reimbursement against the cost of health care services provided by the health maintenance organization.

f. The offering, in addition to basic health care services, of health care services and indemnity benefits to enrollees or groups of enrollees.

g. The acceptance from any person of payments covering all or part of the charges made to enrollees of the health maintenance organization.

2. A health maintenance organization shall file notice with the commissioner before the exercise of any power granted in subsection 1, paragraphs *"a"* and *"b"*. The commissioner shall disapprove the exercise of power if in the commissioner's opinion it would substantially and adversely affect the financial soundness of the health maintenance organization and endanger its ability to meet its obligations. The commissioner may adopt rules exempting from the filing requirement of this section those activities having a minimum effect.

[C75, 77, 79, 81, §514B.6]

92 Acts, ch 1162, §24; 2012 Acts, ch 1023, §118

Referred to in §514B.15

514B.7 Governing body.

The governing body of a health maintenance organization may include providers, other individuals, or both, but it shall establish a mechanism to allow a reasonable representation of enrollees to participate in matters of policy and operation. The commissioner shall establish guidelines to implement this section.

[C75, 77, 79, 81, §514B.7]

86 Acts, ch 1180, §8

Referred to in §514B.3, 514B.5

514B.8 Fiduciary responsibilities.

Any director, officer or partner of a health maintenance organization who receives, collects, disburses or invests funds in connection with the activities of a health maintenance organization shall be responsible for these funds in a fiduciary relationship to the enrollees.

[C75, 77, 79, 81, §514B.8]

514B.9 Evidence of coverage.

1. Every enrollee shall receive an evidence of coverage and any amendments. If the enrollee obtains coverage through an insurance policy or a contract issued by a corporation authorized under chapter 514, the insurer or the corporation shall issue the evidence of coverage. No evidence of coverage or amendment shall be issued or delivered to any person in this state until a copy of the form of the evidence of coverage or amendment has been filed with and approved by the commissioner.

2. An evidence of coverage shall contain a clear and complete statement of:

a. The health care services and the insurance or other benefits, if any, to which the enrollee is entitled in the total context of the organizational structure of the health maintenance organization.

b. Any limitations on the services or benefits to be provided, including any deductible or coinsurance charges permitted under section 514B.5, subsection 1, paragraph *"c"*.

c. The manner in which information is available on the method of obtaining health care services.

d. The total amount of payment for health care services and indemnity or service benefits, if any, which the enrollee is obligated to pay with respect to individual contracts, or an indication whether the plan offered through the health maintenance organization is contributory or noncontributory with respect to group contracts.

e. The health maintenance organization's method for resolving enrollee complaints.

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f. The mechanism by which enrollees shall be allowed to participate in matters of policy and operation.

3. A copy of the form of the evidence of coverage to be used in this state and any amendment shall be subject to the filing and approval requirements of this section unless it is subject to the jurisdiction of the commissioner under the laws governing health insurance or corporations authorized under chapter 514 in which event the filing and approval provisions of such laws apply. To the extent, however, that those provisions are less strict than those provided under this section, then the requirements of this section shall apply.

4. Enrollees shall be entitled to receive the most recent annual statement of the financial condition of the health maintenance organization in which they are enrolled, which statement shall include a balance sheet and summary of receipts and disbursements.

[C75, 77, 79, 81, §514B.9]
2012 Acts, ch 1023, §119
Referred to in §514B.11

514B.9A Coverage of children — continuation or reenrollment.

A health maintenance organization which provides health care coverage pursuant to an individual or group health maintenance organization contract regulated under this chapter for children of an enrollee shall permit continuation of existing coverage or reenrollment in previously existing coverage for an individual who meets the requirements of section 513B.2, subsection 14, paragraph *"a"*, *"b"*, *"c"*, *"d"*, or *"e"*, and who is an unmarried child of an enrollee who so elects, at least through the policy anniversary date on or after the date the child marries, ceases to be a resident of this state, or attains the age of twenty-five years old, whichever occurs first, or so long as the unmarried child maintains full-time status as a student in an accredited institution of postsecondary education.

2009 Acts, ch 118, §10, 11

514B.10 Charges.

Charges to enrollees may be established in accordance with actuarial principles for various categories of enrollees, but the charges shall not be determined according to the status of an individual enrollee's health or sex and shall not be excessive, inadequate, or unfairly discriminatory.

[C75, 77, 79, 81, §514B.10]
95 Acts, ch 185, §10
Referred to in §514B.11, 514B.17

514B.11 Disapproval of filings.

If the commissioner disapproves a filing made pursuant to sections 514B.9 and 514B.10, the commissioner shall notify the filer and in the notice specify the reasons for the disapproval. A hearing shall be granted by the commissioner within a reasonable period of time from the request for the hearing, which request must be made within thirty days after receipt by the filer of the notice of disapproval. The commissioner may require the submission of whatever relevant information the commissioner deems necessary in determining whether to disapprove a filing.

[C75, 77, 79, 81, §514B.11]

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:

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.

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

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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.

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 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 as provided in section 505.7.

[C75, 77, 79, 81, §514B.12]

92 Acts, ch 1162, §25; 2003 Acts, ch 91, §29; 2004 Acts, ch 1101, §73; 2006 Acts, ch 1117, §59; 2009 Acts, ch 181, §74

Referred to in §514B.33

514B.13 Open enrollment.

1. After a health maintenance organization has been in operation twenty-four months, it shall have an annual open enrollment period of at least one month during which it accepts enrollees up to the limits of its capacity, as determined by the health maintenance organization, in the order in which the prospective enrollees apply for enrollment. A health maintenance organization may apply to the commissioner for authorization to impose such underwriting restrictions upon enrollment as are necessary to preserve its financial stability, to prevent excessive adverse selection by prospective enrollees, or to avoid unreasonably high or unmarketable charges for enrollee coverage for health care services. The commissioner shall approve or deny the application made pursuant to this section within a reasonable period of time from the receipt of the application.

2. Health maintenance organizations providing services exclusively on a group contract basis may limit the open enrollment provided for in this section to all members of the group covered by the contract, including those members of the group who previously waived coverage.

[C75, 77, 79, 81, §514B.13]

2005 Acts, ch 70, §13; 2018 Acts, ch 1041, §127; 2019 Acts, ch 59, §186

514B.14 Complaint system.

1. A health maintenance organization shall establish and maintain a complaint system which has been approved by the commissioner and which shall provide for the resolution of written complaints initiated by enrollees concerning health care services. A health maintenance organization shall submit to the commissioner an annual report in a form prescribed by the commissioner which shall include:

a. A description of the procedures of the complaint system.

b. The total number of complaints handled through the complaint system and a compilation of causes underlying the complaints filed.

c. The number, amount and disposition of malpractice claims settled during the year by the health maintenance organization and any of its providers.

2. The health maintenance organization shall maintain statistical information of written complaints filed with it concerning benefits over which the health maintenance organization does not have control and shall submit to the commissioner a summary report at the time and

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in the format that the commissioner may require. Complaints involving other persons shall be referred to those persons and a copy of the complaint sent to the commissioner.

[C75, 77, 79, 81, §514B.14]

92 Acts, ch 1162, §26; 2012 Acts, ch 1023, §157

Referred to in §514B.3

514B.15 Investments.

With the exception of investments made in accordance with section 514B.6, the investable funds of a health maintenance organization shall be invested only in securities or other investments permitted by section 511.8 for the investment of assets of life insurance companies or such other securities or investments as the commissioner may permit. For purposes of this section, investable funds of a health maintenance organization are all moneys held in trust for the purpose of fulfilling the obligations incurred by a health maintenance organization in providing health care services to enrollees.

[C75, 77, 79, 81, §514B.15]

2023 Acts, ch 36, §8

514B.16 Protection against insolvency.

A health maintenance organization shall furnish a surety bond in an amount satisfactory to the commissioner, or deposit with the commissioner cash or securities acceptable to the commissioner in at least the same amount, as a guarantee that its obligations to enrollees will be performed. The commissioner may waive this requirement when satisfied that the assets of the organization or its contracts with other organizations are sufficient to reasonably assure the performance of its obligations.

[C75, 77, 79, 81, §514B.16]

Referred to in §514B.5

514B.17 Cancellation of enrollees.

1. An enrollee enrolled in a prepaid individual plan shall not be canceled except for the failure to pay the charges permitted under section 514B.10 or for other reasons stated in the rules adopted by the commissioner and subject to review in accordance with chapter 17A. Except as provided in subsection 2 concerning prepaid group plans, notice of cancellation to an enrollee shall not be effective unless delivered to the enrollee by the health maintenance organization in a manner prescribed by the commissioner and at least thirty days before the effective date of cancellation and unless accompanied by a statement of reason for cancellation. At any time before cancellation of the policy for nonpayment, the enrollee may pay to the health maintenance organization the full amount due, including court costs if any, and from the date of payment by the enrollee or the collection of the judgment, coverage shall revive and be in full force and effect.

2. The effect of cancellation of a prepaid group plan providing health care services to enrollees, and the duty to provide notice and liability for benefits, is the same as provided under section 509B.5, subsection 2, for the termination of accident or health insurance for employees or members.

[C75, 77, 79, 81, §514B.17]

95 Acts, ch 185, §11

514B.17A Rescission.

1. A health maintenance organization may rescind an enrollee's membership in the health maintenance organization if the enrollee makes a material false statement or misrepresentation in the enrollee's application for membership. A written notice of rescission shall be sent to the enrollee by certified mail addressed to the enrollee and sent to the enrollee's last address known to the health maintenance organization and shall state the reason for the rescission. The enrollee may appeal the rescission to the commissioner as provided by the commissioner by rules adopted under chapter 17A.

2. An enrollee's membership in a health maintenance organization shall not be rescinded

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as provided in subsection 1 more than two years after the date of the enrollee's enrollment in the health maintenance organization.

2008 Acts, ch 1123, §24; 2017 Acts, ch 54, §76

514B.18 False representation.

A health maintenance organization, unless licensed as an insurer, shall not use in its name, contracts, or literature any words descriptive of an insurance, casualty, or surety business or deceptively similar to the name or description of any insurance or surety corporation doing business in this state. No health maintenance organization or any person on its behalf shall advertise or merchandise its services in a manner to misrepresent its services or capacity for service, nor shall it engage in misleading, deceptive or unfair practices with respect to advertising or merchandising. This section does not exempt health maintenance organizations which are engaged in the business of insurance from regulation under the provisions of chapter 507B.

[C75, 77, 79, 81, §514B.18]

514B.19 Regulation of insurance producers.

The commissioner may, after notice and hearing, promulgate such reasonable rules under the provisions of chapter 522B that are necessary to provide for the licensing of insurance producers who engage in solicitation or enrollment for a health maintenance organization.

[C75, 77, 79, 81, §514B.19]

2001 Acts, ch 16, §14, 37

514B.20 Powers of insurers and hospital and medical service corporations.

1. An insurance company authorized to engage in insuring individuals or groups for the cost of health care in this state or a corporation authorized under chapter 514 may either directly or through a subsidiary or affiliate do one or more of the following:

a. Organize and operate a health maintenance organization under the provisions of this chapter.

b. Contract with a health maintenance organization to provide insurance or similar protection against the cost of care provided through the health maintenance organization.

c. Contract with a health maintenance organization to provide coverage in the event of the failure of the health maintenance organization to meet its obligations.

2. Any two or more insurance companies, corporations, or their subsidiaries or affiliates may jointly organize and operate a health maintenance organization.

[C75, 77, 79, 81, §514B.20]

2012 Acts, ch 1023, §157

514B.21 Public employees included.

Any employee of the state, political subdivision of the state, or of any institution supported in whole or in part by public funds may authorize the deduction from the employee's salary or wages of the amount charged to the employee for any health care services provided through health maintenance organizations under this chapter in the manner provided in section 514.16.

[C75, 77, 79, 81, §514B.21]

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.

[C75, 77, 79, 81, §514B.22]

2006 Acts, ch 1117, §60

Referred to in §514B.5

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514B.23 Rules.

The commissioner shall adopt rules, pursuant to chapter 17A, as are necessary to administer this chapter.

[C75, 77, 79, 81, §514B.23]

92 Acts, ch 1162, §27

514B.24 Examinations permitted.

1. The commissioner shall make an examination of the affairs of a health maintenance organization and its providers as often as the commissioner deems necessary for the protection of the interests of the people of this state, but not less frequently than once every five years.

2. Every health maintenance organization and provider shall submit its books and records to the commissioner and in every way facilitate the examination. For the purpose of examinations, the commissioner may administer oaths to and examine the officers and agents of the health maintenance organization and the principals of its providers concerning their business. The expenses of examinations under this section shall be assessed against the organization being examined and remitted to the commissioner.

3. In lieu of the examination required by this section, the commissioner may accept the report of an examination made by the appropriate departments in other states.

[C75, 77, 79, 81, §514B.24]

92 Acts, ch 1162, §28; 2000 Acts, ch 1023, §25; 2018 Acts, ch 1041, §127

Referred to in §514B.30

514B.25 Financially impaired or insolvent health maintenance organizations.

The provisions of chapter 507C shall apply to health maintenance organizations, which shall be considered insurers for the purposes of chapter 507C.

[C75, 77, 79, 81, §514B.25]

91 Acts, ch 26, §39

Referred to in §514B.4

514B.25A Impairment and insolvency protection.

The provisions of chapter 508C shall apply to health maintenance organizations.

2000 Acts, ch 1023, §26; 2017 Acts, ch 148, §61; 2019 Acts, ch 12, §34, 35, 36

514B.26 Administrative procedures.

1. When the commissioner has cause to believe that grounds for the denial, suspension, or revocation of a certificate of authority exist, the commissioner shall notify the health maintenance organization in writing of the particular grounds for denial, suspension, or revocation and shall issue a notice of a time fixed for a hearing, which shall be held not less than ten days after the receipt by the health maintenance organization of the notice.

2. At the time and place fixed for a hearing, the person charged shall have an opportunity to be heard and to show cause why the order should not be made by the commissioner. Upon good cause shown, the commissioner may permit any person to intervene, appear, and be heard at the hearing by counsel or in person. Nothing contained in this chapter shall require the observance at any hearing of formal rules of pleading or evidence. The provisions of section 507B.6, subsections 4 and 5, relating to the powers and duties of the commissioner in relation to the hearing and relating to the rights and obligations of persons upon whom the commissioner has served notice shall apply to this chapter.

3. After the hearing, or upon the failure of the health maintenance organization to appear at the hearing, the commissioner shall take action as the commissioner deems advisable and which is permitted by the commissioner under the provisions of this chapter and shall reduce the findings to writing. Copies of the written findings shall be mailed to the health maintenance organization charged with violation of this chapter.

[C75, 77, 79, 81, §514B.26]

92 Acts, ch 1162 §29; 2018 Acts, ch 1041, §127; 2019 Acts, ch 24, §78

Referred to in §514B.4, 514B.5, 514B.27

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514B.27 Judicial review.

The action of the commissioner under section 514B.26 is subject to judicial review in accordance with chapter 17A.

[C75, 77, 79, 81, §514B.27]

92 Acts, ch 1162, §30

514B.28 Injunction.

The commissioner may, in the manner provided by law, maintain an action in the name of the state for injunction or other process against the person violating any provision of this chapter.

[C75, 77, 79, 81, §514B.28]

514B.29 Penalty. Repealed by 2004 Acts, ch 1110, §71.

514B.30 Communications in professional confidence.

1. An officer, director, trustee, partner, or employee of a health maintenance organization shall not testify as to or make other public disclosure of any communication made to a provider and deemed privileged under section 622.10, and which communication has come into the knowledge or possession of such officer, director, trustee, partner, or employee by reason of employment with the health maintenance organization. To the extent necessary to effectuate the examinations provided in section 514B.24 only, the commissioner may examine medical or hospital records of a person receiving basic health care services under the provisions of this chapter but shall not testify as to such confidential communications or make other public disclosure thereof without the express consent of the person or the person's legal representative, if the person is deceased or incompetent. The provisions of section 622.10 respecting waiver shall apply to this section.

2. A health maintenance organization is hereby prohibited from releasing the names of its membership list of enrollees, whether or not for value or consideration, except to the extent necessary to effectuate the provisions of this chapter or to conduct research or analyses regarding cost or quality issues.

[C75, 77, 79, 81, §514B.30]

92 Acts, ch 1162, §31; 92 Acts, ch 1206, §6; 2018 Acts, ch 1041, §127

514B.31 Health maintenance organization health care-related taxation.

Every health maintenance organization and including health maintenance organizations contracting with the department of health and human services to administer the medical assistance program under chapter 249A shall be subject to taxation under chapter 432B.

[C75, 77, 79, 81, §514B.31]

90 Acts, ch 1173, §1; 2002 Acts, ch 1158, §8; 2023 Acts, ch 158, §5; 2026 Acts, ch 1003, §8, 15, 16

2026 amendment applies retroactively to January 1, 2026, for tax years beginning on or after that date; 2026 Acts, ch 1003, §16
Section stricken and rewritten

514B.32 Construction.

1. Except as otherwise provided in this chapter, laws regulating the insurance business in this state and the operations of corporations authorized under chapter 514 shall not be applicable to any health maintenance organization granted a certificate of authority under this chapter with respect to its health maintenance organization activities authorized and regulated pursuant to this chapter.

2. Solicitation of enrollees by a health maintenance organization granted a certificate of authority or its representatives does not violate any provision of law prohibiting solicitation or advertising by health professionals. Upon a prospective enrollee's request, a list of locations of services and a list of providers who have current agreements with the health maintenance organization shall be made available.

3. Any health maintenance organization authorized under this chapter is not practicing medicine and shall not be subject to the limitations provided in section 135B.26 on types of contracts entered into between doctors and hospitals.

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4. A health maintenance organization authorized under this chapter shall be considered a person for purposes of chapter 507B.

5. The provisions of this chapter shall be applicable to a managed care organization acting pursuant to a contract with the department of health and human services to administer the medical assistance program under chapter 249A, or the healthy and well kids in Iowa (Hawki) program under chapter 514I, only with respect to licensure and solvency standards as evidenced by the managed care organization obtaining and maintaining a certificate of authority, and maintaining compliance with the solvency standards set forth in this chapter.

[C75, 77, 79, 81, §514B.32]

83 Acts, ch 28, §1; 93 Acts, ch 88, §16; 2022 Acts, ch 1131, §64; 2023 Acts, ch 19, §1196

514B.33 Establishment of limited service organizations.

1. A person may apply to the commissioner for and obtain a certificate of authority to establish and operate a limited service organization in compliance with this chapter. A person shall not establish or operate a limited service organization in this state, or sell, offer to sell, or solicit offers to purchase or receive advance or periodic consideration in conjunction with a limited service organization without obtaining a certificate of authority under this chapter.

2. When not otherwise provided, a foreign or domestic limited service organization doing business in this state shall pay the commissioner the fees as required in section 511.24.

3. The commissioner shall adopt rules pursuant to chapter 17A establishing a certification process for limited service organizations.

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

5. *a.* For purposes of this section, *"limited service organization"* means an organization providing dental care services, vision care services, mental health services, substance use disorder services, pharmaceutical services, podiatric care services, or such other services as may be determined by the commissioner.

b. "Limited service organization" does not include an organization providing hospital, medical, surgical, or emergency services, except as such services are provided incident to those services identified in paragraph *"a"*.

97 Acts, ch 186, §9; 2003 Acts, ch 91, §30; 2006 Acts, ch 1117, §61; 2023 Acts, ch 19, §1197

Referred to in §507C.3, 508C.3

CHAPTER 514C

SPECIAL HEALTH AND ACCIDENT INSURANCE COVERAGES

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 507A.4, 669.14, 670.7

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514C.35 Behavioral health services provided in a school — coverage.
514C.36 Biomarker testing — coverage.
514C.37 Primary care providers — insurance requirements.

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 sixty days after the date of birth.

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

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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.

[C75, 77, 79, 81, §514C.1]
2006 Acts, ch 1117, §62
Referred to in §514E.7

514C.2 Skilled nursing care covered in hospitals.

An insurer, a hospital service corporation, or a medical service corporation, which covers the costs of skilled nursing care under an individual or group policy of accident and health insurance regulated under chapter 509 or 514A, a nonprofit hospital or medical and surgical service plan regulated under chapter 514, or a health care service contract regulated under chapter 514B, shall also cover the costs of skilled nursing care in a hospital if the level of care needed by the insured or subscriber has been reclassified from acute care to skilled nursing care and no designated skilled nursing care beds or swing beds are available in the hospital or in another hospital or health care facility within a thirty-mile radius of the hospital. The insurer or corporation shall reimburse the insured or subscriber based on the skilled nursing care rate.

84 Acts, ch 1034, §1; 95 Acts, ch 185, §12

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, 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, subsection 3.

88 Acts, ch 1127, §1; 2006 Acts, ch 1117, §63; 2008 Acts, ch 1088, §129

514C.3A Disclosures relating to dental coverage reimbursement rates.

1. An individual or group policy of accident or health insurance or individual or group hospital or health care service contract issued pursuant to chapter 509, 514, or 514A, and delivered, amended, or renewed on or after July 1, 1995, that provides dental care benefits with a base payment for those benefits determined upon a usual and customary fee charged by licensed dentists, shall disclose all of the following:

a. The frequency of the determination of the usual and customary fee.

b. A general description of the methodology used to determine usual and customary fees, including geographic considerations.

c. The percentile that determines the maximum benefit that the insurer or nonprofit health service corporation will pay for any dental procedure, if the usual and customary fee is determined by taking a sample of fees submitted on actual claims from licensed dentists and then determining the benefit by selecting a percentile of those fees.

2. The disclosure shall be provided upon request to all group and individual policyholders and subscribers. All proposals for dental care benefits shall inform the

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prospective policyholder or subscriber that information regarding usual and customary fee determinations is available from the insurer or nonprofit health service corporation. All employee benefit descriptions or supplemental documents shall notify the employee that information regarding reimbursement rates is available from the employer.

95 Acts, ch 78, §1; 95 Acts, ch 209, §26

514C.3B Dental coverage — fee schedules.

1. A contract between a dental plan and a dentist for the provision of services to covered individuals under the plan shall not require that a dentist provide services to those covered individuals at a fee set by the dental plan unless such services are covered services under the dental plan.

2. A person or entity providing third-party administrator services shall not make available any dentists in its dentist network to a dental plan that sets fees for dental services that are not covered services.

3. For the purposes of this section:

a. "Covered services" means services reimbursed under the dental plan.

b. "Dental plan" means any policy or contract of insurance which provides for coverage of dental services not in connection with a medical plan that provides for the coverage of medical services.

4. Nothing in this section shall be construed as limiting the ability of an insurer or a third-party administrator to restrict any of the following as they relate to covered services:

a. Balance billing.

b. Waiting periods.

c. Frequency limitations.

d. Deductibles.

e. Maximum annual benefits.

2010 Acts, ch 1179, §1

514C.3C Dental care service plan contracts.

1. *Definitions.* As used in this section unless the context otherwise provides:

a. "Commissioner" means the commissioner of insurance.

b. "Contracting entity" means any person, third-party administrator, health carrier, or dental carrier that enters into a contract with a dental care provider for the delivery of dental care services.

c. "Covered person" means a policyholder, subscriber, enrollee, or other individual participating in a dental care service plan or health benefit plan that provides for dental care services.

d. "Dental care provider" means any person licensed to practice dentistry pursuant to chapter 153, and who provides dental care services pursuant to a dental care service plan or health benefit plan.

e. "Dental care service plan" means a policy, contract, plan, certificate, or agreement that provides for third-party payment or prepayment of dental care services and that is delivered or issued for delivery by or through a dental carrier on a stand-alone basis. *"Dental care service plan"* includes a health benefit plan that provides for dental care services.

f. "Dental care services" means the same as defined in section 514J.102. *"Dental care services"* does not include services that are billed as medical expenses under a health benefit plan.

g. "Dental carrier" means an entity subject to the insurance laws and regulations of this state, or subject to the jurisdiction of the commissioner, including an insurance company offering dental care service plans, or any other entity that provides a dental care service plan.

h. "Dental service contractor" means any person who accepts a prepayment from, or for the benefit of, another person as consideration for the provision of future dental care services. *"Dental service contractor"* does not include a dental care provider that accepts prepayment on a fee-for-service basis for providing specific dental services to individual patients for whom such services have been prediagnosed.

i. "Dentist agent" means a person that contracts with a dental care provider to establish an

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agency relationship for purposes of processing bills for services provided by the dental care provider under the terms and conditions of a contract between the dentist agent and a health care provider. A contract between a dentist agent and a health care provider may permit the dentist agent to submit bills, request reconsideration, and receive reimbursement.

j. "Health benefit plan" means the same as defined in section 514J.102.

k. "Health carrier" means the same as defined in section 514J.102.

l. "Network contract" means a contract between a contracting entity and a dental care provider that specifies the rights and responsibilities of the contracting entity and provides for the delivery and payment of dental services to a covered person.

m. "Third party" means a person, not including a covered person, that enters into a contract with a contracting entity to access the dental services or contractual discounts of a network contract. *"Third party"* does not include an employer or other group for whom the dental carrier or contracting entity provides administrative services.

n. "Virtual credit card payment" means an electronic funds transfer in which a dental care service plan, or a contracted vendor, issues a single-use series of numbers associated with the payment of dental care services performed by a dental care provider and chargeable to a predetermined dollar amount, where the dental care provider is responsible for processing the payment by a credit card terminal or internet portal. *"Virtual credit card payment"* includes only electronic or virtual credit card payments, where no physical credit card is used and the single-use electronic credit card expires upon payment processing.

2. *Third-party access to network contracts.*

a. A contracting entity may grant a third party access to a network contract, or to a dental care provider's dental care services or contractual discounts provided pursuant to a network contract, if all of the following requirements are met:

(1) If the contracting entity is a dental carrier or health carrier, at the time the network contract is entered into, renewed, or material modifications relevant to granting access to a third party are made, the contracting entity allows any dental care provider that is part of the contracting entity's network contract to choose not to participate in third-party access to the network contract, or to enter into a contract directly with the third party. If a dental care provider opts out of lease arrangements, a contracting entity shall not cancel or terminate a contractual relationship with, or refuse to contract with, the dental care provider.

(2) The network contract specifically states that the contracting entity may enter into an agreement with a third party to allow the third party to obtain the contracting entity's rights and responsibilities under the network contract as if the third party were the contracting entity. If the contracting entity is a dental carrier, the network contract must specifically state that the dental care provider may choose not to participate in third-party access to the network contract, and that the dental care provider chose to participate in third-party access at the time the network contract was entered into or renewed.

(3) The third party accessing the network contract agrees to comply with all of the network contract's terms.

(4) The contracting entity identifies to the dental care provider, in writing, all third parties participating in the network contract as of the date the network contract is entered into or renewed.

(5) The contracting entity provides a list of all third parties participating in the network contract on the contracting entity's internet site and the list of third parties is updated at least once every ninety days.

(6) The contracting entity notifies a dental care provider under the network contract at least thirty days prior to a new third party leasing or purchasing the network contract.

(7) The contracting entity requires a third party to identify, for all remittance advice or explanations of payment under which a discount applies, the source of the discount. This subparagraph does not apply to an electronic transaction mandated by the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

(8) The contracting entity notifies a third party of the termination of a network contract no later than thirty days from the termination date of the network contract.

(9) A third party's right to a dental care provider's discounted rate is terminated as of the termination date of the network contract.

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(10) In the adjudication of a claim under the network contract, the contracting entity makes available to the dental care provider a copy of the network contract no later than thirty days after a request for the network contract is received.

b. This section shall not apply to access to a network contract provided to a third party that is either an affiliate of, or operating under the same brand licensing as, the contracting entity. A contracting entity shall provide a list of all affiliates on the contracting entity's internet site.

c. No dental care provider shall be bound by, or required to perform, dental care services under a network contract that has been granted to a third party in violation of this section.

3. *Dental care service plans — method of payment.*

a. A dental care service plan shall not require payments to be made to dental care providers by virtual credit card payment.

b. A dental care service plan, when initiating payments to a dental care provider via virtual credit card payment, or when changing the method of payment for a dental care provider to virtual credit card payments, shall do all of the following:

(1) Notify the dental care provider of any fees associated with each payment method.

(2) Inform the dental care provider of the available options for methods of payment and provide clear instructions to the dental care provider for the selection of an alternative payment method.

c. A dental care service plan that transmits payments to a dental care provider in accordance with the standards of 45 C.F.R. §162.1601 and 162.1602 shall not charge a fee solely for the transmission of the payment to the dental care provider unless the dental care provider has consented to payment of the fee. When transmitting a national automated clearinghouse payment, a dentist agent may charge a reasonable fee related to bank transmittal, transaction management, data management, portal services, and other value-added services.

4. *Waiver prohibited.* The requirements of this section shall not be waived by contract. Any contractual arrangement contrary to this section shall be null and void.

5. *Rules.* The commissioner may adopt rules pursuant to chapter 17A to administer this section.

2024 Acts, ch 1041, §1; 2024 Acts, ch 1154, §16
Referred to in §514C.3D, 514C.3E, 514C.3F

514C.3D Prior authorization for dental care services.

1. *Definitions.* As used in this section unless the context otherwise provides:

a. "Commissioner" means the commissioner of insurance.

b. "Covered person" means the same as defined in section 514C.3C.

c. "Dental care provider" means the same as defined in section 514C.3C.

d. "Dental care service plan" means the same as defined in section 514C.3C.

e. "Dental care services" means the same as defined in section 514C.3C.

f. "Dental carrier" means the same as defined in section 514C.3C.

g. "Prior authorization" means a determination by a dental carrier in response to a request submitted by a dental care provider as to whether a specific dental care service proposed by the dental care provider for a covered person will be reimbursed at a specified amount, subject to any applicable coinsurance or deductible required under the covered person's dental care service plan.

2. *Prior authorization.*

a. A dental carrier shall not deny a claim submitted by a dental care provider for dental care services approved by prior authorization.

b. A dental carrier shall reimburse a dental care provider at the contracted reimbursement rate for a dental care service provided by the dental care provider to a covered person per a prior authorization.

3. *Exceptions.* Subsection 2 shall not apply if any of the following apply for each dental care service for which a dental care provider is denied reimbursement:

a. On the date that the dental care service was provided by the dental care provider to the covered person per a prior authorization, a benefit limitation including but not limited to an annual maximum or a frequency limitation that was not applicable at the time of the prior

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authorization had been reached due to utilization of the dental care service plan subsequent to the dental carrier issuing the prior authorization.

b. The dental care provider submits a claim for dental care services approved by prior authorization and the documentation of dental care services fails to support the claim for dental care services as originally authorized by the prior authorization.

c. Subsequent to the issuance of a prior authorization, and prior to the provision of dental care services authorized by the prior authorization, a covered person receives additional dental care services, or a change in the dental condition of the covered person occurs, such that the dental care services authorized by the prior authorization are no longer considered medically necessary based on the prevailing standard of care.

d. Subsequent to the issuance of a prior authorization, and prior to the provision of dental care services authorized by the prior authorization, a covered person receives additional dental care services, or a change in the dental condition of the covered person occurs, such that on the date that the dental care service is to be provided a request for prior authorization of the dental care service would require disapproval pursuant to the terms and conditions for coverage under the covered person's current dental care service plan.

e. A payor other than the dental carrier is responsible for payment for the dental care service.

f. A dental care provider has already received payment from the dental carrier for the dental care services identified in the claim for reimbursement.

g. The claim was submitted fraudulently to the dental carrier.

h. The dental care provider, covered person, or other person not related to the dental carrier provided inaccurate information that the dental carrier relied on, in whole or in part, for the dental carrier's prior authorization determination.

i. On the date that the dental care service was provided by the dental care provider to the covered person per the prior authorization, the covered person was ineligible to receive the dental care service and the dental carrier did not know, and with the exercise of reasonable care could not have known, of the covered person's ineligibility.

j. Prior to providing a dental care service approved by prior authorization, the dental care provider terminated participation in the dental carrier's network under which the dental carrier issued the prior authorization for such dental care service.

4. *Waiver prohibited.* The requirements of this section shall not be waived by contract. Any contractual arrangement contrary to this section shall be null and void.

5. *Rules.* The commissioner may adopt rules pursuant to chapter 17A to administer this section.

2025 Acts, ch 37, §1

514C.3E State-regulated dental care service plans.

1. *Definitions.* As used in this section, unless the context otherwise provides:

a. *"Commissioner"* means the commissioner of insurance.

b. *"Covered person"* means the same as defined in section 514C.3C.

c. *"Dental care provider"* means the same as defined in section 514C.3C.

d. *"Dental care service plan"* means the same as defined in section 514C.3C.

e. *"Dental carrier"* means the same as defined in section 514C.3C.

2. *Required disclosures.* If a covered person's dental care service plan is subject to the insurance laws and regulations of this state, or subject to the jurisdiction of the commissioner, a dental carrier shall do all of the following:

a. Disclose to a dental care provider through an online dental care provider portal, or other easily accessible means, that a covered person's dental care service plan is state-regulated.

b. Include the statement "state-regulated" on an electronic or physical identification card issued to a covered person on or after July 1, 2025.

3. *Waiver prohibited.* The requirements of this section shall not be waived by contract. Any contract contrary to this section shall be null and void.

4. *Rules.* The commissioner may adopt rules pursuant to chapter 17A to administer this section.

2025 Acts, ch 37, §2

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514C.3F Dental carrier — recovery of claim overpayment.

1. *Definitions.* As used in this section, unless the context otherwise provides:

a. "Dental care provider" means the same as defined in section 514C.3C.

b. "Dental care services" means the same as defined in section 514C.3C.

c. "Dental carrier" means the same as defined in section 514C.3C.

d. "Overpayment" means a payment made in error by a dental carrier to a dental provider for a dental care service.

2. *Appeals.* A dental carrier shall establish written policies and procedures for a dental care provider to appeal an overpayment recovery or overpayment recovery request made by the dental carrier. The dental carrier shall notify the dental care provider of the policies and procedures to appeal an overpayment recovery or overpayment recovery request at the time that the dental carrier makes the overpayment recovery or overpayment recovery request. The policies and procedures must allow a dental care provider to appeal an overpayment recovery or overpayment recovery request within a minimum of ninety calendar days after the dental care provider receives such notice. The policies and procedures must allow the dental care provider to access the claim information that is the subject of the overpayment dispute.

3. *Notice.* A dental carrier shall not attempt to recover an overpayment, in whole or in part, unless the dental carrier provides written notice of the overpayment to the dental care provider no later than three hundred sixty-five calendar days after the date the dental care provider received the overpayment. The written notice of overpayment must identify the error made in the processing or payment of the claim. The written notice must state a request for recovery of the overpayment or notify the dental care provider of withholding or reducing a payment as required in subsection 4. If a recovery attempt is made pursuant to subsection 4, then the dental carrier shall be deemed to have met the notice requirements of this subsection.

4. *Withholding or reducing payments.* A dental carrier may attempt to recover an overpayment by withholding or reducing a payment to a dental care provider for a different claim if the dental carrier provides the dental care provider with written notice within twenty-eight calendar days after the date of withholding or reducing the payment for the other claim. The notice must identify the original claim that was overpaid, the amount being withheld or reduced for the overpayment and recovery, and the payment from which such amount is being withheld or reduced. A dental carrier may include the notice required by this subsection as part of the notice required by subsection 3.

5. *Applicability.* Subsections 3 and 4 shall not apply, and a dental carrier shall be entitled to recover an overpayment, if the overpayment recovery efforts are based on a reasonable belief of fraud, abuse, or other intentional misconduct.

6. *Waiver prohibited.* The requirements of this section shall not be waived by contract. Any contract contrary to this section shall be null and void.

7. *Rules.* The commissioner of insurance may adopt rules pursuant to chapter 17A to administer this section.

2025 Acts, ch 37, §3

514C.4 Mandated coverage for mammography.

1. *a.* A policy or contract providing for third-party payment or prepayment of health or medical expenses shall provide minimum mammography examination coverage, including, but not limited to, the following classes of third-party payment provider contracts or policies delivered, issued for delivery, continued, or renewed in this state.

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

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

(3) An individual or group health maintenance organization contract regulated under chapter 514B.

(4) An individual or group Medicare supplemental policy, unless coverage pursuant to such policy is preempted by federal law.

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b. A long-term care policy or contract is specifically excluded from regulation under this section.

2. As used in this section, *"minimum mammography examination coverage"* means benefits which are better than or equal to the following minimum requirements:

a. One baseline mammogram for any woman who is thirty-five through thirty-nine years of age, or more frequent mammograms if recommended by the woman's physician.

b. A mammogram every two years for any woman who is forty through forty-nine years of age, or more frequently if recommended by the woman's physician.

c. A mammogram every year for any woman who is fifty years of age or older, or more frequently if recommended by the woman's physician.

3. Mammogram benefits may be subject to any policy or contract provisions which apply generally to other services covered by the policy or contract.

4. The commissioner of insurance shall adopt rules under chapter 17A necessary to implement this section.

89 Acts, ch 289, §1; 92 Acts, ch 1162, §32, 33; 2003 Acts, ch 135, §1 – 3; 2012 Acts, ch 1023, §157

514C.4A Supplemental and diagnostic breast examinations.

1. As used in this section, unless the context otherwise requires:

a. "Breast magnetic resonance imaging" or *"breast MRI"* means an examination of a breast, following administration of intravenous contrast, using a powerful magnetic field, radio waves, and a computer to produce detailed pictures of the structures within the breast.

b. "Breast ultrasound" means a noninvasive examination of a breast using high-frequency sound waves to produce detailed images of the breast.

c. "Covered person" means a policyholder, subscriber, or other person participating in a policy, contract, or plan that provides for third-party payment or prepayment of health or medical expenses.

d. "Diagnostic breast examination" means a medically necessary and appropriate examination of the breast that may include a diagnostic mammogram, breast magnetic resonance imaging, breast ultrasound, or other breast imaging, and that is performed for any of the following reasons:

(1) To evaluate an abnormality seen or suspected during a screening examination for breast cancer.

(2) To evaluate an abnormality detected by another means of examination.

e. "Diagnostic mammogram" means a detailed examination of a breast abnormality using X ray.

f. "Health care professional" means the same as defined in section 514J.102.

g. "Health care services" means services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.

h. "Screening mammogram" means an examination of a breast that aids in the early detection and diagnosis of breast abnormalities including breast cancer.

i. "Supplemental breast examination" means a medically necessary and appropriate examination of the breast that may include breast magnetic resonance imaging, breast ultrasound, contrast-enhanced mammography, or examination for dense breast tissue as described by the breast imaging reporting and data system of the American college of radiology, and that is performed to screen for breast cancer when there is no abnormality seen or suspected and based on an individual's personal or family medical history, or additional factors that may increase the individual's risk of breast cancer.

2. *a.* Notwithstanding the uniformity of treatment requirements of section 514C.6, a policy, contract, or plan providing for third-party payment or prepayment of health or medical expenses shall provide coverage for supplemental breast examinations and diagnostic breast examinations.

b. Coverage required under this section shall not be less favorable than coverage a health carrier offers for screening mammograms.

3. *a.* This section applies to the following classes of third-party payment provider

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contracts, policies, or plans delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2025:

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

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

(3) An individual or group health maintenance organization contract regulated under chapter 514B.

(4) A plan established for public employees pursuant to chapter 509A.

b. This section shall not apply to accident-only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, Medicare supplement, long-term care, basic hospital and medical-surgical expense coverage as defined by the commissioner of insurance, disability income insurance coverage, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance.

4. The commissioner of insurance may adopt rules pursuant to chapter 17A to administer this section.

2024 Acts, ch 1115, §1

514C.5 Prescription drug benefit restrictions.

1. A group policy or contract providing for third-party payment or prepayment for prescription drugs shall not require a person covered under the policy or contract to obtain prescription drugs from a mail order pharmacy as a condition of obtaining benefits for prescription drugs if the pharmacy selected by the covered person agrees to provide pharmaceutical services under the same terms and conditions as those provided by the mail order pharmacy.

2. Group third-party payor policies or contracts delivered, issued for delivery, continued, or renewed in this state on or after July 1, 1990, are subject to this section, including but not limited to the following classes:

a. A group accident and sickness insurance policy.

b. A group hospital or medical service contract.

c. A group health maintenance organization contract.

d. A group Medicare supplemental policy.

90 Acts, ch 1130, §1

514C.6 Uniformity of treatment — employee welfare benefit plans.

1. A statutory provision to mandate a health care coverage or service, or to mandate the offering of a health care coverage or service, applies to all state-regulated third-party payors and to employee welfare benefit plans described in 29 U.S.C. §1001 et seq. However, if an employee welfare benefit plan subject to federal regulation is not subject to a substantially similar requirement, the statutory provision does not apply to a state-regulated third-party payor until the employee welfare benefit plans are subject to a substantially similar standard under federal regulations as determined by the commissioner.

2. For purposes of this section unless the context otherwise requires, a third-party payor means:

a. An accident and sickness insurer, subject to chapter 509 or 514A.

b. A nonprofit health service corporation, subject to chapter 514.

c. A health maintenance organization, subject to chapter 514B.

d. Any other entity engaged in the business of insurance, risk transfer, or risk retention, which is subject to the jurisdiction of the commissioner.

91 Acts, ch 213, §20

Referred to in §514C.4A, 514C.7, 514C.11, 514C.12, 514C.12A, 514C.18, 514C.19, 514C.20, 514C.22, 514C.23, 514C.24, 514C.25, 514C.26, 514C.27, 514C.28, 514C.29, 514C.30, 514C.31, 514C.32, 514C.33, 514C.34, 514C.35, 514C.36, 514C.37

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514C.7 Prohibition on restricting coverage in certain instances involving a diagnosis of a fibrocystic condition.

Notwithstanding the uniformity of treatment requirements of section 514C.6, a third-party payor as defined in that section shall not deny or fail to renew, or include an exception to or exclusion of benefits in, a policy or contract of individual or group accident and sickness insurance solely based upon an insured being diagnosed as having a fibrocystic condition.

92 Acts, ch 1046, §1

514C.8 Coordination of health care benefits with state medical assistance.

1. An insurer, health maintenance organization, or hospital and medical service plan providing health care coverage to individuals in this state shall not consider the availability of or eligibility for medical assistance under Tit. XIX of the federal Social Security Act and chapter 249A, when determining eligibility of the individual for coverage or calculating payments to the individual under the health care coverage plan.

2. The state acquires the rights of an individual to payment from an insurer, health maintenance organization, or hospital or medical service plan to the extent payment for covered expenses is made pursuant to chapter 249A for health care items or services provided to the individual. Upon presentation of proof that payment was made pursuant to chapter 249A for covered expenses, the insurer, health maintenance organization, or hospital or medical service plan shall make payment to the state medical assistance program to the extent of the coverage provided in the policy or contract.

3. An insurer shall not impose requirements on the state with respect to the assignment of rights pursuant to this section that are different from the requirements applicable to an agent or assignee of a covered individual.

4. For purposes of this section, *"insurer"* means an entity which offers a health benefit plan, including a group health plan under the federal Employee Retirement Income Security Act of 1974.

95 Acts, ch 185, §13; 2010 Acts, ch 1061, §180

514C.9 Medical support — insurance requirements.

1. An insurer shall not deny coverage or enrollment of a child under the health plan of the obligor upon any of the following grounds:

a. The child is born out of wedlock.

b. The child is not claimed as a dependent on the obligor's federal income tax return.

c. The child does not reside with the obligor or in the insurer's service area. This section shall not be construed to require a health maintenance organization regulated under chapter 514B to provide any services or benefits for treatment outside of the geographic area described in its certificate of authority which would not be provided to a member outside of that geographic area pursuant to the terms of the health maintenance organization's contract.

2. An insurer of an obligor providing health care coverage to the child for which the obligor is legally responsible to provide support shall do all of the following:

a. Provide information to the obligee or other legal custodian of the child as necessary for the child to obtain benefits through the coverage of the insurer.

b. Allow the obligee or other legal custodian of the child, or the provider with the approval of the obligee or other legal custodian of the child, to submit claims for covered services without the approval of the obligor.

c. Make payment on a claim submitted in paragraph *"b"* directly to the obligee or other legal custodian of the child, the provider, or the state medical assistance agency for claims submitted by the obligee or other legal custodian of the child, by the provider with the approval of the obligee or other legal custodian of the child, or by the state medical assistance agency.

3. If an obligor is required by a court order or administrative order to provide health coverage for a child and the obligor is eligible for dependent health coverage, the insurer shall do all of the following:

a. Allow the obligor to enroll under dependent coverage a child who is eligible for

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coverage pursuant to the applicable terms and conditions of the health benefit plan and the standard enrollment guidelines of the insurer without regard to an enrollment season restriction.

b. Enroll a child who is eligible for coverage under the applicable terms and conditions of the health benefit plan and the standard enrollment guidelines of the insurer, without regard to any time of enrollment restriction, under dependent coverage upon application by the obligee or other legal custodian of the child or by the department of health and human services in the event an obligor required by a court order or administrative order fails to apply for coverage for the child.

c. Maintain coverage and not cancel the child's enrollment unless the insurer obtains satisfactory written evidence of any of the following:

(1) The court order or administrative order is no longer in effect.

(2) The child is eligible for or will enroll in comparable health coverage through an insurer which shall take effect not later than the effective date of the cancellation of enrollment of the original coverage.

(3) The employer has eliminated dependent health coverage for its employees.

(4) The obligor is no longer paying the required premium because the employer no longer owes the obligor compensation, or because the obligor's employment has terminated and the obligor has not elected to continue coverage.

4. A group health plan shall establish reasonable procedures to determine whether a child is covered under a qualified medical child support order issued pursuant to chapter 252E. The procedures shall be in writing, provide for prompt notice of each person specified in the medical child support order as eligible to receive benefits under the group health plan upon receipt by the plan of the medical child support order, and allow an obligee or other legal custodian of the child under chapter 252E to designate a representative for receipt of copies of notices in regard to the medical child support order that are sent to the obligee or other legal custodian of the child and the department of health and human services' child support services.

5. For purposes of this section, unless the context otherwise requires:

a. *"Child"* means a person, other than an obligee's spouse or former spouse, who is recognized under a qualified medical child support order as having a right to enrollment under a group health plan as the obligor's dependent.

b. *"Court order"* or *"administrative order"* means a ruling by a court or administrative agency in regard to the support an obligor shall provide to the obligor's child.

c. *"Insurer"* means an entity which offers a health benefit plan.

d. *"Obligee"* means an obligee as defined in section 252E.1.

e. *"Obligor"* means an obligor as defined in section 252E.1.

f. *"Qualified medical child support order"* means a child support order which creates or recognizes a child's right to receive health benefits for which the child is eligible under a group health benefit plan, describes or determines the type of coverage to be provided, specifies the length of time for which the order applies, and specifies the plan to which the order applies.

95 Acts, ch 185, §14; 2023 Acts, ch 19, §1198, 1199

514C.10 Coverage for adopted child.

1. *Definitions.* For purposes of this section, unless the context otherwise requires:

a. *"Child"* means, with respect to an adoption or a placement for adoption of a child, an individual who has not attained age eighteen as of the date of the issuance of a final adoption decree, or upon an interlocutory adoption decree becoming a final adoption decree, as provided in chapter 600, or as of the date of the placement for adoption.

b. *"Placement for adoption"* means the assumption and retention of a legal obligation for the total or partial support of the child in anticipation of the adoption of the child. The child's placement with a person terminates upon the termination of such legal obligation.

2. *Coverage required.* A policy or contract providing for third-party payment or prepayment of health or medical expenses shall provide coverage benefits to a dependent child adopted by, or placed for adoption with, an insured or enrollee under the same terms and conditions as apply to a biological, dependent child of the insured or enrollee. The

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issuer of the policy or contract shall not restrict coverage under the policy or contract for a dependent child adopted by, or placed for adoption with, the insured or enrollee solely on the basis of a preexisting condition of such dependent child at the time that the child would otherwise become eligible for coverage under the plan, if the adoption or placement occurs while the insured or enrollee is eligible for coverage under the policy or contract. This section applies to the following classes of third-party payment provider contracts or policies delivered, issued for delivery, continued, or renewed in this state on or after July 1, 1995:

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, unless coverage pursuant to such policy is preempted by federal law.

95 Acts, ch 185, §15; 2017 Acts, ch 148, §62

514C.11 Services provided by licensed physician associates and licensed advanced registered nurse practitioners.

1. Notwithstanding section 514C.6, a policy or contract providing for third-party payment or prepayment of health or medical expenses shall include a provision for the payment of necessary medical or surgical care and treatment provided by a physician associate licensed pursuant to chapter 148C, or provided by an advanced registered nurse practitioner licensed pursuant to chapter 152 and performed within the scope of the license of the licensed physician associate or the licensed advanced registered nurse practitioner if the policy or contract would pay for the care and treatment if the care and treatment were provided by a person engaged in the practice of medicine and surgery or osteopathic medicine and surgery under chapter 148. The policy or contract shall provide that policyholders and subscribers under the policy or contract may reject the coverage for services which may be provided by a licensed physician associate or licensed advanced registered nurse practitioner if the coverage is rejected for all providers of similar services. A policy or contract subject to this section shall not impose a practice or supervision restriction which is inconsistent with or more restrictive than the restriction already imposed by law.

2. This section applies to services provided under a policy or contract delivered, issued for delivery, continued, or renewed in this state on or after July 1, 1996, and to an existing policy or contract, on the policy's or contract's anniversary or renewal date, or upon the expiration of the applicable collective bargaining contract, if any, whichever is later. This section does not apply to policyholders or subscribers eligible for coverage under Tit. XVIII of the federal Social Security Act or any similar coverage under a state or federal government plan.

3. For the purposes of this section, third-party payment or prepayment includes an individual or group policy of accident or health insurance or individual or group hospital or health care service contract issued pursuant to chapter 509, 514, or 514A, an individual or group health maintenance organization contract issued and regulated under chapter 514B, or a preferred provider organization contract regulated pursuant to chapter 514F.

4. Nothing in this section shall be interpreted to require an individual or group health maintenance organization or a preferred provider organization or arrangement to provide payment or prepayment for services provided by a licensed physician associate or licensed advanced registered nurse practitioner unless the physician associate's supervising physician, the physician-physician associate team, the advanced registered nurse practitioner, or the advanced registered nurse practitioner's collaborating physician has entered into a contract or other agreement to provide services with the individual or group health maintenance organization or the preferred provider organization or arrangement.

96 Acts, ch 1169, §1; 2008 Acts, ch 1088, §130; 2017 Acts, ch 148, §63; 2026 Acts, ch 1008, §3

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514C.12 Postdelivery benefits and care.

1. Notwithstanding section 514C.6, a person who provides an individual or group policy of accident or health insurance or individual or group hospital or health care service contract issued pursuant to chapter 509, 509A, 514, or 514A or an individual or group health maintenance organization contract issued and regulated under chapter 514B, which is delivered, amended, or renewed on or after July 1, 1996, and which provides maternity benefits, which are not limited to complications of pregnancy, or newborn care benefits, shall not terminate inpatient benefits or require discharge of a mother or the newborn from a hospital following delivery earlier than determined to be medically appropriate by the attending physician after consultation with the mother and in accordance with guidelines adopted by rule by the commissioner. The guidelines adopted by rule shall be consistent with or may adopt by reference the guidelines for perinatal care established by the American academy of pediatrics and the American college of obstetricians and gynecologists which provide that when complications are not present, the postpartum hospital stay ranges from a minimum of forty-eight hours for a vaginal delivery to a minimum of ninety-six hours for a cesarean birth, excluding the day of delivery. The guidelines adopted by rule by the commissioner shall also provide that in the event of a discharge from the hospital prior to the minimum stay established in the guidelines, a postdischarge follow-up visit shall be provided to the mother and newborn by providers competent in postpartum care and newborn assessment if determined medically appropriate as directed by the attending physician, in accordance with the guidelines.

2. When performing utilization review of inpatient hospital services related to maternity and newborn care, including but not limited to length of postdelivery stay and postdischarge follow-up care, any person who provides an individual or group policy of accident or health insurance or individual or group hospital or health care service contract issued pursuant to chapter 509, 509A, 514, or 514A, or an individual or group health maintenance organization contract issued and regulated under chapter 514B, shall use the guidelines adopted by rule by the commissioner, and shall not deselect, require additional documentation, require additional utilization review, terminate services to, reduce payment to, or in any manner provide a disincentive to an attending physician solely on the basis that the attending physician provided or directed the provision of services in compliance with the guidelines adopted by rule.

3. Preauthorization or precertification for a hospital stay or for a postdischarge follow-up visit in accordance with the guidelines adopted by rule by the commissioner shall not be required.

96 Acts, ch 1202, §1

514C.12A Licensed midwife services.

1. Notwithstanding section 514C.6, a person who provides an individual or group policy of accident or health insurance or individual or group hospital or health care service contract issued pursuant to chapter 509, 509A, 514, or 514A or an individual or group health maintenance organization contract issued and regulated under chapter 514B, which is delivered, amended, or renewed on or after July 1, 2023, and which provides maternity benefits, which are not limited to complications of pregnancy, or newborn care benefits, shall provide coverage for maternity services rendered by a midwife licensed pursuant to chapter 148I, regardless of the site of services, in accordance with guidelines adopted by rule by the commissioner.

2. Coverage for maternity services provided by a licensed midwife shall not be subject to any greater copayment, deductible, or coinsurance than is applicable to any other similar benefits provided by the plan.

3. A person who provides an individual or group policy of accident or health insurance or individual or group hospital or health care service contract issued pursuant to chapter 509, 509A, 514, or 514A or an individual or group health maintenance organization contract issued and regulated under chapter 514B may require that maternity services be provided by a licensed midwife under contract with the person.

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4. This section does not require payment for any cost, charge, or fee relating to the location at which maternity services were provided by a certified professional midwife.

2023 Acts, ch 127, §12; 2025 Acts, ch 30, §88

514C.13 Group managed care health plans — requirements attached to limited provider network plan offers.

1. As used in this section, unless the context otherwise requires:

a. "Carrier" means an entity that provides health benefit plans in this state. *"Carrier"* includes an insurance company, group hospital or medical service corporation, health maintenance organization, multiple employer welfare arrangement, and any other person providing health benefit plans in this state subject to regulation by the commissioner of insurance.

b. "Health benefit plan" means a policy, certificate, or contract providing hospital or medical coverage, benefits, or services rendered by a health care provider. *"Health benefit plan"* does not include a group conversion plan, accident-only, specific-disease, short-term hospital or medical hospital confinement indemnity, credit, dental, vision, Medicare supplement, long-term care, or disability income insurance, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance.

c. "Health care provider" means a hospital licensed pursuant to chapter 135B, a person licensed under chapter 148, 148C, 149, 151, or 154, or a person licensed as an advanced registered nurse practitioner under chapter 152.

d. "Indemnity plan" means a hospital or medical expense-incurred policy, certificate, or contract, major medical expense insurance, or hospital or medical service plan contract.

e. "Large employer" means a person actively engaged in business who, during at least fifty percent of the employer's working days during the preceding calendar year, employed more than fifty full-time equivalent employees.

f. "Limited provider network plan" means a managed care health plan which limits access to or coverage for services to selected health care providers who are under contract with the managed care health plan.

g. "Managed care health plan" means a health benefit plan that selects and contracts with health care providers; manages and coordinates health care delivery; monitors necessity, appropriateness, and quality of health care delivered by health care providers; and performs utilization review and cost control.

h. "Point of service plan option" means a provision in a managed care health plan that permits insureds, enrollees, or subscribers access to health care from health care providers who have not contracted with the managed care health plan.

i. "Small employer" means a person actively engaged in business who, during at least fifty percent of the employer's working days during the preceding calendar year, employed at least one and not more than fifty full-time equivalent employees.

2. A carrier which offers to a small employer a limited provider network plan to provide health care services or benefits to the small employer's employees shall also offer to the small employer a point of service option to the limited provider network plan.

3. A carrier which offers to a large employer a limited provider network plan to provide health care services or benefits to the large employer's employees shall also offer to the large employer one or more of the following:

a. A point of service plan option to the limited provider network plan. The price of the point of service plan option shall be actuarially determined.

b. A managed care health plan that is not a limited provider network plan.

c. An indemnity plan.

4. A large employer that offers a limited provider network plan to its employees shall also offer to its employees one or more of the following:

a. A point of service plan option to the limited provider network plan.

b. A managed care health plan that is not a limited provider network plan.

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c. An indemnity plan.

97 Acts, ch 88, §1; 2008 Acts, ch 1088, §131; 2011 Acts, ch 70, §27, 49; 2017 Acts, ch 148, §64 – 66

Referred to in §249A.37, 505.25, 514I.6

514C.14 Continuity of care — pregnancy.

1. Except as provided under subsection 2 or 3, a carrier, as defined in section 513B.2, or a plan established pursuant to chapter 509A for public employees, that terminates its contract with a participating health care provider, shall continue to provide coverage under the contract to a covered person in the second or third trimester of pregnancy for continued care from such health care provider. Such persons may continue to receive such treatment or care through postpartum care related to the child birth and delivery. Payment for covered benefits and benefit levels shall be according to the terms and conditions of the contract.

2. A covered person who makes an involuntary change in health plans may request that the new health plan cover the services of the covered person's physician specialist who is not a participating health care provider under the new health plan, if the covered person is in the second or third trimester of pregnancy. Continuation of such coverage shall continue through postpartum care related to the child birth and delivery. Payment for covered benefits and benefit levels shall be according to the terms and conditions of the new health plan contract.

3. A carrier or a plan established under chapter 509A, that terminates the contract of a participating health care provider for cause shall not be liable to pay for health care services provided by the health care provider to a covered person following the date of termination.

99 Acts, ch 41, §1; 2017 Acts, ch 148, §67; 2018 Acts, ch 1026, §157

514C.15 Treatment options.

A carrier, as defined in section 513B.2, or a plan established pursuant to chapter 509A for public employees, shall not prohibit a participating provider from, or penalize a participating provider for, doing either of the following:

1. Discussing treatment options with a covered individual, notwithstanding the carrier's or plan's position on such treatment option.

2. Advocating on behalf of a covered individual within a review or grievance process established by the carrier or chapter 509A plan, or established by a person contracting with the carrier or chapter 509A plan.

99 Acts, ch 41, §2; 2017 Acts, ch 148, §68; 2018 Acts, ch 1041, §103

514C.16 Emergency room services.

1. A carrier, as defined in section 513B.2, or a plan established pursuant to chapter 509A for public employees, which provides coverage for emergency services, is responsible for charges for emergency services provided to a covered individual, including services furnished outside any contractual provider network or preferred provider network. Coverage for emergency services is subject to the terms and conditions of the health benefit plan or contract.

2. Prior authorization for emergency services shall not be required. All services necessary to evaluate and stabilize an emergency medical condition shall be considered covered emergency services.

3. For purposes of this section, unless the context otherwise requires:

a. *"Emergency medical condition"* means a medical condition that manifests itself by symptoms of sufficient severity, including but not limited to severe pain, that an ordinarily prudent person, possessing average knowledge of medicine and health, could reasonably expect the absence of immediate medical attention to result in one of the following:

(1) Placing the health of the individual, or with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy.

(2) Serious impairment to bodily function.

(3) Serious dysfunction of a bodily organ or part.

b. *"Emergency services"* means covered inpatient and outpatient health care services that

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are furnished by a health care provider who is qualified to provide the services that are needed to evaluate or stabilize an emergency medical condition.

99 Acts, ch 41, §3; 2017 Acts, ch 148, §69

514C.17 Continuity of care — terminal illness.

1. Except as provided under subsection 2 or 3, if a carrier, as defined in section 513B.2, or a plan established pursuant to chapter 509A for public employees, terminates its contract with a participating health care provider, a covered individual who is undergoing a specified course of treatment for a terminal illness or a related condition, with the recommendation of the covered individual's treating physician licensed under chapter 148 or treating physician associate licensed under chapter 148C may continue to receive coverage for treatment received from the covered individual's physician or physician associate for the terminal illness or a related condition, for a period of up to ninety days. Payment for covered benefits and benefit levels shall be according to the terms and conditions of the contract.

2. A covered person who makes a change in health plans involuntarily may request that the new health plan cover services of the covered person's treating physician licensed under chapter 148 or treating physician associate licensed under chapter 148C who is not a participating health care provider under the new health plan, if the covered person is undergoing a specified course of treatment for a terminal illness or a related condition. Continuation of such coverage shall continue for up to ninety days. Payment for covered benefits and benefit levels shall be according to the terms and conditions of the contract.

3. Notwithstanding subsections 1 and 2, a carrier or a plan established under chapter 509A which terminates the contract of a participating health care provider for cause shall not be required to cover health care services provided by the health care provider to a covered person following the date of termination.

99 Acts, ch 41, §4; 2008 Acts, ch 1088, §132; 2017 Acts, ch 148, §70; 2022 Acts, ch 1066, §46; 2026 Acts, ch 1008, §3

Code editor directive applied

514C.18 Diabetes coverage.

1. Notwithstanding the uniformity of treatment requirements of section 514C.6, a policy or contract providing for third-party payment or prepayment of health or medical expenses shall provide coverage benefits for the cost associated with equipment, supplies, and self-management training and education for the treatment of all types of diabetes mellitus when prescribed by a physician licensed under chapter 148 or a physician associate licensed under chapter 148C. Coverage benefits shall include coverage for the cost associated with all of the following:

a. Equipment and supplies.

b. Payment for diabetes self-management training and education only under all of the following conditions:

(1) The physician or physician associate managing the individual's diabetic condition certifies that such services are needed under a comprehensive plan of care related to the individual's diabetic condition to ensure therapy compliance or to provide the individual with necessary skills and knowledge to participate in the management of the individual's condition.

(2) The diabetes self-management training and education program is certified by the department of health and human services. The department shall consult with the American diabetes association, Iowa affiliate, in developing the standards for certification of diabetes education programs that cover at least ten hours of initial outpatient diabetes self-management training within a continuous twelve-month period and up to two hours of follow-up training for each subsequent year for each individual diagnosed by a physician or physician associate with any type of diabetes mellitus.

2. *a.* This section applies to the following classes of third-party payment provider contracts or policies that are delivered, issued for delivery, continued, or renewed in this state:

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

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

(3) An individual or group health maintenance organization contract regulated under chapter 514B.

(4) Any other entity engaged in the business of insurance, risk transfer, or risk retention, which is subject to the jurisdiction of the commissioner.

(5) A plan established pursuant to chapter 509A for public employees.

b. This section shall not apply to accident-only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, Medicare supplement, long-term care, basic hospital and medical-surgical expense coverage as defined by the commissioner, disability income insurance coverage, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance.

99 Acts, ch 75, §1; 99 Acts, ch 208, §58; 2008 Acts, ch 1088, §133; 2009 Acts, ch 139, §1, 2; 2011 Acts, ch 70, §28; 2017 Acts, ch 148, §71; 2022 Acts, ch 1066, §47, 48; 2023 Acts, ch 19, §1200; 2023 Acts, ch 66, §120; 2026 Acts, ch 1008, §3

Code editor directive applied

514C.19 Prescription contraceptive coverage.

1. Notwithstanding the uniformity of treatment requirements of section 514C.6, a group policy or contract providing for third-party payment or prepayment of health or medical expenses shall not do either of the following:

a. Exclude or restrict benefits for prescription contraceptive drugs or prescription contraceptive devices which prevent conception and which are approved by the United States food and drug administration, or generic equivalents approved as substitutable by the United States food and drug administration, if such policy or contract provides benefits for other outpatient prescription drugs or devices.

b. Exclude or restrict benefits for outpatient contraceptive services which are provided for the purpose of preventing conception if such policy or contract provides benefits for other outpatient services provided by a health care professional.

2. A person who provides a group policy or contract providing for third-party payment or prepayment of health or medical expenses which is subject to subsection 1 shall not do any of the following:

a. Deny to an individual eligibility, or continued eligibility, to enroll in or to renew coverage under the terms of the policy or contract because of the individual's use or potential use of such prescription contraceptive drugs or devices, or use or potential use of outpatient contraceptive services.

b. Provide a monetary payment or rebate to a covered individual to encourage such individual to accept less than the minimum benefits provided for under subsection 1.

c. Penalize or otherwise reduce or limit the reimbursement of a health care professional because such professional prescribes contraceptive drugs or devices, or provides contraceptive services.

d. Provide incentives, monetary or otherwise, to a health care professional to induce such professional to withhold from a covered individual contraceptive drugs or devices, or contraceptive services.

3. This section shall not be construed to prevent a third-party payor from including deductibles, coinsurance, or copayments under the policy or contract, as follows:

a. A deductible, coinsurance, or copayment for benefits for prescription contraceptive drugs shall not be greater than such deductible, coinsurance, or copayment for any outpatient prescription drug for which coverage under the policy or contract is provided.

b. A deductible, coinsurance, or copayment for benefits for prescription contraceptive devices shall not be greater than such deductible, coinsurance, or copayment for any outpatient prescription device for which coverage under the policy or contract is provided.

c. A deductible, coinsurance, or copayment for benefits for outpatient contraceptive

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services shall not be greater than such deductible, coinsurance, or copayment for any outpatient health care services for which coverage under the policy or contract is provided.

4. This section shall not be construed to require a third-party payor under a policy or contract to provide benefits for experimental or investigational contraceptive drugs or devices, or experimental or investigational contraceptive services, except to the extent that such policy or contract provides coverage for other experimental or investigational outpatient prescription drugs or devices, or experimental or investigational outpatient health care services.

5. This section shall not be construed to limit or otherwise discourage the use of generic equivalent drugs approved by the United States food and drug administration, whenever available and appropriate. This section, when a brand name drug is requested by a covered individual and a suitable generic equivalent is available and appropriate, shall not be construed to prohibit a third-party payor from requiring the covered individual to pay a deductible, coinsurance, or copayment consistent with subsection 3, in addition to the difference of the cost of the brand name drug less the maximum covered amount for a generic equivalent.

6. A person who provides an individual policy or contract providing for third-party payment or prepayment of health or medical expenses shall make available a coverage provision that satisfies the requirements in subsections 1 through 5 in the same manner as such requirements are applicable to a group policy or contract under those subsections. The policy or contract shall provide that the individual policyholder may reject the coverage provision at the option of the policyholder.

7. *a.* This section applies to the following classes of third-party payment provider contracts or policies delivered, issued for delivery, continued, or renewed in this state on or after July 1, 2000:

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

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

(3) An individual or group health maintenance organization contract regulated under chapter 514B.

(4) Any other entity engaged in the business of insurance, risk transfer, or risk retention, which is subject to the jurisdiction of the commissioner.

(5) A plan established pursuant to chapter 509A for public employees.

b. This section shall not apply to accident-only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, Medicare supplement, long-term care, basic hospital and medical-surgical expense coverage as defined by the commissioner, disability income insurance coverage, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance.

2000 Acts, ch 1120, §1; 2017 Acts, ch 148, §72

514C.20 Mandated coverage for dental care — anesthesia and certain hospital charges.

1. Notwithstanding section 514C.6, and subject to the terms and conditions of the policy or contract, a policy or contract providing for third-party payment or prepayment of health or medical expenses shall provide coverage for the administration of general anesthesia and hospital or ambulatory surgical center charges related to the provision of dental care services provided to any of the following covered individuals:

a. A child under five years of age upon a determination by a licensed dentist and the child's treating physician licensed pursuant to chapter 148 or treating physician associate licensed pursuant to chapter 148C, that such child requires necessary dental treatment in a hospital or ambulatory surgical center due to a dental condition or a developmental disability for which patient management in the dental office has proved to be ineffective.

b. Any individual upon a determination by a licensed dentist and the individual's treating physician licensed pursuant to chapter 148 or treating physician associate licensed pursuant to chapter 148C, that such individual has one or more medical conditions that would create

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significant or undue medical risk for the individual in the course of delivery of any necessary dental treatment or surgery if not rendered in a hospital or ambulatory surgical center.

2. Prior authorization of hospitalization or ambulatory surgical center for dental care procedures may be required in the same manner that prior authorization is required for hospitalization for other coverages under the contract or policy.

3. This section applies to the following classes of third-party payment provider contracts or policies delivered, issued for delivery, continued, or renewed in this state on or after July 1, 2000:

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. Any other entity engaged in the business of insurance, risk transfer, or risk retention, which is subject to the jurisdiction of the commissioner.

e. A plan established pursuant to chapter 509A for public employees.

4. This section shall not apply to accident-only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, Medicare supplement, long-term care, basic hospital and medical-surgical expense coverage as defined by the commissioner, disability income insurance coverage, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance.

2000 Acts, ch 1193, §1; 2008 Acts, ch 1088, §134; 2017 Acts, ch 148, §73; 2022 Acts, ch 1066, §49; 2026 Acts, ch 1008, §3

Code editor directive applied

514C.21 Coverage for immunizations — mercury.

1. Third-party payment provider contracts or policies delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2006, that provide reimbursement for immunizations shall provide reimbursement for immunizations containing no more than trace amounts of mercury at the acquisition cost rate for immunizations containing no more than trace amounts of mercury. For the purposes of this section, *"trace amounts"* means trace amounts as defined by the United States food and drug administration.

2. For the purposes of this section, *"third-party payment provider contracts or policies"* includes:

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.

2004 Acts, ch 1159, §2; 2017 Acts, ch 148, §74

514C.22 Biologically based mental illness coverage.

1. Notwithstanding the uniformity of treatment requirements of section 514C.6, a group policy, contract, or plan providing for third-party payment or prepayment of health, medical, and surgical coverage benefits issued by a carrier, as defined in section 513B.2, shall provide coverage benefits for treatment of a biologically based mental illness if either of the following is satisfied:

a. The policy, contract, or plan is issued to an employer who on at least fifty percent of the employer's working days during the preceding calendar year employed more than fifty full-time equivalent employees. In determining the number of full-time equivalent employees of an employer, employers who are affiliated or who are able to file a consolidated tax return for purposes of state taxation shall be considered one employer.

b. The policy, contract, or plan is issued to a small employer as defined in section 513B.2,

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and such policy, contract, or plan provides coverage benefits for the treatment of mental illness.

2. Notwithstanding the uniformity of treatment requirements of section 514C.6, a plan established pursuant to chapter 509A for public employees shall provide coverage benefits for treatment of a biologically based mental illness.

3. For purposes of this section, *"biologically based mental illness"* means the following psychiatric illnesses:

a. Schizophrenia.
b. Bipolar disorders.
c. Major depressive disorders.
d. Schizo-affective disorders.
e. Obsessive-compulsive disorders.
f. Pervasive developmental disorders.
g. Autism spectrum disorder.

4. The definitions of the biologically based mental illnesses identified in subsection 3 shall be consistent with definitions provided in the most recent edition of the American psychiatric association's diagnostic and statistical manual of mental disorders, as such definitions may be amended from time to time.

5. This section shall not apply to accident-only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, Medicare supplement, long-term care, basic hospital and medical-surgical expense coverage as defined by the commissioner, disability income insurance coverage, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance, or individual accident and sickness policies issued to individuals or to individual members of a member association.

6. A carrier or plan established pursuant to chapter 509A may manage the benefits provided through common methods, including but not limited to providing payment of benefits or providing care and treatment under a capitated payment system, prospective reimbursement rate system, utilization control system, incentive system for the use of least restrictive and least costly levels of care, a preferred provider contract limiting choice of specific providers, or any other system, method, or organization designed to assure services are medically necessary and clinically appropriate.

7. *a.* A group policy, contract, or plan covered under this section shall not impose an aggregate annual or lifetime limit on biologically based mental illness coverage benefits unless the policy, contract, or plan imposes an aggregate annual or lifetime limit on substantially all health, medical, and surgical coverage benefits.

b. A group policy, contract, or plan covered under this section that imposes an aggregate annual or lifetime limit on substantially all health, medical, and surgical coverage benefits shall not impose an aggregate annual or lifetime limit on biologically based mental illness coverage benefits that is less than the aggregate annual or lifetime limit imposed on substantially all health, medical, and surgical coverage benefits.

c. Notwithstanding paragraphs *"a"* and *"b"*, a group policy, contract, or plan covered under this section shall not impose an aggregate annual or lifetime limit on biologically based mental illness coverage benefits for autism spectrum disorder.

8. A group policy, contract, or plan covered under this section shall at a minimum allow for thirty inpatient days and fifty-two outpatient visits annually, and shall not limit the number of outpatient visits a covered individual may have with a practitioner for applied behavior analysis under section 514C.31, or with an autism service provider for treatment of autism spectrum disorder under section 514C.28. The policy, contract, or plan may also include deductibles, coinsurance, or copayments, provided the amounts and extent of such deductibles, coinsurance, or copayments applicable to other health, medical, or surgical services coverage under the policy, contract, or plan are the same. It is not a violation of this section if the policy, contract, or plan excludes entirely from coverage benefits for the cost of providing the following:

a. Marital, family, educational, developmental, or training services.
b. Care that is substantially custodial in nature.

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c. Services and supplies that are not medically necessary or clinically appropriate.

d. Experimental treatments.

9. This section applies to third-party payment provider policies or contracts and to plans established pursuant to chapter 509A that are delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2006.

2005 Acts, ch 91, §1; 2017 Acts, ch 148, §75, 76; 2025 Acts, ch 162, §1 – 4, 10

Referred to in §135H.3, 514C.28

2025 amendments to section apply to third-party payment provider policies, contracts, and plans delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2026; 2025 Acts, ch 162, §10

514C.23 Human papilloma virus vaccinations — coverage.

1. Notwithstanding the uniformity of treatment requirements of section 514C.6, a contract, policy, or plan providing for third-party payment or prepayment of health or medical expenses that provides coverage benefits for any vaccination or immunization shall provide coverage benefits for a vaccination for human papilloma virus, including but not limited to the following classes of third-party payment provider contracts, policies, or plans delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2009:

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, unless coverage pursuant to such policy is preempted by federal law.

e. A plan established pursuant to chapter 509A for public employees.

2. This section shall not apply to accident-only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, long-term care, basic hospital and medical-surgical expense coverage as defined by the commissioner, disability income insurance coverage, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance.

3. As used in this section, *"human papilloma virus"* means the human papilloma virus as defined by the centers for disease control and prevention of the United States department of health and human services.

4. The commissioner of insurance shall adopt rules pursuant to chapter 17A as necessary to administer this section.

2008 Acts, ch 1108, §1

514C.24 Cancer treatment — coverage.

1. Notwithstanding the uniformity of treatment requirements of section 514C.6, a contract, policy, or plan providing for third-party payment or prepayment for cancer treatment shall not discriminate between coverage benefits for prescribed, orally administered anticancer medication used to kill or slow the growth of cancerous cells and intravenously administered or injected cancer medications that are covered, regardless of formulation or benefit category determination by the contract, policy, or plan.

2. The provisions of this section shall apply to all of the following classes of third-party payment provider contracts, policies, or plans delivered, issued for delivery, continued, or renewed in this state on or after July 1, 2009:

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, unless coverage pursuant to such policy is preempted by federal law.

e. A plan established pursuant to chapter 509A for public employees.

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3. This section shall not apply to accident-only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, long-term care, basic hospital, and medical-surgical expense coverage as defined by the commissioner, disability income insurance coverage, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance.

4. The commissioner of insurance shall adopt rules pursuant to chapter 17A as necessary to administer this section.

2009 Acts, ch 179, §183

514C.25 Coverage for prosthetic devices.

1. *a.* Notwithstanding the uniformity of treatment requirements of section 514C.6, a policy, contract, or plan providing for third-party payment or prepayment of health or medical expenses shall provide coverage benefits for medically necessary prosthetic devices when prescribed by a physician licensed under chapter 148 or physician associate licensed under chapter 148C. Such coverage benefits for medically necessary prosthetic devices shall provide coverage for medically necessary prosthetic devices that, at a minimum, equals the coverage and payment for medically necessary prosthetic devices provided under the most recent federal laws for health insurance for the aged and disabled pursuant to 42 U.S.C. §1395k, 13951, and 1395m, and 42 C.F.R. §410.100, 414.202, 414.210, and 414.228, as applicable.

b. For the purposes of this section, *"prosthetic device"* means an artificial limb device to replace, in whole or in part, an arm or leg.

2. *a.* This section applies to the following classes of third-party payment provider policies, contracts, or plans delivered, issued for delivery, continued, or renewed in this state on or after July 1, 2009:

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

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

(3) An individual or group health maintenance organization contract regulated under chapter 514B.

(4) A plan established pursuant to chapter 509A for public employees.

b. This section shall not apply to accident-only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, Medicare supplement, long-term care, basic hospital and medical-surgical expense coverage as defined by the commissioner, disability income insurance coverage, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance.

3. Notwithstanding subsection 1, paragraph *"a"*, a policy, contract, or plan providing for third-party payment or prepayment of health or medical expenses that is issued for use in connection with a health savings account as authorized under Tit. XII of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Pub. L. No. 108-173, may impose the same deductibles and out-of-pocket limits on the prosthetics coverage benefits required in this section that apply to substantially all health, medical, and surgical coverage benefits under the policy, contract, or plan.

2009 Acts, ch 89, §1; 2017 Acts, ch 148, §77; 2022 Acts, ch 1066, §50; 2026 Acts, ch 1008, §3
Code editor directive applied

514C.26 Approved cancer clinical trials coverage.

1. *Definitions.* For purposes of this section, unless the context otherwise requires:

a. "Approved cancer clinical trial" means a scientific study of a new therapy for the treatment of cancer in human beings that meets the requirements set forth in subsection 3 and consists of a scientific plan of treatment that includes specified goals, a rationale and background for the plan, criteria for patient selection, specific directions for administering therapy and monitoring patients, a definition of quantitative measures for determining treatment response, and methods for documenting and treating adverse reactions.

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b. "Institutional review board" means a board, committee, or other group formally designated by an institution and approved by the national institutes of health, office for protection from research risks, to review, approve the initiation of, and conduct periodic review of biomedical research involving human subjects. *"Institutional review board"* means the same as "institutional review committee" as used in section 520(g) of the Federal Food, Drug, and Cosmetic Act, as codified in 21 U.S.C. §301 et seq.

c. (1) *"Routine patient care costs"* means medically necessary services or treatments that are a benefit under a contract or policy providing for third-party payment or prepayment of health or medical expenses that would be covered if the patient were receiving standard cancer treatment.

(2) *"Routine patient care costs"* does not include any of the following:

(a) Costs of any treatments, procedures, drugs, devices, services, or items that are the subject of the approved cancer clinical trial or any other investigational treatments, procedures, drugs, devices, services, or items.

(b) Costs of nonhealth care services that the patient is required to receive as a result of participation in the approved cancer clinical trial.

(c) Costs associated with managing the research that is associated with the approved cancer clinical trial.

(d) Costs that would not be covered by the third-party payment provider if noninvestigational treatments were provided.

(e) Costs of any services, procedures, or tests provided solely to satisfy data collection and analysis needs that are not used in the direct clinical management of the patient participating in an approved cancer clinical trial.

(f) Costs paid for, or not charged for, by the approved cancer clinical trial providers.

(g) Costs for transportation, lodging, food, or other expenses for the patient, a family member, or a companion of the patient that are associated with travel to or from a facility where an approved cancer clinical trial is conducted.

(h) Costs for services, items, or drugs that are eligible for reimbursement from a source other than a patient's contract or policy providing for third-party payment or prepayment of health or medical expenses, including the sponsor of the approved cancer clinical trial.

(i) Costs associated with approved cancer clinical trials designed exclusively to test toxicity or disease pathophysiology.

(j) Costs of extra treatments, services, procedures, tests, or drugs that would not be performed or administered except for participation in the cancer clinical trial. Nothing in this subparagraph division shall limit payment for treatments, services, procedures, tests, or drugs that are otherwise a covered benefit under subparagraph (1).

d. "Therapeutic intent" means that a treatment is aimed at improving a patient's health outcome relative to either survival or quality of life.

2. *Coverage required.* Notwithstanding the uniformity of treatment requirements of section 514C.6, a policy or contract providing for third-party payment or prepayment of health or medical expenses shall provide coverage benefits for routine patient care costs incurred for cancer treatment in an approved cancer clinical trial to the same extent that such policy or contract provides coverage for treating any other sickness, injury, disease, or condition covered under the policy or contract, if the insured has been referred for such cancer treatment by two physicians who specialize in oncology and the cancer treatment is given pursuant to an approved cancer clinical trial that meets the criteria set forth in subsection 3. Services that are furnished without charge to a participant in the approved cancer clinical trial are not required to be covered as routine patient care costs pursuant to this section.

3. *Criteria.* Routine patient care costs for cancer treatment given pursuant to an approved cancer clinical trial shall be covered pursuant to this section if all of the following requirements are met:

a. The treatment is provided with therapeutic intent and is provided pursuant to an approved cancer clinical trial that has been authorized or approved by one of the following:

(1) The national institutes of health.

(2) The United States food and drug administration.

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(3) The United States department of defense.

(4) The United States department of veterans affairs.

b. The proposed treatment has been reviewed and approved by the applicable qualified institutional review board.

c. The available clinical or preclinical data indicate that the treatment that will be provided pursuant to the approved cancer clinical trial will be at least as effective as the standard therapy and is anticipated to constitute an improvement in therapeutic effectiveness for the treatment of the disease in question.

4. *Notice.* As soon as practical after the insured provides written consent to participate in an approved cancer clinical trial, the physician shall provide notice to the third-party payment provider of the insured's intent to participate in an approved cancer clinical trial. Failure to provide such notice to the third-party payment provider shall not be the basis for denying the coverage required under subsection 2.

5. *Applicability.*

a. This section applies to the following classes of third-party payment provider contracts or policies delivered, issued for delivery, continued, or renewed in this state on or after July 1, 2010:

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

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

(3) An individual or group health maintenance organization contract regulated under chapter 514B.

(4) Any other entity engaged in the business of insurance, risk transfer, or risk retention, which is subject to the jurisdiction of the commissioner.

(5) A plan established pursuant to chapter 509A for public employees.

b. This section shall not apply to accident-only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, Medicare supplement, long-term care, basic hospital and medical-surgical expense coverage as defined by the commissioner, disability income insurance coverage, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance.

2010 Acts, ch 1013, §1; 2010 Acts, ch 1193, §61; 2017 Acts, ch 148, §78; 2025 Acts, ch 30, §105

514C.27 Mental illness and substance use disorder treatment coverage for veterans.

1. Notwithstanding the uniformity of treatment requirements of section 514C.6, a group policy or contract providing for third-party payment or prepayment of health or medical expenses issued by a carrier, as defined in section 513B.2, shall provide coverage benefits to an insured who is a veteran for treatment of mental illness and substance use disorder if either of the following is satisfied:

a. The policy or contract is issued to an employer who on at least fifty percent of the employer's working days during the preceding calendar year employed more than fifty full-time equivalent employees. In determining the number of full-time equivalent employees of an employer, employers who are affiliated or who are able to file a consolidated tax return for purposes of state taxation shall be considered one employer.

b. The policy or contract is issued to a small employer as defined in section 513B.2, and such policy or contract provides coverage benefits for the treatment of mental illness and substance use disorder.

2. Notwithstanding the uniformity of treatment requirements of section 514C.6, a plan established pursuant to chapter 509A for public employees shall provide coverage benefits to an insured who is a veteran for treatment of mental illness and substance use disorder as defined in subsection 3.

3. For purposes of this section:

a. *"Mental illness"* means mental disorders as defined by the commissioner by rule.

b. *"Substance use disorder"* means a pattern of pathological use of alcohol or a drug

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that causes impairment in social or occupational functioning, or that produces physiological dependency evidenced by physical tolerance or by physical symptoms when the alcohol or drug is withdrawn.

c. "*Veteran*" means the same as defined in section 35.1.

4. The commissioner, by rule, shall define *"mental illness"* consistent with definitions provided in the most recent edition of the American psychiatric association's diagnostic and statistical manual of mental disorders, as the definitions may be amended from time to time. The commissioner may adopt the definitions provided in such manual by reference.

5. This section shall not apply to accident-only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, Medicare supplement, long-term care, basic hospital and medical-surgical expense coverage as defined by the commissioner, disability income insurance coverage, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance, or individual accident and sickness policies issued to individuals or to individual members of a member association.

6. A carrier or plan established pursuant to chapter 509A may manage the benefits provided through common methods, including but not limited to providing payment of benefits or providing care and treatment under a capitated payment system, prospective reimbursement rate system, utilization control system, incentive system for the use of least restrictive and least costly levels of care, a preferred provider contract limiting choice of specific providers, or any other system, method, or organization designed to assure services are medically necessary and clinically appropriate.

7. *a.* A group policy or contract or plan covered under this section shall not impose an aggregate annual or lifetime limit on mental illness or substance use disorder coverage benefits unless the policy or contract or plan imposes an aggregate annual or lifetime limit on substantially all medical and surgical coverage benefits.

b. A group policy or contract or plan covered under this section that imposes an aggregate annual or lifetime limit on substantially all medical and surgical coverage benefits shall not impose an aggregate annual or lifetime limit on mental illness or substance use disorder coverage benefits which is less than the aggregate annual or lifetime limit imposed on substantially all medical and surgical coverage benefits.

8. A group policy or contract or plan covered under this section shall at a minimum allow for thirty inpatient days and fifty-two outpatient visits annually. The policy or contract or plan may also include deductibles, coinsurance, or copayments, provided the amounts and extent of such deductibles, coinsurance, or copayments applicable to other medical or surgical services coverage under the policy or contract or plan are the same. It is not a violation of this section if the policy or contract or plan excludes entirely from coverage benefits for the cost of providing the following:

a. Care that is substantially custodial in nature.

b. Services and supplies that are not medically necessary or clinically appropriate.

c. Experimental treatments.

9. This section applies to third-party payment provider policies or contracts and plans established pursuant to chapter 509A delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2011.

2010 Acts, ch 1121, §15; 2014 Acts, ch 1026, §143; 2016 Acts, ch 1011, §95; 2017 Acts, ch 148, §79, 80; 2023 Acts, ch 19, §1201

514C.28 Autism spectrum disorder coverage.

1. Notwithstanding the uniformity of treatment requirements of section 514C.6, a group plan established pursuant to chapter 509A for employees of the state providing for third-party payment or prepayment of health, medical, and surgical coverage benefits shall provide coverage benefits to covered individuals for the diagnostic assessment of autism spectrum disorder and for the treatment of autism spectrum disorder.

2. As used in this section, unless the context otherwise requires:

a. "Applied behavioral analysis" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce

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socially significant improvement in human behavior or to prevent loss of attained skill or function, including the use of direct observation, measurement, and functional analysis of the relations between environment and behavior.

b. "Autism service provider" means a person, or group providing treatment of autism spectrum disorder. An autism service provider that provides treatment of autism spectrum disorder that includes applied behavioral analysis shall be certified as a behavior analyst by the behavior analyst certification board or shall be a health professional licensed under chapter 147.

c. "Autism spectrum disorder" means the same as defined in section 514C.22, subsection 4.

d. "Diagnostic assessment of autism spectrum disorder" means medically necessary assessment, evaluations, or tests performed by a licensed physician, licensed physician associate, licensed psychologist, or licensed registered nurse practitioner to diagnose whether an individual has autism spectrum disorder.

e. "Pharmacy care" means medications prescribed by a licensed physician, licensed physician associate, or licensed registered nurse practitioner and any assessment, evaluation, or test prescribed or ordered by a licensed physician, licensed physician associate, or licensed registered nurse practitioner to determine the need for or effectiveness of such medications.

f. "Psychiatric care" means direct or consultative services provided by a licensed physician who specializes in psychiatry.

g. "Psychological care" means direct or consultative services provided by a licensed psychologist.

h. "Rehabilitative care" means professional services and treatment programs, including applied behavioral analysis, provided by an autism service provider to produce socially significant improvement in human behavior or to prevent loss of attained skill or function.

i. "Therapeutic care" means services provided by a licensed speech pathologist, licensed occupational therapist, or licensed physical therapist.

j. "Treatment of autism spectrum disorder" means treatment that is identified in a treatment plan and includes medically necessary pharmacy care, psychiatric care, psychological care, rehabilitative care, and therapeutic care that is one of the following:

(1) Prescribed, ordered, or provided by a licensed physician, licensed physician associate, licensed psychologist, licensed social worker, or licensed registered nurse practitioner.

(2) Provided by an autism service provider.

(3) Provided by a person, entity, or group that works under the direction of an autism service provider.

k. "Treatment plan" means a plan for the treatment of autism spectrum disorder developed by a licensed physician or licensed psychologist pursuant to a comprehensive evaluation or reevaluation performed in consultation with the patient and the patient's representative.

3. Coverage required pursuant to this section shall not be subject to any limits on the number of visits a covered individual may have with an autism service provider for treatment of autism spectrum disorder.

4. Coverage required pursuant to this section shall be subject to copayment, deductible, and coinsurance provisions, and any other general exclusions or limitations of a group plan to the same extent as other medical or surgical services covered by the group plan.

5. Coverage required by this section shall be provided in coordination with coverage required for the treatment of autism spectrum disorder pursuant to section 514C.22.

6. This section shall not be construed to limit benefits which are otherwise available to an individual under a group plan.

7. This section shall not be construed to require coverage by a group plan of any service solely based on inclusion of the service in an individualized education program. Consistent with federal or state law and upon consent of the parent or guardian of a covered individual, the treatment of autism spectrum disorder may be coordinated with any services included in an individualized education program. However, coverage for the treatment of autism spectrum disorder shall not be contingent upon coordination of services with an individualized education program.

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8. This section shall not apply to accident-only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, Medicare supplement, long-term care, basic hospital and medical-surgical expense coverage as defined by the commissioner, disability income insurance coverage, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance, or individual accident and sickness policies issued to individuals or to individual members of a member association.

9. A plan established pursuant to chapter 509A for employees of the state may manage the benefits provided through common methods including but not limited to providing payment of benefits or providing care and treatment under a capitated payment system, prospective reimbursement rate system, utilization control system, incentive system for the use of least restrictive and costly levels of care, a preferred provider contract limiting choice of specific providers, or any other system, method, or organization designed to assure services are medically necessary and clinically appropriate.

10. An insurer may review a treatment plan for treatment of autism spectrum disorder once every six months, subject to its utilization review requirements, including case management, concurrent review, and other managed care provisions. A more or less frequent review may be agreed upon by the insured and the licensed physician or licensed psychologist developing the treatment plan.

11. For the purposes of this section, the results of a diagnostic assessment of autism spectrum disorder shall be valid for a period of not less than twelve months, unless a licensed physician or licensed psychologist determines that a more frequent assessment is necessary.

12. The commissioner shall adopt rules pursuant to chapter 17A to implement and administer this section.

13. This section applies to plans established pursuant to chapter 509A for employees of the state that are delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2011.

2010 Acts, ch 1193, §131; 2022 Acts, ch 1026, §4 – 6, 8; 2025 Acts, ch 162, §5, 6, 10; 2026 Acts, ch 1008, §3

Referred to in §225D.1, 225D.2, 321.189, 321.190, 514C.22, 514C.31

2025 amendments to section apply to a group plan established pursuant to chapter 509A for employees of the state that are delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2026; 2025 Acts, ch 162, §10

Code editor directive applied

514C.29 Services provided by a doctor of chiropractic.

1. Notwithstanding the uniformity of treatment requirements of section 514C.6, a policy, contract, or plan providing for third-party payment or prepayment of health or medical expenses shall not impose a copayment or coinsurance amount on an insured for services provided by a doctor of chiropractic licensed pursuant to chapter 151 that is greater than the copayment or coinsurance amount imposed on the insured for services provided by a person engaged in the practice of medicine and surgery or osteopathic medicine and surgery under chapter 148 for the same or a similar diagnosed condition even if a different nomenclature is used to describe the condition for which the services are provided.

2. This section applies to the following classes of third-party payment provider policies, contracts, or plans delivered, issued for delivery, continued, or renewed in this state on or after July 1, 2012:

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. A plan established pursuant to chapter 509A for public employees.

3. This section shall not apply to accident-only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, Medicare supplement, long-term care, basic hospital and medical-surgical expense coverage as defined by the commissioner, disability income insurance coverage, coverage issued as a supplement to

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liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance.

2012 Acts, ch 1138, §36; 2017 Acts, ch 148, §81

514C.30 Services provided by a physical therapist, occupational therapist, or speech pathologist.

1. Notwithstanding the uniformity of treatment requirements of section 514C.6, a policy, contract, or plan providing for third-party payment or prepayment of health or medical expenses shall not impose a copayment or coinsurance amount on an insured for services provided by a physical therapist licensed pursuant to chapter 148A, by an occupational therapist licensed pursuant to chapter 148B, or by a speech pathologist licensed pursuant to chapter 154F that is greater than the copayment or coinsurance amount imposed on the insured for services provided by a person engaged in the practice of medicine and surgery or osteopathic medicine and surgery under chapter 148 for the same or a similar diagnosed condition even if a different nomenclature is used to describe the condition for which the services are provided.

2. This section applies to the following classes of third-party payment provider policies, contracts, or plans delivered, issued for delivery, continued, or renewed in this state on or after July 1, 2015:

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. A plan established pursuant to chapter 509A for public employees.

3. This section shall not apply to accident-only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, Medicare supplement, long-term care, basic hospital and medical-surgical expense coverage as defined by the commissioner, disability income insurance coverage, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance.

2015 Acts, ch 137, §101, 162, 163; 2017 Acts, ch 148, §82

514C.31 Applied behavior analysis for treatment of autism spectrum disorder — coverage.

1. Notwithstanding the uniformity of treatment requirements of section 514C.6, a group policy, contract, or plan providing for third-party payment or prepayment of health, medical, and surgical coverage benefits shall provide coverage benefits for applied behavior analysis provided by a practitioner to covered individuals for the treatment of autism spectrum disorder pursuant to a treatment plan if the policy, contract, or plan is either of the following:

a. A policy, contract, or plan issued by a carrier, as defined in section 513B.2, to an employer who on at least fifty percent of the employer's working days during the preceding calendar year employed more than fifty full-time equivalent employees. In determining the number of full-time equivalent employees of an employer, employers who are affiliated or who are able to file a consolidated tax return for purposes of state taxation shall be considered one employer.

b. A plan established pursuant to chapter 509A for public employees other than employees of the state.

2. As used in this section, unless the context otherwise requires:

a. "Applied behavior analysis" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

b. "Autism spectrum disorder" means the same as defined in section 514C.28, subsection 2.

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c. *"Practitioner"* means any of the following:

(1) A physician licensed pursuant to chapter 148.

(2) A psychologist licensed pursuant to chapter 154B.

(3) A behavior analyst licensed pursuant to chapter 154D.

d. *"Treatment plan"* means a plan for the treatment of autism spectrum disorder developed by a licensed physician or licensed psychologist after a comprehensive evaluation or reevaluation performed in a manner consistent with the most recent clinical report or recommendations of the American academy of pediatrics. *"Treatment plan"* includes supervisory services, subject to the provisions of subsection 4.

3. Coverage required pursuant to this section may be subject to deductibles, copayments, or coinsurance provisions that apply to other medical and surgical services under the policy, contract, or plan.

4. Coverage required pursuant to this section may be subject to care management provisions of the applicable policy, contract, or plan, including prior authorization and prior approval.

5. A carrier or plan may request a review of a treatment plan for a covered individual not more than once every three months during the first year of the treatment plan and not more than once every six months during every year thereafter, unless the carrier or plan and the covered individual's treating physician or psychologist execute an agreement that a more frequent review is necessary. An agreement giving a carrier or plan the right to review the treatment plan of a covered individual more frequently applies only to a particular covered individual receiving applied behavior analysis and does not apply to other individuals receiving applied behavior analysis from a practitioner. The cost of conducting a review under this section shall be paid by the carrier or plan. A carrier or plan shall not change the provisions of a treatment plan until the completion of a review of the treatment plan.

6. This section shall not be construed to limit benefits which are otherwise available to an individual under a group policy, contract, or plan.

7. This section shall not be construed as affecting any obligation to provide services to an individual under an individualized family service plan, an individualized education program, or an individualized service plan.

8. This section shall not apply to accident-only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, Medicare supplement, long-term care, basic hospital and medical-surgical expense coverage as defined by the commissioner, disability income insurance coverage, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance, or individual accident and sickness policies issued to individuals or to individual members of a member association.

9. This section applies to third-party provider payment contracts, policies, or plans specified in subsection 1, paragraph *"a"* or to plans established pursuant to chapter 509A for public employees other than employees of the state, that are delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2018.

2017 Acts, ch 18, §4; 2017 Acts, ch 148, §103; 2018 Acts, ch 1106, §13, 14; 2022 Acts, ch 1026, §7, 8; 2025 Acts, ch 162, §7 – 10

Referred to in §225D.1, 225D.2, 514C.22

2025 amendments to section apply to third-party provider payment contracts, policies, or plans specified in subsection 1, paragraph a, or to plans established pursuant to chapter 509A for public employees other than employees of the state, that are delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2026; 2025 Acts, ch 162, §10

514C.32 Services provided by certain licensed master social workers, licensed mental health counselors, and licensed marital and family therapists.

1. Notwithstanding section 514C.6, a policy or contract providing for third-party payment or prepayment of health or medical expenses shall include a provision for the payment of necessary behavioral health services provided by any of the following:

a. A licensed master social worker who is licensed by the board of behavioral health professionals as a master social worker pursuant to section 154C.3, subsection 1, paragraph *"b"*, and who provides services under the supervision of an independent social worker licensed pursuant to section 154C.3, subsection 1, paragraph *"c"*.

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b. A licensed mental health counselor or a licensed marital and family therapist who holds a temporary license to practice mental health counseling or marital and family therapy pursuant to section 154D.7, and who provides services under the supervision of a qualified supervisor as determined by the board of behavioral health professionals by rule.

2. A policy or contract subject to this section shall not impose a practice or supervision restriction which is inconsistent with or more restrictive than the authority already granted by law, including the authority to provide supervision in person or remotely through electronic means as specified by rule of the applicable licensing board.

3. The requirements of this section apply to and supersede any conflicting requirements regarding services provided under a policy or contract, which is delivered, issued for delivery, continued, or renewed in this state on or after June 1, 2018, and apply to and supersede any conflicting requirements regarding services contained in an existing policy or contract on the policy's or contract's anniversary or renewal date, whichever is later.

4. For the purposes of this section, third-party payment or prepayment includes an individual or group policy of accident or health insurance or individual or group hospital or health care service contract issued pursuant to chapter 509, 514, or 514A, an individual or group health maintenance organization contract issued and regulated under chapter 514B, or a preferred provider organization contract regulated pursuant to chapter 514F.

5. Nothing in this section shall be interpreted to require an individual or group health maintenance organization or a preferred provider organization or arrangement to provide payment or prepayment for services provided by a licensed master social worker providing behavioral health services under the supervision of an independent social worker, or to a licensed mental health counselor or licensed marital and family therapist who holds a temporary license to practice mental health counseling or marital and family therapy providing behavioral health services under the supervision of a qualified supervisor, as specified in this section, unless the supervising independent social worker or the qualified supervisor, respectively, has entered into a contract or other agreement to provide behavioral health services with the individual or group health maintenance organization or the preferred provider organization or arrangement.

2018 Acts, ch 1165, §137, 139; 2019 Acts, ch 59, §235, 240; 2024 Acts, ch 1170, §510

514C.33 Services provided by provisionally licensed psychologists.

1. Notwithstanding section 514C.6, a policy or contract providing for third-party payment or prepayment of health or medical expenses shall include a provision for the payment of necessary behavioral health services provided by a person who holds a provisional license to practice psychology pursuant to section 154B.6, and who practices under the supervision of a supervisor who meets the qualifications determined by the board of behavioral health professionals by rule.

2. A policy or contract subject to this section shall not impose a practice or supervision restriction which is inconsistent with or more restrictive than the authority already granted by law, including the authority to provide supervision in person or remotely through electronic means as specified by rule of the board of behavioral health professionals.

3. The requirements of this section apply to and supersede any conflicting requirements regarding services provided under a policy or contract which is delivered, issued for delivery, continued, or renewed in this state on or after June 1, 2018, and apply to and supersede any conflicting requirements regarding services contained in an existing policy or contract on the policy's or contract's anniversary or renewal date, whichever is later.

4. For the purposes of this section, third-party payment or prepayment includes an individual or group policy of accident or health insurance or individual or group hospital or health care service contract issued pursuant to chapter 509, 514, or 514A, an individual or group health maintenance organization contract issued and regulated under chapter 514B, or a preferred provider organization contract regulated pursuant to chapter 514F.

5. Nothing in this section shall be interpreted to require an individual or group health maintenance organization or a preferred provider organization or arrangement to provide payment or prepayment for services provided by a provisionally licensed psychologist providing behavioral health services under the supervision of a supervisor as specified in

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this section, unless the supervisor has entered into a contract or other agreement to provide behavioral health services with the individual or group health maintenance organization or the preferred provider organization or arrangement.

2018 Acts, ch 1165, §138, 139; 2019 Acts, ch 59, §236, 240; 2024 Acts, ch 1170, §511

514C.34 Health care services delivered by telehealth — coverage.

1. As used in this section, unless the context otherwise requires:

a. "Covered person" means the same as defined in section 514J.102.

b. "Facility" means the same as defined in section 514J.102.

c. "Health care professional" means the same as defined in section 514J.102.

d. "Health care services" means the same as defined in section 514J.102 and includes services for mental health conditions, illnesses, injuries, or diseases.

e. "Health carrier" means the same as defined in section 514J.102.

f. "Telehealth" means the delivery of health care services through the use of real-time interactive audio and video, or other real-time interactive electronic media, regardless of where the health care professional and the covered person are each located. *"Telehealth"* does not include the delivery of health care services delivered solely through an audio-only telephone, electronic mail message, or facsimile transmission.

2. Notwithstanding the uniformity of treatment requirements of section 514C.6, a policy, contract, or plan providing for third-party payment or prepayment of health or medical expenses shall not discriminate between coverage benefits for health care services that are provided in person and the same health care services that are delivered through telehealth.

3. *a.* Health care services that are delivered by telehealth must be appropriate and delivered in accordance with applicable law and generally accepted health care practices and standards prevailing at the time the health care services are provided, including all rules adopted by the appropriate professional licensing board, pursuant to chapter 147, having oversight of the health care professional providing the health care services.

b. A health carrier shall not exclude a health care professional who provides services for mental health conditions, illnesses, injuries, or diseases and who is physically located out-of-state from participating as a provider, via telehealth, under a policy, plan, or contract offered by the health carrier in the state if all of the following requirements are met:

(1) The health care professional is licensed in this state by the appropriate professional licensing board and is able to deliver health care services for mental health conditions, illnesses, injuries, or diseases via telehealth in compliance with paragraph *"a"*.

(2) The health care professional is able to satisfy the same criteria that the health carrier uses to qualify a health care professional who is located in the state, and who holds the same license as the out-of-state professional, to participate as a provider, via telehealth, under a policy, plan, or contract offered by the health carrier in the state.

4. *a.* A health carrier shall reimburse a health care professional and a facility for health care services provided by telehealth to a covered person for a mental health condition, illness, injury, or disease on the same basis and at the same rate as the health carrier would apply to the same health care services for a mental health condition, illness, injury, or disease provided in person to a covered person by the health care professional or the facility.

b. As a condition of reimbursement pursuant to paragraph *"a"*, a health carrier shall not require that an additional health care professional be located in the same room as a covered person while health care services for a mental health condition, illness, injury, or disease are provided via telehealth by another health care professional to the covered person.

5. This section applies to the following classes of third-party payment provider policies, contracts, or plans delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2019:

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.

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d. A plan established pursuant to chapter 509A for public employees.

6. This section shall not apply to accident-only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, Medicare supplement, long-term care, basic hospital and medical-surgical expense coverage as defined by the commissioner, disability income insurance coverage, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance.

7. The commissioner of insurance may adopt rules pursuant to chapter 17A as necessary to administer this section.

2018 Acts, ch 1055, §1; 2021 Acts, ch 177, §20 – 24; 2022 Acts, ch 1131, §76 – 78
Referred to in §280A.1, 514C.35

514C.35 Behavioral health services provided in a school — coverage.

1. Notwithstanding the uniformity of treatment requirements of section 514C.6, a policy, contract, or plan providing for third-party payment or prepayment of health or medical expenses shall not deny coverage or payment for behavioral health services, including behavioral health services provided via telehealth, solely because the services are delivered in a school.

2. Nothing in this section shall be interpreted to do any of the following:

a. Require an insurer to pay for behavioral health services that are otherwise excluded from coverage under a policy, contract, or plan.

b. Require an insurer to pay for behavioral health services that are provided by an individual employed by or under contract with a school district or an educational service agency in a regular full-time or part-time position, or any other party that has not entered into a provider agreement with the insurer.

c. Prevent application of any other provision of a policy, contract, or plan.

3. This section applies to third-party payment provider policies, contracts, or plans delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2021, and to claims for reimbursement under such policies, contracts, or plans incurred on or after January 1, 2021.

4. For the purposes of this section:

a. "Behavioral health services" means services provided by a health care professional operating within the scope of the health care professional's practice which address mental, emotional, medical, or behavioral conditions, illnesses, diseases, or problems.

b. "Educational service agency" means a governmental agency or government entity which is established and operated exclusively for the purpose of providing educational services to one or more educational institutions.

c. "Health care professional" means a physician or other health care practitioner licensed, accredited, registered, or certified to perform specified health care services consistent with state law.

d. "School" means all of the following:

(1) Any school, other than a public school, that is accredited pursuant to section 256.11 for any and all levels for grades one through twelve.

(2) Any school directly supported in whole or in part by taxation.

(3) An area education agency established pursuant to chapter 273.

e. "School district" means a school district described in chapter 274.

f. "Telehealth" means the same as defined in section 514C.34.

2020 Acts, ch 1105, §5; 2020 Acts, ch 1121, §66, 70

514C.36 Biomarker testing — coverage.

1. As used in this section, unless the context otherwise requires:

a. "Biomarker" means a characteristic that is objectively measured and evaluated as an indicator of normal biological processes, pathogenic processes, or pharmacologic responses to a specific therapeutic intervention, including but not limited to genetic mutations or protein expression.

b. "Biomarker testing" means the analysis of an individual's tissue, blood, or other

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biospecimen for the presence of a biomarker, including but not limited to single-analyte tests, multiplex panel tests, or whole genome sequencing.

c. "Clinical utility" means sufficient medical and scientific evidence indicating that the use of a biomarker test will provide meaningful information that affects treatment decisions and guides improvement of net health outcomes, including an improved quality of life or longer survival.

d. "Consensus statement" means a statement developed by an independent, multidisciplinary panel of experts, none of whom have a conflict of interest, who utilize a transparent methodology and reporting structure. A consensus statement concerns specific clinical circumstances and is based on the best available evidence for the purpose of optimizing the outcomes of clinical care.

e. "Covered person" means a policyholder, subscriber, or other person participating in a policy, contract, or plan that provides for third-party payment or prepayment of health or medical expenses.

f. "Health care professional" means the same as defined in section 514J.102.

g. "Local coverage determinations" means the same as defined in section 1869(f)(2)(B) of the federal Social Security Act.

h. "National coverage determinations" means the same as defined in section 1869(f)(1)(B) of the federal Social Security Act.

i. "Nationally recognized clinical practice guidelines" means evidence-based clinical practice guidelines developed by independent organizations or medical professional societies, none of which have a conflict of interest, that utilize a transparent methodology and reporting structure. Clinical practice guidelines establish standards of care informed by a systematic review of evidence and assessment of the costs and benefits of alternative care options and include recommendations intended to optimize patient care.

2. Notwithstanding the uniformity of treatment requirements of section 514C.6, a policy, contract, or plan providing for third-party payment or prepayment of medical expenses shall provide coverage for biomarker testing for the purposes of diagnosing, treating, appropriately managing, or monitoring a disease or condition in a covered person when the biomarker testing has demonstrated clinical utility, including but not limited to any of the following:

a. Labeled indications for a test approved or cleared by the United States food and drug administration or indicated tests for a drug approved by the United States food and drug administration.

b. Centers for Medicare and Medicaid services of the United States department of health and human services national coverage determinations or Medicare administrative contractor local coverage determinations.

c. Nationally recognized clinical practice guidelines and consensus statements.

3. Coverage required under this section shall limit disruptions in care, including mitigating the need for a covered person to undergo multiple biopsies or to provide multiple biospecimen samples.

4. A covered person and the covered person's health care professional shall have access to a clear and convenient process available on the health carrier's internet site to request an exception to coverage provided under this section.

5. *a.* This section applies to the following classes of third-party payment provider policies, contracts, or plans delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2025:

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

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

(3) An individual or group health maintenance organization contract regulated under chapter 514B.

(4) A plan established pursuant to chapter 509A for public employees.

b. This section shall apply to all of the following:

(1) The medical assistance program under chapter 249A.

(2) The healthy and well kids in Iowa (Hawki) program under chapter 514I.

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(3) A managed care organization acting pursuant to a contract with the department of health and human services under chapter 249A, or with the healthy and well kids in Iowa (Hawki) program under chapter 514I.

c. This section shall not apply to accident-only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, Medicare supplement, long-term care, basic hospital and medical-surgical expense coverage as defined by the commissioner, disability income insurance coverage, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance.

6. The commissioner of insurance may adopt rules pursuant to chapter 17A to administer this section.

2024 Acts, ch 1129, §1

514C.37 Primary care providers — insurance requirements.

1. As used in this section, unless the context otherwise requires:

a. "Covered benefits" means the same as defined in section 514J.102.

b. "Covered person" means the same as defined in section 514J.102.

c. "Direct primary care agreement" means an agreement between a primary care provider and a covered person, or the covered person's representative, in which the primary care provider agrees to provide health care services for a specified period of time to the covered person for a service charge.

d. "Health benefit plan" means the same as defined in section 514J.102.

e. "Health care professional" means the same as defined in section 514J.102.

f. "Health care services" means the same as defined in section 514J.102.

g. "Health carrier" means the same as defined in section 514J.102.

h. "Primary care provider" means a health care professional trained to serve as the first contact and to provide continuous and comprehensive care to a covered person, and includes but is not limited to any of the following licensed or certified health care professionals who provide primary care:

(1) A physician who is a family or general practitioner, a pediatrician, an internist, an obstetrician, or a gynecologist.

(2) An advanced registered nurse practitioner.

(3) A physician associate.

2. *a.* Notwithstanding the uniformity of treatment requirements of section 514C.6, a health carrier shall not deny coverage for covered benefits provided to a covered person solely on the basis that the covered person's referral to receive the covered benefits was made by a primary care provider who does not participate in the health carrier's provider network.

b. A health carrier shall not impose a deductible, coinsurance, or copayment for covered benefits for which a covered person was referred by the covered person's primary care provider in excess of the deductible, coinsurance, or copayment applicable for the covered benefits had the covered person been referred by a health care professional that participates in the health carrier's provider network.

c. A health carrier may require a primary care provider to provide evidence that the primary care provider has executed a direct primary care agreement with the covered person, which evidence may include a written attestation or a copy of the executed direct primary care agreement.

3. This section applies to covered benefits for which a covered person's primary care provider referred the covered person on or after July 1, 2026.

4. The commissioner of insurance may adopt rules pursuant to chapter 17A to administer this section.

2026 Acts, ch 1008, §3; 2026 Acts, ch 1041, §1
Code editor directive applied
NEW section

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CHAPTER 514D

ACCIDENT AND SICKNESS INSURANCE POLICIES

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 509.13, 514A.14, 669.14, 670.7

514D.1 Purpose.
514D.2 Definitions.
514D.3 Standards for policies established.
514D.4 Standards for benefits established.
514D.5 Disclosure, Medicare information, and advertising.
514D.6 Limitation on defenses.
514D.7 Exclusions.
514D.8 Title and effective date of chapter.
514D.9 Regulations regarding limitation on compensation.

514D.1 Purpose.

The purpose of this chapter is to provide reasonable standardization, simplification, and disclosure of the terms and coverages of individual accident and sickness insurance policies issued under chapter 514A and individual subscriber contracts issued under chapter 514, in order to facilitate public understanding and comparison and to eliminate provisions which may be misleading or unreasonably confusing in connection with the purchase of coverage or the settlement of claims.

[C81, §514D.1]

514D.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Accident and sickness insurance"* means individual accident and sickness insurance within the meaning of section 514A.1. *"Accident and sickness insurance"* also means individual subscriber contracts for hospital service, or medical and surgical service, or individual pharmaceutical or optometric service issued under chapter 514, and for purposes of this chapter, corporations issuing contracts under chapter 514 are deemed to be engaged in the business of insurance.
2. *"Form"* means and includes policies, contracts, riders, endorsements and applications used in connection with the sale of accident and sickness insurance under chapter 514 or chapter 514A.
3. *"Medicare"* means the Health Insurance for the Aged Act, Tit. XVIII of the United States Social Security Act added by the amendment of 1965 as amended on or before July 1, 1980.
4. *"Policy"* means the entire contract between the insurer and the insured, including the policy riders, endorsements, and the application, if attached, and includes individual subscriber contracts issued under chapter 514.

[C81, §514D.2]

2013 Acts, ch 90, §154

514D.3 Standards for policies established.

1. The commissioner shall issue rules to establish specific standards, including standards of full and fair disclosure, that set forth the manner, content, and required disclosure for the sale of policies of individual accident and sickness insurance and individual subscriber contracts which shall be in addition to and in accordance with applicable laws of this state, including but not limited to sections 514A.1 through 514A.8 and sections 514A.10 through 514A.12. These rules may include but shall not be limited to any of the following subjects:

a. Terms of renewability.
b. Initial and subsequent conditions of eligibility.
c. Nonduplication of coverage provisions.
d. Coverage of dependents.
e. Coverage of persons eligible for Medicare by reason of age.
f. Preexisting conditions.
g. Termination of insurance.
h. Probationary periods.
i. Limitations.

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j. Exceptions.
k. Reductions.
l. Elimination periods.
m. Requirements for replacement.
n. Recurrent conditions.
o. The definition of terms, including but not limited to the following: Hospital, accident, sickness, injury, physician, accidental means, total disability, partial disability, nervous disorder, guaranteed renewable, and noncancelable.

2. The commissioner may issue rules with respect to policies of individual accident and sickness insurance and individual subscriber contracts that specify prohibited policies or subscriber contracts, or prohibited policy or contract provisions which the commissioner finds to be unjust, unfair, or unfairly discriminatory to the policyholder or any person insured under the policy or any beneficiary. This subsection does not authorize the commissioner to prohibit a policy or policy provision or subscriber contract or contract provision which is specifically authorized by statute.

3. A rule issued by the commissioner under this section shall not apply to a conversion policy issued pursuant to a contractual conversion privilege under a group or individual policy of accident and sickness insurance when such group or individual contract contains provisions that are inconsistent with the requirements of this chapter or any rule issued under this chapter.

4. A rule issued by the commissioner under this section shall not apply to policies being issued to employees or members being added to a franchise plan, as defined in section 509.14, which is in existence on the effective date of the rule.

[C81, §514D.3]
2021 Acts, ch 80, §322

514D.4 Standards for benefits established.

1. The commissioner shall issue rules to establish minimum standards for benefits under each of the following categories of coverage contained in policies of individual accident and sickness insurance or subscriber contracts:

a. Basic hospital expense coverage.
b. Basic medical-surgical expense coverage.
c. Hospital confinement indemnity coverage.
d. Major medical expense coverage.
e. Disability income protection coverage.
f. Accident-only coverage.
g. Specified disease or specified accident coverage.
h. Medicare supplement coverage.
i. Limited benefit health coverage.

2. This section does not prohibit the issuance of a policy which combines two or more of the categories of coverage enumerated in paragraphs *"a"* through *"f"* of subsection 1. A category of coverage referred to in paragraph *"g"*, *"h"*, or *"i"* of subsection 1 shall not be combined in a policy or contract either with another category of coverage referred to in paragraph *"g"*, *"h"*, or *"i"* of subsection 1 or with a category of coverage referred to in any of paragraphs *"a"* through *"f"* of subsection 1 unless a rule issued by the commissioner specifically authorizes that combination of coverages.

3. The commissioner shall prescribe the method of identification of policies and contracts based upon coverages provided.

4. A policy of accident and sickness insurance or subscriber contract shall not be delivered or issued for delivery in this state unless the policy or contract meets the minimum standards prescribed under this section.

5. The commissioner may upon notice and hearing at any time after the initial filing or approval of any individual accident and sickness policy or subscriber contract form, withdraw approval or suspend further sale of the form if the benefits provided are unreasonable in relation to the premium charge. The commissioner shall establish reasonable and creditable

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anticipated minimum loss ratios for Medicare supplement and other accident and sickness insurance policies.

6. A rule issued by the commissioner under this section shall not apply to a conversion policy issued pursuant to a contractual conversion privilege under a group or individual policy of accident and sickness insurance when such group or individual contract contains provisions which are inconsistent with the requirements of this chapter or any rule issued under this chapter.

7. A rule issued by the commissioner under this section shall not apply to policies being issued to employees or members being added to a franchise plan, as defined in section 509.14, which is in existence on the effective date of the rule.

[C81, §514D.4; 81 Acts, ch 167, §2]
92 Acts, ch 1162, §34; 2021 Acts, ch 80, §323
Referred to in §508C.3, 514D.5

514D.5 Disclosure, Medicare information, and advertising.

1. Except as otherwise provided in subsection 3, in order to provide for full and fair disclosure in the sale of individual accident and sickness insurance policies or subscriber contracts a policy or contract shall not be delivered or issued for delivery in this state unless the outline of coverage described in subsection 2 either accompanies the policy or contract or is delivered to the applicant at the time application is made and unless an acknowledgment of receipt or certificate of delivery of the outline is provided the insurer. In the event the policy or contract is issued on a basis other than that applied for, the outline of coverage properly describing the policy or contract must accompany the policy or contract when it is delivered and must clearly state that it is not the policy or contract for which application was made.

2. *a.* The commissioner shall prescribe the format and content of the outline of coverage required by subsection 1. *"Format"* means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. The outline of coverage shall include all of the following:

(1) A statement identifying the applicable category or categories of coverage provided by the policy or contract as prescribed in section 514D.4.

(2) A description of the principal benefits and coverage provided in the policy or contract.

(3) A statement of the exceptions, reductions, and limitations contained in the policy or contract.

(4) A statement of the renewal provisions including any reservation by the insurer of a right to change premiums.

(5) A statement that the outline is a summary of the policy or contract issued or applied for and that the policy or contract should be consulted to determine governing contractual provisions.

b. If payment will not be made for services performed by a chiropractor acting within the scope of the chiropractor's license when those services would be compensable if performed by a medical doctor, then a statement that services performed by a chiropractor are not compensable shall be included in the outline of coverage.

3. The commissioner shall prescribe disclosure rules for Medicare supplement coverage which are determined to be in the public interest and which are designed to adequately inform the prospective insured of the need for and extent of coverage offered as Medicare supplement coverage. For Medicare supplement coverage, the outline of coverage required by subsection 2 shall be furnished to the prospective insured with the application form.

4. The commissioner shall further prescribe by rule a standard form for and the contents of an informational brochure for persons eligible for Medicare by reason of age, which is intended to improve the buyer's ability to select the most appropriate coverage and to improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require by rule that this informational brochure be provided to prospective insureds eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the commissioner may require

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by rule that this brochure must be provided to prospective insureds eligible for Medicare by reason of age upon request, but not later than at the time of delivery of the policy or contract.

5. The commissioner shall adopt rules prohibiting the advertising of forms titled as "nursing home" forms or inferring coverage for custodial care in a nursing facility as defined in section 135C.1 unless such forms provide coverage for custodial care in a nursing facility as defined in section 135C.1.

[C81, §514D.5]

86 Acts, ch 1045, §2; 90 Acts, ch 1039, §17; 2003 Acts, ch 141, §15; 2012 Acts, ch 1023, §157

514D.6 Limitation on defenses.

Notwithstanding section 514A.3, subsection 1, paragraph *"b"*, subparagraph 2, or any contrary provision of chapter 514, if the issuer of the policy of accident and sickness insurance or subscriber contract elects to use a simplified application form, with or without a question as to the applicant's health at the time of application, but without any questions concerning the insured's health history or medical treatment history, the policy or contract must cover any loss occurring after twelve months from the date of issue of the policy or contract from any preexisting condition not specifically excluded from coverage by terms of the policy or contract, and, except as so provided, the policy or contract shall not include wording that would permit a defense based upon preexisting conditions.

[C81, §514D.6]

514D.7 Exclusions.

This chapter does not apply to any of the following:

1. A policy of credit accident and health or credit accident and sickness insurance.

2. A policy of accident and sickness insurance which is exempt from the provisions of sections 514A.1 through 514A.8 and sections 514A.10 through 514A.12 by virtue of an exemption set forth in section 514A.1 or 514A.8.

3. Any evidence of coverage issued to an enrollee of a health maintenance organization under chapter 514B.

[C81, §514D.7]

2021 Acts, ch 80, §324

514D.8 Title and effective date of chapter.

This chapter may be cited as the *"Uniform Individual Accident and Health Insurance Minimum Standards Act"*. This chapter takes effect July 1, 1980. Rules issued by the commissioner of insurance pursuant to this chapter shall be subject to the provisions of chapter 17A, and all rules issued by the commissioner of insurance shall give the issuers of policies and contracts a reasonable time to achieve compliance.

[C81, §514D.8]

514D.9 Regulations regarding limitation on compensation.

The commissioner shall issue rules to establish minimum standards to assure fair and reasonable benefits, claim payment, marketing practices, and compensation arrangements and reporting practices for the following classes of policies:

1. Medicare supplement insurance.
2. Nursing home insurance.
3. Long-term care insurance.

90 Acts, ch 1234, §32

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CHAPTER 514E

IOWA COMPREHENSIVE HEALTH INSURANCE ASSOCIATION

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 511.41, 513C.3, 513C.5, 513C.10, 669.14, 670.7

514E.1 Definitions.
514E.2 Iowa comprehensive health insurance association.
514E.3 Health insurance trust fund — deposit of moneys. Repealed by 97 Acts, ch 103, §56.
514E.4 Association policy — coverage and benefit requirements — deductibles — coinsurance.
514E.5 Iowa choice health care coverage. Repealed by 2009 Acts, ch 118, §4, 5.
514E.6 Iowa choice health care coverage advisory council. Repealed by 2009 Acts, ch 118, §4, 5.
514E.7 Policies — eligible persons — dependent coverage — preexisting conditions.
514E.8 Policies — renewal provisions — election to continue coverage upon death of policyholder.
514E.9 Rules.
514E.10 Collective action — immunity.
514E.11 Notice of association policy.

514E.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Association"* means the Iowa comprehensive health insurance association established by section 514E.2.

2. *"Association policy"* means an individual or group policy issued by the association that provides the coverage as set forth in the benefit plans adopted by the association's board of directors and approved by the commissioner.

3. *"Carrier"* means an insurer providing accident and sickness insurance under chapter 509, 514, 514A and includes a health maintenance organization established under chapter 514B if payments received by the health maintenance organization are subject to the health care-related tax under chapter 432B. *"Carrier"* also includes a corporation which becomes a mutual insurer pursuant to section 514.23 and any other person as defined in section 4.1, subsection 20, who is or may become liable for the tax imposed by chapter 432 or 432B.

4. *"Church plan"* means the same as defined in the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. §3(33).

5. *"Commissioner"* means the commissioner of insurance.

6. *"Creditable coverage"* means health benefits or coverage provided to an individual under any of the following:

a. A group health plan.

b. Health insurance coverage.

c. Part A or Part B Medicare pursuant to Tit. XVIII of the federal Social Security Act.

d. Medicaid pursuant to Tit. XIX of the federal Social Security Act, other than coverage consisting solely of benefits under section 1928 of that Act.

e. 10 U.S.C. ch. 55.

f. A health or medical care program provided through the Indian health service or a tribal organization.

g. A state health benefits risk pool.

h. A health plan offered under 5 U.S.C. ch. 89.

i. A public health plan as defined under federal regulations.

j. A health benefit plan under section 5(e) of the federal Peace Corps Act, 22 U.S.C. §2504(e).

k. The Hawki program authorized by chapter 514I.

7. *"Federally eligible individual"* means an individual who satisfies the following:

a. For whom, as of the date on which the individual seeks coverage under this chapter, the aggregate of the periods of creditable coverage is eighteen or more months with no more than a sixty-three day lapse of coverage, and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan, or health insurance coverage offered in connection with any such plan.

b. Who is not eligible for coverage under a group health plan, Part A or Part B of Tit. XVIII

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of the federal Social Security Act, or a state plan under Tit. XIX of that Act, or any successor program, and does not have other health insurance coverage.

c. With respect to whom the most recent coverage within the coverage period described in paragraph *"a"* was not terminated based on a nonpayment of premiums or fraud.

d. If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under a similar state program, and elected such coverage.

e. Who, if the individual elected continuation coverage as provided in paragraph *"d"*, has exhausted the continuation coverage under the provision or program.

f. Who has been confirmed eligible under the federal Trade Adjustment Act of 2002, Pub. L. No. 107-210, as a recipient under that Act, by the department of workforce development and the federal internal revenue service.

8. *"Governmental plan"* means as defined under section 3(32) of the federal Employee Retirement Income Security Act of 1974 and any federal governmental plan.

9. *a. "Group health plan"* means an employee welfare benefit plan as defined in section 3(1) of the federal Employee Retirement Income Security Act of 1974, to the extent that the plan provides medical care including items and services paid for as medical care to employees or their dependents as defined under the terms of the plan directly or through insurance, reimbursement, or otherwise.

b. For purposes of this subsection, *"medical care"* means amounts paid for any of the following:

(1) The diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for the purpose of affecting a structure or function of the body.

(2) Transportation primarily for and essential to medical care referred to in subparagraph (1).

(3) Insurance covering medical care referred to in subparagraph (1) or (2).

c. For purposes of this chapter, the following apply:

(1) A plan, fund, or program established or maintained by a partnership which, but for this subsection, would not be an employee welfare benefit plan, shall be treated as an employee welfare benefit plan which is a group health plan to the extent that the plan, fund, or program provides medical care, including items and services paid for as medical care for present or former partners in the partnership or to the dependents of such partners, as defined under the terms of the plan, fund, or program, either directly or through insurance, reimbursement, or otherwise.

(2) With respect to a group health plan, the term *"employer"* includes a partnership with respect to a partner.

(3) With respect to a group health plan, the term *"participant"* includes the following:

(a) With respect to a group health plan maintained by a partnership, an individual who is a partner in the partnership.

(b) With respect to a group health plan maintained by a self-employed individual under which one or more of the self-employed individual's employees are participants, the self-employed individual, if that individual is, or may become, eligible to receive benefits under the plan or the individual's dependents may be eligible to receive benefits under the plan.

10. *"Health care services"* means services, the coverage of which is authorized under chapter 509, chapter 514, chapter 514A, or chapter 514B as limited by benefit plans established by the association's board of directors, with the approval of the commissioner and includes services for the purposes of preventing, alleviating, curing, or healing human illness, injury or physical disability.

11. *"Health insurance"* means accident and sickness insurance authorized by chapter 509, 514, or 514A.

12. *a. "Health insurance coverage"* means health insurance coverage offered to individuals, including group conversion coverage.

b. "Health insurance coverage" does not include any of the following:

(1) Coverage for accident-only, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

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(3) Liability insurance, including general liability insurance and automobile liability insurance.

(4) Workers' compensation or similar insurance.

(5) Automobile medical-payment insurance.

(6) Credit-only insurance.

(7) Coverage for on-site medical clinic care.

(8) Other similar insurance coverage, specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance coverage or benefits.

c. "Health insurance coverage" does not include benefits provided under a separate policy as follows:

(1) Limited-scope dental or vision benefits.

(2) Benefits for long-term care, nursing home care, home health care, or community-based care.

(3) Any other similar limited benefits as provided by rule of the commissioner.

d. "Health insurance coverage" does not include benefits offered as independent noncoordinated benefits as follows:

(1) Coverage only for a specified disease or illness.

(2) A hospital indemnity or other fixed indemnity insurance.

e. "Health insurance coverage" does not include Medicare supplemental health insurance as defined under section 1882(g)(1) of the federal Social Security Act, coverage supplemental to the coverage provided under 10 U.S.C. ch. 55 and similar supplemental coverage provided to coverage under group health insurance coverage.

13. *"Insured"* means an individual who is provided qualified comprehensive health insurance under an association policy, which policy may include dependents and other covered persons.

14. *"Involuntary termination"* includes but is not limited to termination of group conversion coverage or where benefits under a state or federal law providing for continuation of coverage upon termination of employment will cease or have ceased.

15. *"Medicaid"* means the federal-state assistance program established under Tit. XIX of the federal Social Security Act.

16. *"Medicare"* means the federal government health insurance program established under Tit. XVIII of the Social Security Act.

17. *"Policy"* means a contract, policy, or plan of health insurance.

18. *"Policy year"* means a consecutive twelve-month period during which a policy provides or obligates the carrier to provide health insurance.

19. *"Preexisting condition exclusion"*, with respect to coverage, means a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for such coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before such date.

86 Acts, ch 1156, §1; 89 Acts, ch 304, §1003; 97 Acts, ch 103, §42, 43; 98 Acts, ch 1100, §70; 2000 Acts, ch 1058, §47; 2001 Acts, ch 69, §23; 2002 Acts, ch 1111, §16; 2003 Acts, ch 108, §131; 2004 Acts, ch 1110, §40 – 43; 2004 Acts, ch 1158, §6 – 9; 2008 Acts, ch 1123, §25, 26; 2008 Acts, ch 1188, §17; 2009 Acts, ch 118, §2, 5; 2017 Acts, ch 148, §83, 84; 2023 Acts, ch 19, §1202; 2026 Acts, ch 1003, §9, 15, 16

Referred to in §514E.2

2026 amendment to subsection 3 applies retroactively to January 1, 2026, for tax years beginning on or after that date; 2026 Acts, ch 1003, §16

Subsection 3 amended

514E.2 Iowa comprehensive health insurance association.

1. The Iowa comprehensive health insurance association is established as a nonprofit corporation. The association shall assure that benefit plans as authorized in section 514E.1, subsection 2, for an association policy, are made available to each eligible Iowa resident and each federally eligible individual applying to the association for coverage. The association shall also be responsible for administering the Iowa individual health benefit reinsurance association pursuant to all of the terms and conditions contained in chapter 513C.

a. All carriers providing health insurance or health care services in Iowa, whether on

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an individual or group basis, and all other insurers designated by the association's board of directors and approved by the commissioner shall be members of the association.

b. The association shall operate under a plan of operation established and approved under subsection 3 and shall exercise its powers through a board of directors established under this section.

2. *a.* The board of directors of the association shall consist of all of the following:

(1) Two members who shall be representatives of the two largest domestic carriers of individual health insurance in the state as of the calendar year ending December 31, 2000, based on earned premium standards.

(2) Three members who shall be representatives of the three largest carriers of health insurance in the state, based on earned premium standards, excluding Medicare supplement coverage premiums, that are not otherwise represented.

(3) Two members selected by the members of the association, one of whom shall be a representative from a corporation operating pursuant to chapter 514 on July 1, 1989, or any successor in interest, and one of whom shall be a representative of an insurer providing coverage pursuant to chapter 509 or 514A.

(4) Four public members selected by the governor.

(5) The commissioner or the commissioner's designee from the division of insurance.

(6) Four members of the general assembly, one of whom shall be appointed by the speaker of the house of representatives, one of whom shall be appointed by the minority leader of the house of representatives, one of whom shall be appointed by the president of the senate after consultation with the majority leader, and one of whom shall be appointed by the minority leader of the senate, who shall be ex officio, nonvoting members.

b. The composition of the board of directors shall be in compliance with section 4A.12. The governor's appointees shall be chosen from a broad cross section of the residents of this state.

c. Members of the board may be reimbursed from the moneys of the association for expenses incurred by them as members, but shall not be otherwise compensated by the association for their services.

3. The association shall submit to the commissioner a plan of operation for the association and any amendments necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation becomes effective upon approval in writing by the commissioner prior to the date on which the coverage under this chapter must be made available. After notice and hearing, the commissioner shall approve the plan of operation if the plan is determined to be suitable to assure the fair, reasonable, and equitable administration of the association, and provides for the sharing of association losses, if any, on an equitable and proportionate basis among the member carriers. If the association fails to submit a suitable plan of operation within one hundred eighty days after the appointment of the board of directors, or if at any later time the association fails to submit suitable amendments to the plan, the commissioner shall adopt, pursuant to chapter 17A, rules necessary to implement this section. The rules shall continue in force until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner. In addition to other requirements, the plan of operation shall provide for all of the following:

a. The handling and accounting of assets and moneys of the association.

b. The amount and method of reimbursing members of the board.

c. Regular times and places for meeting of the board of directors.

d. Records to be kept of all financial transactions, and the annual fiscal reporting to the commissioner.

e. Procedures for selecting the board of directors and submitting the selections to the commissioner for approval.

f. The periodic advertising of the general availability of health insurance coverage from the association.

g. Additional provisions necessary or proper for the execution of the powers and duties of the association.

4. The plan of operation may provide that the powers and duties of the association may

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be delegated to a person who will perform functions similar to those of the association. A delegation under this section takes effect only upon the approval of both the board of directors and the commissioner. The commissioner shall not approve a delegation unless the protections afforded to the insured are substantially equivalent to or greater than those provided under this chapter.

5. The association has the general powers and authority enumerated by this subsection and executed in accordance with the plan of operation approved by the commissioner under subsection 3. The association has the general powers and authority granted under the laws of this state to carriers licensed to issue health insurance. In addition, the association may do any of the following:

a. Enter into contracts as necessary or proper to carry out this chapter.

b. Sue or be sued, including taking any legal action necessary or proper for recovery of any assessments for, on behalf of, or against participating carriers.

c. Take legal action necessary to avoid the payment of improper claims against the association or the coverage provided by or through the association.

d. Establish or utilize a medical review committee to determine the reasonably appropriate level and extent of health care services in each instance.

e. Establish appropriate rates, scales of rates, rate classifications, and rating adjustments, which rates shall not be unreasonable in relation to the coverage provided and the reasonable operations expenses of the association.

f. Pool risks among members.

g. Issue association policies on an indemnity or provision of service basis providing the coverage required by this chapter.

h. Administer separate pools, separate accounts, or other plans or arrangements considered appropriate for separate members or groups of members.

i. Operate and administer any combination of plans, pools, or other mechanisms considered appropriate to best accomplish the fair and equitable operation of the association.

j. Appoint from among members appropriate legal, actuarial, and other committees as necessary to provide technical assistance in the operation of the association, policy and other contract design, and any other functions within the authority of the association.

k. Hire independent consultants as necessary.

l. Develop a method of advising applicants of the availability of other coverages outside the association.

m. Include in its policies a provision providing for subrogation rights by the association in a case in which the association pays expenses on behalf of an individual who is injured or suffers a disease under circumstances creating a liability upon another person to pay damages to the extent of the expenses paid by the association but only to the extent the damages exceed the policy deductible and coinsurance amounts paid by the insured. The association may waive its subrogation rights if it determines that the exercise of the rights would be impractical, uneconomical, or would work a hardship on the insured.

6. Rates for coverages issued by the association shall reflect rating characteristics used in the individual insurance market. The rates for a given classification shall not be more than one hundred fifty percent of the average premium or payment rate for the classification charged by the five carriers with the largest health insurance premium or payment volume in the state during the preceding calendar year. In determining the average rate of the five largest carriers, the rates or payments charged by the carriers shall be actuarially adjusted to determine the rate or payment that would have been charged for benefits similar to those issued by the association.

7. *a.* Following the close of each calendar year, the association shall determine the net premiums and payments, the expenses of administration, and the incurred losses of the association for the year. The association shall certify the amount of any net loss for the preceding calendar year to the commissioner of insurance and director of revenue. Any loss shall be assessed by the association to all members in proportion to their respective shares of total health insurance premiums or payments for subscriber contracts received in Iowa during the second preceding calendar year, or with paid losses in the year, coinciding with or ending during the calendar year or on any other equitable basis as provided in the plan of

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operation. In sharing losses, the association may abate or defer in any part the assessment of a member, if, in the opinion of the board, payment of the assessment would endanger the ability of the member to fulfill its contractual obligations. The association may also provide for an initial or interim assessment against members of the association if necessary to assure the financial capability of the association to meet the incurred or estimated claims expenses or operating expenses of the association until the next calendar year is completed. Net gains, if any, must be held at interest to offset future losses or allocated to reduce future premiums.

b. For purposes of this subsection, *"total health insurance premiums"* and *"payments for subscriber contracts"* include, without limitation, premiums or other amounts paid to or received by a member for individual and group health plan care coverage provided under any chapter of the Code or Acts, and *"paid losses"* includes, without limitation, claims paid by a member operating on a self-funded basis for individual and group health plan care coverage provided under any chapter of the Code or Acts. For purposes of calculating and conducting the assessment, the association shall have the express authority to require members to report on an annual basis each member's total health insurance premiums and payments for subscriber contracts and paid losses. A member is liable for its share of the assessment calculated in accordance with this section regardless of whether it participates in the individual insurance market.

8. The association shall conduct periodic audits to assure the general accuracy of the financial data submitted to the association, and the association shall have an annual audit of its operations, made by an independent certified public accountant.

9. The association is subject to examination by the commissioner of insurance. Not later than April 30 of each year, the board of directors shall submit to the commissioner a financial report for the preceding calendar year in a form approved by the commissioner.

10. The association is subject to oversight by the legislative fiscal committee of the legislative council. Not later than April 30 of each year, the board of directors shall submit to the legislative fiscal committee a financial report for the preceding year in a form approved by the committee.

11. All policy forms issued by the association must be filed with and approved by the commissioner before their use.

12. The association is exempt from payment of all fees and all taxes levied by this state or any of its political subdivisions.

13. An insurer may offset an assessment made pursuant to this chapter against its premium tax liability pursuant to chapter 432 or against its health care-related tax liability pursuant to chapter 432B, as applicable, to the extent of twenty percent of the amount of the assessment for each of the five calendar years following the year in which the assessment was paid. If an insurer ceases doing business, all uncredited assessments may be credited against its premium or health care-related tax liability for the year it ceases doing business.

86 Acts, ch 1156, §2; 89 Acts, ch 304, §1004 – 1006; 90 Acts, ch 1223, §28; 97 Acts, ch 103, §44 – 48; 2001 Acts, ch 125, §7; 2003 Acts, ch 145, §286; 2004 Acts, ch 1110, §44 – 46; 2004 Acts, ch 1158, §10 – 13, 21; 2005 Acts, ch 70, §14 – 16, 51; 2008 Acts, ch 1156, §50, 58; 2008 Acts, ch 1188, §18; 2009 Acts, ch 118, §3, 5; 2017 Acts, ch 148, §85, 86; 2023 Acts, ch 64, §82; 2024 Acts, ch 1004, §46; 2026 Acts, ch 1003, §10, 15, 16

Referred to in §513C.11, 514E.1

2026 amendment to subsection 13 applies retroactively to January 1, 2026, for tax years beginning on or after that date; 2026 Acts, ch 1003, §16

Subsection 13 amended

514E.3 Health insurance trust fund — deposit of moneys. Repealed by 97 Acts, ch 103, §56.

514E.4 Association policy — coverage and benefit requirements — deductibles — coinsurance.

The association policy shall pay for medically necessary eligible health care services as established in the benefit plans adopted by the association's board of directors and approved by the commissioner. The plans shall provide benefits, deductibles, and coinsurance that reflect the current state of the individual insurance market. The board may modify the

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benefits provided under the plans to reflect the current state of the individual insurance market with the approval of the commissioner.

86 Acts, ch 1156, §4; 90 Acts, ch 1039, §18; 2004 Acts, ch 1110, §47; 2004 Acts, ch 1158, §14

514E.5 Iowa choice health care coverage. Repealed by 2009 Acts, ch 118, §4, 5.

514E.6 Iowa choice health care coverage advisory council. Repealed by 2009 Acts, ch 118, §4, 5.

514E.7 Policies — eligible persons — dependent coverage — preexisting conditions.

1. *a.* An individual who is and continues to be a resident is eligible for plan coverage if evidence is provided of any of the following:

(1) A notice of rejection or refusal to issue substantially similar insurance for health reasons by one carrier.

(2) A refusal by a carrier to issue insurance except at a rate exceeding the plan rate.

(3) That the individual is a federally defined eligible individual.

(4) That the individual has a health condition that is established by the association's board of directors, with the approval of the commissioner, to be eligible for plan coverage.

(5) That the individual has coverage under a basic or standard health benefit plan under chapter 513C.

b. A rejection or refusal by a carrier offering only stoploss, excess of loss, or reinsurance coverage with respect to an applicant under paragraph "*a*", subparagraphs (1) and (2), is not sufficient evidence for purposes of this subsection.

c. The association shall rescind coverage for an individual who no longer resides in the state.

2. *a.* An association policy shall provide that coverage of a dependent unmarried person terminates when the person becomes nineteen years of age or, if the person is enrolled full time in an accredited educational institution, terminates at twenty-five years of age. The policy shall also provide in substance that attainment of the limiting age does not operate to terminate coverage when the person is and continues to be both of the following:

(1) Incapable of self-sustaining employment by reason of an intellectual disability or physical disability.

(2) Primarily dependent for support and maintenance upon the person in whose name the contract is issued.

b. Proof of incapacity and dependency must be furnished to the carrier within one hundred twenty days of the person's attainment of the limiting age, and subsequently as may be required by the carrier, but not more frequently than annually after the two-year period following the person's attainment of the limiting age.

3. An association policy that provides coverage for a family member of the person in whose name the contract is issued shall also provide, as to the family member's coverage, that the health insurance benefits applicable for children include the coverage required under section 514C.1.

4. *a.* A preexisting condition exclusion shall not apply to a federally defined eligible individual.

b. Plan coverage shall not impose any preexisting condition exclusion as follows:

(1) In the case of a child who is adopted or placed for adoption before attaining eighteen years of age and who, as of the last day of the thirty-day period beginning on the date of the adoption or placement for adoption, is covered under creditable coverage. This subparagraph shall not apply to coverage before the date of such adoption or placement for adoption.

(2) In the case of an individual who, as of the last day of the thirty-day period beginning with the date of birth, is covered under creditable coverage.

(3) Relating to pregnancy as a preexisting condition.

(4) In the case of an individual transferring to an association policy from a basic or standard health benefit plan under chapter 513C beginning on or after January 1, 2005.

c. Plan coverage shall exclude charges or expenses incurred during the first six months following the effective date of coverage for preexisting conditions. Such preexisting condition

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exclusions shall be waived to the extent that similar exclusions, if any, have been satisfied under any prior health insurance coverage which was involuntarily terminated, provided both of the following apply:

(1) Application for association coverage is made no later than sixty-three days following such involuntary termination and, in such case, coverage under the plan is effective from the date on which such prior coverage was terminated.

(2) The applicant is not eligible for continuation rights that would provide coverage substantially similar to plan coverage.

d. This subsection does not prohibit preexisting conditions coverage in an association policy that is more favorable to the insured than that specified in this subsection.

e. If the association policy contains a waiting period for preexisting conditions, an insured may retain any existing coverage the insured has under an insurance plan that has coverage equivalent to the association policy for the duration of the waiting period only.

5. An individual is not eligible for coverage by the association if any of the following apply:

a. The individual is at the time of application eligible for health care benefits under chapter 249A.

b. The individual has terminated coverage by the association within the past twelve months, except that this paragraph does not apply to an applicant who is a federally eligible individual.

c. The individual is an inmate of a public institution, except that this paragraph does not apply to an applicant who is a federally defined eligible individual.

d. The individual premiums are paid for or reimbursed under any government sponsored program or by any government agency or health care provider, except as an otherwise qualifying full-time employee, or dependent of the employee, of a government agency or health care provider.

e. The individual, on the effective date of the coverage applied for, has not been rejected for, already has, or will have coverage similar to an association policy as an insured or covered dependent. This paragraph does not apply to an applicant who is a federally eligible individual.

f. The individual is eligible for Medicare based upon age.

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.

86 Acts, ch 1156, §7; 90 Acts, ch 1163, §1 – 3; 96 Acts, ch 1129, §113; 97 Acts, ch 103, §52, 53; 98 Acts, ch 1100, §71; 2004 Acts, ch 1110, §48, 49; 2004 Acts, ch 1158, §15 – 17; 2005 Acts, ch 70, §17, 51; 2006 Acts, ch 1117, §64; 2008 Acts, ch 1123, §27; 2012 Acts, ch 1019, §136; 2017 Acts, ch 148, §87, 88

514E.8 Policies — renewal provisions — election to continue coverage upon death of policyholder.

1. An association policy shall contain provisions under which the association is obligated to renew the coverage for an individual until the day the individual becomes eligible for Medicare coverage based on age, provided that any individual who is covered by an association policy and is eligible for Medicare coverage based on age prior to January 1, 2005, may continue to renew the coverage under the association policy.

2. The association shall not change the rates for association policies except on a class basis with a clear disclosure in the policy of the association's right to do so.

3. An association policy shall provide that upon the death of the individual in whose name

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the policy is issued, every other individual then covered under the contract may elect, within a period specified in the policy, to continue coverage under the same or a different policy until such time as the person would have ceased to be entitled to coverage had the individual in whose name the policy was issued lived.

86 Acts, ch 1156, §8; 2004 Acts, ch 1110, §50; 2004 Acts, ch 1158, §18; 2005 Acts, ch 70, §18, 51; 2006 Acts, ch 1030, §84

514E.9 Rules.

Pursuant to chapter 17A, the commissioner shall adopt rules to provide for disclosure by carriers of the availability of insurance coverage from the association, and to otherwise implement this chapter.

86 Acts, ch 1156, §9; 97 Acts, ch 103, §54; 2017 Acts, ch 148, §89

514E.10 Collective action — immunity.

Neither the participation by carriers or members in the association, the establishment of rates, forms, or procedures for coverage issued by the association, nor any joint or collective action required by this chapter shall be the basis of any legal civil action, or criminal liability against the association or members of it either jointly or separately.

86 Acts, ch 1156, §10

514E.11 Notice of association policy.

Every carrier, including a health maintenance organization subject to chapter 514B, authorized to provide health care insurance or coverage for health care services in Iowa, shall provide a notice of the availability of coverage by the association to any person who receives a rejection of coverage for health insurance or health care services, or a rate for health insurance or coverage for health care services that will exceed the rate of an association policy, and that person is eligible to apply for health insurance provided by the association. Application for the health insurance shall be on forms prescribed by the association's board of directors and made available to the carriers and other entities providing health care insurance or coverage for health care services regulated by the commissioner.

86 Acts, ch 1156, §11; 97 Acts, ch 103, §55; 2004 Acts, ch 1110, §51; 2004 Acts, ch 1158, §19; 2017 Acts, ch 148, §90

CHAPTER 514F

UTILIZATION AND COST CONTROL

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 514C.11, 514C.32, 514C.33, 514L.1, 669.14, 670.7

514F.1 Utilization and cost control review committees.
514F.2 Utilization and cost control.
514F.3 Preferred providers.
514F.4 Utilization review requirements.
514F.5 Experimental treatment review.
514F.6 Credentialing.
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514F.8 Prior authorizations — reimbursement.
514F.8A Prior authorizations — peer review.
514F.8B Prior authorizations — exemptions.
514F.8C Utilization review organizations — audits.
514F.8D Health carriers — standards of conduct.
514F.8E Enforcement.
514F.9 Continuity of care — nonmedical switching.

514F.1 Utilization and cost control review committees.

The licensing boards under chapters 148, 149, 151, and 152 shall establish utilization and cost control review committees of licensees under the respective chapters, selected from licensees who have practiced in Iowa for at least the previous five years, or shall accredit and designate other utilization and cost control organizations as utilization and cost control committees under this section, for the purposes of utilization review of the appropriateness of

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levels of treatment and of giving opinions as to the reasonableness of charges for diagnostic or treatment services of licensees. Persons governed by the various chapters of Title XIII, subtitle 1, of the Code and self-insurers for health care benefits to employees may utilize the services of the utilization and cost control review committees upon the payment of a reasonable fee for the services, to be determined by the respective boards. The respective boards under chapters 148, 149, 151, and 152 shall adopt rules necessary and proper for the administration of this section pursuant to chapter 17A. It is the intent of this general assembly that conduct of the utilization and cost control review committees authorized under this section shall be exempt from challenge under federal or state antitrust laws or other similar laws in regulation of trade or commerce.

86 Acts, ch 1180, §10; 87 Acts, ch 115, §63; 88 Acts, ch 1199, §6; 89 Acts, ch 164, §6; 90 Acts, ch 1233, §32; 2007 Acts, ch 10, §177; 2008 Acts, ch 1088, §135

514F.2 Utilization and cost control.

Nothing contained in the chapters of Title XIII, subtitle 1, of the Code shall be construed to prohibit or discourage insurers, nonprofit service corporations, health maintenance organizations, or self-insurers for health care benefits to employees from providing payments of benefits or providing care and treatment under capitated payment systems, prospective reimbursement rate systems, utilization control systems, incentive systems for the use of least restrictive and least costly levels of care, preferred provider contracts limiting choice of specific provider, or other systems, methods or organizations designed to contain costs without sacrificing care or treatment outcome, provided these systems do not limit or make optional payment or reimbursement for health care services on a basis solely related to the license under or the practices authorized by chapter 151 or on a basis that is dependent upon a method of classification, categorization, or description based upon differences in terminology used by different licensees under the chapters of Title IV, subtitle 3, of the Code in describing human ailments or their diagnosis or treatment.

86 Acts, ch 1180, §10

514F.3 Preferred providers.

The commissioner of insurance shall adopt rules for preferred provider contracts and organizations, both those that limit choice of specific provider and those that do not. The rules adopted shall include, but not be limited to, the following subjects: preferred provider arrangements and participation requirements, health benefit plans, and civil penalties.

88 Acts, ch 1112, §604

514F.4 Utilization review requirements.

1. A third-party payor which provides health benefits to a covered individual residing in this state shall not conduct utilization review, either directly or indirectly, under a contract with a third-party who does not meet the requirements established for accreditation by the utilization review accreditation commission, national committee on quality assurance, or another national accreditation entity recognized and approved by the commissioner.

2. This section does not apply to any utilization review performed solely under contract with the federal government for review of patients eligible for services under any of the following:

a. Tit. XVIII of the federal Social Security Act.

b. The civilian health and medical program of the uniformed services.

c. Any other federal employee health benefit plan.

3. For purposes of this section, unless the context otherwise requires:

a. *"Third-party payor"* means:

(1) An insurer subject to chapter 509 or 514A.

(2) A health service corporation subject to chapter 514.

(3) A health maintenance organization subject to chapter 514B.

(4) A preferred provider arrangement.

(5) A multiple employer welfare arrangement.

(6) A third-party administrator.

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(7) A fraternal benefit society.
(8) A plan established pursuant to chapter 509A for public employees.
(9) Any other benefit program providing payment, reimbursement, or indemnification for health care costs for an enrollee or an enrollee's eligible dependents.

b. "Utilization review" means a program or process by which an evaluation is made of the necessity, appropriateness, and efficiency of the use of health care services, procedures, or facilities given or proposed to be given to an individual within this state. Such evaluation does not apply to requests by an individual or provider for a clarification, guarantee, or statement of an individual's health insurance coverage or benefits provided under a health insurance policy, nor to claims adjudication. Unless it is specifically stated, verification of benefits, preauthorization, or a prospective or concurrent utilization review program or process shall not be construed as a guarantee or statement of insurance coverage or benefits for any individual under a health insurance policy.

99 Acts, ch 41, §5; 2010 Acts, ch 1061, §180
Referred to in §514F.8, 514F.8B

514F.5 Experimental treatment review.

1. A carrier, as defined in section 513B.2, or a plan established pursuant to chapter 509A for public employees, that limits coverage for experimental medical treatment, drugs, or devices, shall develop and implement a procedure to evaluate experimental medical treatments and shall submit a description of the procedure to the division of insurance. The procedure shall be in writing and must describe the process used to determine whether the carrier or chapter 509A plan will provide coverage for new medical technologies and new uses of existing technologies. The procedure, at a minimum, shall require a review of information from appropriate government regulatory agencies and published scientific literature concerning new medical technologies, new uses of existing technologies, and the use of external experts in making decisions. A carrier or chapter 509A plan shall include appropriately licensed or qualified professionals in the evaluation process. The procedure shall provide a process for a person covered under a plan or contract to request a review of a denial of coverage because the proposed treatment is experimental. A review of a particular treatment need not be reviewed more than once a year.

2. A carrier or chapter 509A plan that limits coverage for experimental treatment, drugs, or devices shall clearly disclose such limitations in a contract, policy, or certificate of coverage.

99 Acts, ch 41, §6; 2017 Acts, ch 148, §91

514F.6 Credentialing.

1. *Retrospective payment.* The commissioner shall adopt rules to provide for the retrospective payment of clean claims for covered services provided by a physician, advanced registered nurse practitioner, or physician associate during the credentialing period, once the physician, advanced registered nurse practitioner, or physician associate is credentialed.

2. *Credentialing process.*

a. A health insurer shall respond to a physician's, advanced registered nurse practitioner's, or physician associate's request for credentialing within fifty-six calendar days from the date of the request.

b. If a physician's, advanced registered nurse practitioner's, or physician associate's request for credentialing is denied by the health insurer, the health insurer shall provide a reason for the denial, in writing, to the physician, advanced registered nurse practitioner, or physician associate.

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

a. "Advanced registered nurse practitioner" means a person currently licensed as a registered nurse under chapter 152 or 152E who is licensed by the board of nursing as an advanced registered nurse practitioner.

b. "Clean claim" means the same as defined in section 507B.4A, subsection 2, paragraph *"b"*.

c. "Credentialing" means a process through which a health insurer makes a determination based on criteria established by the health insurer concerning whether a physician, advanced

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registered nurse practitioner, or physician associate is eligible to provide health care services to an insured and to receive reimbursement for the health care services provided under an agreement entered into between the physician, advanced registered nurse practitioner, or physician associate and the health insurer.

d. "Credentialing period" means the time period between the health insurer's receipt of a physician's, advanced registered nurse practitioner's, or physician associate's application for credentialing and approval of that application by the health insurer.

e. "Physician" means a licensed doctor of medicine and surgery or a licensed doctor of osteopathic medicine and surgery.

f. "Physician associate" means the same as defined in section 148C.1.

2008 Acts, ch 1123, §28; 2010 Acts, ch 1121, §16; 2013 Acts, ch 90, §155; 2015 Acts, ch 56, §24; 2025 Acts, ch 72, §1; 2026 Acts, ch 1008, §3; 2026 Acts, ch 1040, §103

Code editor directive applied

Subsection 2, paragraph a amended

514F.7 Use of step therapy protocols.

1. *Definitions.* For the purposes of this section:

a. "Authorized representative" means the same as defined in section 514J.102.

b. "Clinical practice guidelines" means a systematically developed statement to assist health care professionals and covered persons in making decisions about appropriate health care for specific clinical circumstances and conditions.

c. "Clinical review criteria" means the same as defined in section 514J.102.

d. "Covered person" means the same as defined in section 514J.102.

e. "Health benefit plan" means the same as defined in section 514J.102.

f. "Health care professional" means the same as defined in section 514J.102.

g. "Health care services" means the same as defined in section 514J.102.

h. "Health carrier" means an entity subject to the insurance laws and regulations of this state, or subject to the jurisdiction of the commissioner, including an insurance company offering sickness and accident plans, a health maintenance organization, a nonprofit health service corporation, a plan established pursuant to chapter 509A for public employees, or any other entity providing a plan of health insurance, health care benefits, or health care services. *"Health carrier"* does not include a managed care organization as defined in 441 IAC 73.1 when the managed care organization is acting pursuant to a contract with the department of health and human services to provide services to Medicaid recipients.

i. "Pharmaceutical sample" means a unit of a prescription drug that is not intended to be sold and is intended to promote the sale of the drug.

j. "Step therapy override exception" means a step therapy protocol should be overridden in favor of coverage of the prescription drug selected by a health care professional within the applicable time frames and in compliance with the requirements specified in section 505.26, subsection 7, for a request for prior authorization of prescription drug benefits. This determination is based on a review of the covered person's or health care professional's request for an override, along with supporting rationale and documentation.

k. "Step therapy protocol" means a protocol or program that establishes a specific sequence in which prescription drugs for a specified medical condition and medically appropriate for a particular covered person are covered under a pharmacy or medical benefit by a health carrier, a health benefit plan, or a utilization review organization, including self-administered drugs and drugs administered by a health care professional.

l. "Utilization review" means a program or process by which an evaluation is made of the necessity, appropriateness, and efficiency of the use of health care services, procedures, or facilities given or proposed to be given to an individual. Such evaluation does not apply to requests by an individual or provider for a clarification, guarantee, or statement of an individual's health insurance coverage or benefits provided under a health benefit plan, nor to claims adjudication. Unless it is specifically stated, verification of benefits, preauthorization, or a prospective or concurrent utilization review program or process shall not be construed as a guarantee or statement of insurance coverage or benefits for any individual under a health benefit plan.

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m. *"Utilization review organization"* means an entity that performs utilization review, other than a health carrier performing utilization review for its own health benefit plans.

2. *Establishment of step therapy protocols.* A health carrier, health benefit plan, or utilization review organization shall consider available recognized evidence-based and peer-reviewed clinical practice guidelines when establishing a step therapy protocol. Upon written request of a covered person, a health carrier, health benefit plan, or utilization review organization shall provide any clinical review criteria applicable to a specific prescription drug covered by the health carrier, health benefit plan, or utilization review organization.

3. *Step therapy override exceptions process transparency.*

a. When coverage of a prescription drug for the treatment of any medical condition is restricted for use by a health carrier, health benefit plan, or utilization review organization through the use of a step therapy protocol, the covered person and the prescribing health care professional shall have access to a clear, readily accessible, and convenient process to request a step therapy override exception. A health carrier, health benefit plan, or utilization review organization may use its existing medical exceptions process to satisfy this requirement. The process used shall be easily accessible on the internet site of the health carrier, health benefit plan, or utilization review organization.

b. A step therapy override exception shall be approved by a health carrier, health benefit plan, or utilization review organization if any of the following circumstances apply:

(1) The prescription drug required under the step therapy protocol is contraindicated pursuant to the drug manufacturer's prescribing information for the drug or, due to a documented adverse event with a previous use or a documented medical condition, including a comorbid condition, is likely to do any of the following:

(a) Cause an adverse reaction to a covered person.

(b) Decrease the ability of a covered person to achieve or maintain reasonable functional ability in performing daily activities.

(c) Cause physical or mental harm to a covered person.

(2) The prescription drug required under the step therapy protocol is expected to be ineffective based on the known clinical characteristics of the covered person, such as the covered person's adherence to or compliance with the covered person's individual plan of care, and any of the following:

(a) The known characteristics of the prescription drug regimen as described in peer-reviewed literature or in the manufacturer's prescribing information for the drug.

(b) The health care professional's medical judgment based on clinical practice guidelines or peer-reviewed journals.

(c) The covered person's documented experience with the prescription drug regimen.

(3) The covered person has had a trial of a therapeutically equivalent dose of the prescription drug under the step therapy protocol while under the covered person's current or previous health benefit plan for a period of time to allow for a positive treatment outcome, and such prescription drug was discontinued by the covered person's health care professional due to lack of effectiveness.

(4) The covered person is currently receiving a positive therapeutic outcome on a prescription drug selected by the covered person's health care professional for the medical condition under consideration while under the covered person's current or previous health benefit plan. This subparagraph shall not be construed to encourage the use of a pharmaceutical sample for the sole purpose of meeting the requirements for a step therapy override exception.

c. Upon approval of a step therapy override exception, the health carrier, health benefit plan, or utilization review organization shall authorize coverage for the prescription drug selected by the covered person's prescribing health care professional if the prescription drug is a covered prescription drug under the covered person's health benefit plan.

d. A health carrier, health benefit plan, or utilization review organization shall make a determination to approve or deny a request for a step therapy override exception within the applicable time frames and in compliance with the requirements specified in section 505.26, subsection 7, for a request for prior authorization of prescription drug benefits.

e. If a request for a step therapy override exception is denied, the health carrier,

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health benefit plan, or utilization review organization shall provide the covered person or the covered person's authorized representative and the patient's prescribing health care professional with the reason for the denial and information regarding the procedure to request external review of the denial pursuant to chapter 514J. Any denial of a request for a step therapy override exception that is upheld on appeal shall be considered a final adverse determination for purposes of chapter 514J and is eligible for a request for external review by a covered person or the covered person's authorized representative pursuant to chapter 514J.

4. *Limitations.* This section shall not be construed to do either of the following:

a. Prevent a health carrier, health benefit plan, or utilization review organization from requiring a covered person to try a prescription drug with the same generic name and demonstrated bioavailability or a biological product that is an interchangeable biological product, as defined in section 155A.3, prior to providing coverage for the equivalent branded prescription drug.

b. Prevent a health care professional from prescribing a prescription drug that is determined to be medically appropriate.

2017 Acts, ch 124, §1, 2; 2017 Acts, ch 148, §103; 2023 Acts, ch 19, §1203; 2024 Acts, ch 1056, §26

Referred to in §514F.9

514F.8 Prior authorizations — reimbursement.

1. For purposes of this section:

a. "Covered person" means a policyholder, subscriber, enrollee, or other individual participating in a health benefit plan.

b. "Downgrade" means a decision by a utilization review organization to change an expedited or urgent request for prior authorization to a standard determination, or otherwise modify a health care service that is the subject of a request for prior authorization to a lower-level health care service.

c. "Facility" means the same as defined in section 514J.102.

d. "Health benefit plan" means the same as defined in section 514J.102.

e. "Health care professional" means the same as defined in section 514J.102.

f. "Health care provider" means a health care professional or a facility.

g. "Health care services" means services provided by a health care provider for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease. *"Health care services"* includes the provision of durable medical equipment. *"Health care services"* does not include prescription drugs or dental care services as that term is defined in section 514J.102.

h. "Health carrier" means an entity subject to the insurance laws and regulations of this state, or subject to the jurisdiction of the commissioner, including an insurance company offering sickness and accident plans, a health maintenance organization, a nonprofit health service corporation, a plan established pursuant to chapter 509A for public employees, or any other entity providing a plan of health insurance, health care benefits, or health care services. *"Health carrier"* does not include the department of health and human services, or a managed care organization acting pursuant to a contract with the department of health and human services to administer the medical assistance program under chapter 249A or the healthy and well kids in Iowa (Hawki) program under chapter 514I.

i. "Prior authorization" means a determination by a utilization review organization that a specific health care service proposed by a health care provider for a covered person is medically necessary or medically appropriate, and the determination is made prior to the provision of the health care service to the covered person, and, if applicable, includes a utilization review organization's requirement that a covered person or a health care provider notify the utilization review organization prior to receiving or providing a specific health care service.

j. "Utilization review" means the same as defined in section 514F.4, subsection 3.

k. "Utilization review organization" means an entity that performs utilization review, including a health carrier that meets the requirements established for accreditation set

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by the utilization review accreditation commission or the national committee on quality assurance and that performs utilization review for the health carrier's health benefit plans.

2. *a.* A utilization review organization shall provide a determination to a request for prior authorization from a health care provider as follows:

(1) Within forty-eight hours after receipt for urgent requests.

(2) Within ten calendar days after receipt for nonurgent requests.

(3) Within fifteen calendar days after receipt for nonurgent requests if there are complex or unique circumstances or the utilization review organization is experiencing an unusually high volume of prior authorization requests.

b. Within twenty-four hours after receipt of a prior authorization request, the utilization review organization shall notify the health care provider of, or make available to the health care provider, a receipt for the request for prior authorization.

c. A utilization review organization shall conduct an annual review and submit the findings in a report to the commissioner pursuant to the reporting procedures and deadlines established by the commissioner. The commissioner shall publish, within sixty calendar days of receipt, the report on a publicly accessible internet site. The annual report shall include all of the following:

(1) The total number of, and percentage of, urgent prior authorization requests that the utilization review organization approved, aggregated for all health care services and items.

(2) The total number of, and percentage of, urgent prior authorization requests that the utilization review organization denied, aggregated for all health care services or items.

(3) The total number of, and percentage of, nonurgent prior authorization requests that the utilization review organization approved, aggregated for all health care services or items.

(4) The total number of, and percentage of, nonurgent prior authorization requests that the utilization review organization denied, aggregated for all health care services or items.

(5) The total number of, and percentage of, nonurgent prior authorization requests that were complex or involved unique circumstances that the utilization review organization approved, aggregated for all health care services or items.

(6) The average and median time that elapsed between the submission of a prior authorization request and a determination by the utilization review organization for the prior authorization request, aggregated for all health care services or items.

(7) The average and median time that elapsed between the submission of an urgent prior authorization request and a determination by the utilization review organization for the urgent prior authorization request, aggregated for all health care services or items.

(8) The average and median time that elapsed between the submission of a nonurgent prior authorization request and a determination by the utilization review organization for the nonurgent prior authorization request, aggregated for all health care services or items.

3. A utilization review organization may use an artificial intelligence-based algorithm or system to provide an initial review of a request for prior authorization, except that, for a prior authorization request for a health care service based on medical necessity, a utilization review organization shall not use an artificial intelligence-based algorithm or system as the sole basis for the utilization review organization's decision to deny, delay, or downgrade the prior authorization request.

4. *a.* A utilization review organization shall not revoke, or impose a limitation, condition, or restriction on, a prior authorization after the date on which a health care provider provides a health care service to a covered person per the prior authorization.

b. A health carrier shall reimburse a health care provider at the contracted reimbursement rate for a health care service provided by the health care provider to a covered person per a prior authorization.

c. Paragraphs *"a"* and *"b"* shall not apply in any of the following circumstances:

(1) The health care provider or the covered person committed fraud, waste, or abuse.

(2) The health care provider or the covered person provided inaccurate information that the utilization review organization relied on for the utilization review organization's prior authorization determination.

(3) On the date that the health care service was provided by the health care provider to

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the covered person per the prior authorization, the health care service was no longer a benefit covered by the covered person's health benefit plan.

(4) On the date that the health care service was provided by the health care provider to the covered person per the prior authorization, the health care provider was no longer contracted with the health carrier that provides the covered person's health benefit plan.

(5) The health care provider failed to meet the health carrier's requirements related to timely filing of claims for submission of a claim for the health care service provided by the health care provider to the covered person per the prior authorization.

(6) Due to coordination of benefits, the health carrier does not have liability for a claim for the health care service provided by the health care provider to the covered person per a prior authorization.

(7) On the date that the health care service was provided by the health care provider to the covered person per the prior authorization, the covered person was no longer a participant in the health benefit plan in which the covered person participated on the date that the prior authorization was received by the health care provider.

5. *a.* A utilization review organization shall, at least annually, review all health care services for which the health benefit plan requires prior authorization and shall eliminate prior authorization requirements for health care services for which prior authorization requests are routinely approved with such frequency as to demonstrate that the prior authorization requirement does not promote health care quality, or reduce health care spending, to a degree sufficient to justify the health benefit plan's administrative costs to require the prior authorization.

b. A utilization review organization shall submit an annual report containing the findings of the review conducted under paragraph "*a*" to the commissioner pursuant to the reporting procedures and deadlines established by the commissioner. The commission shall publish, within sixty days of receipt, the report on a publicly accessible internet site. The annual report shall include all of the following:

(1) The total number of prior authorizations the utilization review organization evaluated as part of the annual review.

(2) The number of prior authorizations the utilization review organization eliminated as a result of the annual review, and the reason for the elimination.

(3) A list of prior authorizations that had at least eighty percent of requests approved in the previous twelve months for a specific health care service covered by a health benefit plan, but which prior authorizations were retained due to medical or scientific evidence, as defined in section 514J.102, that justified continuing such requirement.

(4) The total number of prior authorization requests submitted in the previous twelve months for each eliminated prior authorization, and the total number of health care providers that submitted a request for prior authorization in the previous twelve months for each eliminated prior authorization requirement.

(5) For each health care service for which prior authorization was eliminated under subparagraph (2), the report shall include data regarding any increase or decrease of ten percent or greater in the average number of claims submitted per health care provider for that health care service compared to the twelve months immediately preceding the elimination of the prior authorization.

6. A prior authorization for a specific health care service for a covered person shall be valid for the specific health care service for not less than ninety days from the date that the covered person's health care provider receives the prior authorization from a utilization review organization, provided that during the ninety days the covered person remains a participant in the same health benefit plan in which the covered person participated on the date the prior authorization was received by the health care provider.

7. Complaints regarding a utilization review organization's compliance with this chapter may be directed to the insurance division. The insurance division shall notify a utilization review organization of all complaints regarding the utilization review organization's noncompliance with this chapter. All complaints received pursuant to this subsection shall not be considered public records for purposes of chapter 22.

8. *a.* A health care provider shall submit all requests for prior authorization to a health

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carrier electronically using a standards-based application programming interface, or another form of electronic submission, supported by the health carrier that is compliant with federal interoperability regulations.

b. This subsection applies to a request for prior authorization made on or after July 1, 2027.

9. The commissioner may adopt rules pursuant to chapter 17A as necessary to administer this chapter.

2022 Acts, ch 1056, §1, 2; 2023 Acts, ch 19, §1204; 2025 Acts, ch 108, §1; 2025 Acts, ch 159, §16; 2026 Acts, ch 1087, §1, 2, 5

Referred to in §514F.8A, 514F.8B, 514F.8C, 514F.8D, 514F.8E
Subsection 1, NEW paragraph b and former paragraphs b – j redesignated as c – k
NEW subsection 3 and former subsections 3 – 6 renumbered as 4 – 7
NEW subsection 8 and former subsection 7 renumbered as 9

514F.8A Prior authorizations — peer review.

1. For purposes of this section, unless the context otherwise requires:

a. *"Clinical peer"* means a health care professional that meets all of the following requirements:

(1) The health care professional practices in the same or similar specialty as the health care provider that requested a prior authorization.

(2) The health care professional has experience managing the specific medical condition or administering the health care service that is the subject of the prior authorization request.

(3) The health care professional is employed by or contracted with the utilization review organization or health carrier to which a health care provider submitted a request for prior authorization.

b. *"Covered person"* means the same as defined in section 514F.8.

c. *"Downgrade"* means a decision by a utilization review organization to change an expedited or urgent request for prior authorization to a standard determination, or otherwise modify a health care service that is the subject of a request for prior authorization to a lower-level health care service.

d. *"Health care professional"* means the same as defined in section 514J.102.

e. *"Health care provider"* means the same as defined in section 514F.8.

f. *"Health care services"* means the same as defined in section 514F.8.

g. *"Health carrier"* means the same as defined in section 514F.8.

h. *"Physician"* means a doctor of medicine and surgery, or a doctor of osteopathic medicine and surgery, licensed under chapter 148.

i. *"Prior authorization"* means the same as defined in section 514F.8.

j. *"Qualified reviewer"* means a physician that meets all of the following requirements:

(1) The physician practices in the same or a similar specialty as the health care provider that requested a prior authorization.

(2) The physician has the training and expertise to treat the specific medical condition that is the subject of a request for prior authorization, including sufficient knowledge to determine whether the health care service that is the subject of the request is medically necessary or clinically appropriate.

(3) The physician is employed by or contracted with the utilization review organization to which a health care provider submitted a request for prior authorization.

k. *"Utilization review organization"* means the same as defined in section 514F.8.

2. A utilization review organization shall not deny or downgrade a request for prior authorization unless all of the following requirements are met:

a. The decision to deny or downgrade the request is made by either of the following:

(1) A qualified reviewer, if the health care provider requesting prior authorization is a physician.

(2) A clinical peer, if the health care provider requesting prior authorization is not a physician.

b. The utilization review organization provides the health care provider that requested the prior authorization all of the following:

(1) A written statement that cites the specific reasons for the denial or downgrade,

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including any coverage criteria or limits, or clinical criteria, that the utilization review organization considered or that was the basis for the denial or downgrade. The written statement must be signed by either of the following:

(a) The qualified reviewer that made the denial or downgrade determination if the health care provider that requested prior authorization is a physician.

(b) The clinical peer that made the denial or downgrade determination if the health care provider that requested prior authorization is not a physician.

(2) A written explanation of the utilization review organization's appeals process. The utilization review organization shall also provide the written explanation to the covered person for whom prior authorization was requested.

(3) A written attestation that is either of the following:

(a) If the health care provider that requested prior authorization is a physician, a written attestation that the qualified reviewer who made the denial or downgrade determination practices in the same or a similar specialty as the health care provider, and has the requisite training and expertise to treat the medical condition that is the subject of the request for prior authorization, including sufficient knowledge to determine whether the health care service is medically necessary or clinically appropriate. The attestation shall include the qualified reviewer's board certifications, specialty expertise, and educational background, excluding any personal identifiable information.

(b) If the health care provider that requested prior authorization is not a physician, a written attestation that the clinical peer who made the denial or downgrade determination practices in the same or a similar specialty as the health care provider, and the clinical peer has experience managing the specific medical condition or administering the health care service that is the subject of the request for prior authorization. The attestation shall include the clinical peer's board certifications, specialty expertise, and educational background, excluding any personal identifiable information.

3. At the request of the requesting health care provider, a utilization review organization that denies a request for prior authorization shall, no later than seven business days after the date that the utilization review organization notifies the requesting health care provider of the denial, conduct a consultation either in person or remotely, as follows:

a. Between the health care provider and a qualified reviewer if the health care provider requesting prior authorization is a physician.

b. Between the health care provider and a clinical peer if the health care provider requesting prior authorization is not a physician.

4. *a.* If a utilization review organization's decision to deny or downgrade a request for prior authorization is appealed by the requesting health care provider or covered person, the appeal shall be conducted by either of the following:

(1) A qualified reviewer if the health care provider requesting prior authorization is a physician.

(2) A clinical peer if the health care provider requesting prior authorization is not a physician.

b. A qualified reviewer or clinical peer involved in the initial denial or downgrade determination of a request for prior authorization that is the subject of an appeal shall not conduct the appeal.

c. When conducting an appeal of a request for prior authorization, the qualified reviewer or clinical peer shall consider the known clinical aspects of the health care services under review, including but not limited to medical records relevant to the covered person's medical condition who is the subject of the health care services for which prior authorization is requested, and any relevant medical literature submitted by the health care provider as part of the appeal.

5. This section applies to requests for prior authorization made on or after January 1, 2027.

6. *a.* This section applies to the following classes of third-party payment provider contracts, policies, or plans delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2027:

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

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

(3) An individual or group health maintenance organization contract regulated under chapter 514B.

(4) A plan established for public employees pursuant to chapter 509A.

b. This section shall not apply to accident-only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, Medicare supplement, long-term care, basic hospital and medical-surgical expense coverage as defined by the commissioner of insurance, disability income insurance coverage, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance.

7. The commissioner of insurance may adopt rules pursuant to chapter 17A to administer this section.

2026 Acts, ch 1087, §6
Referred to in §514F.8E
NEW section

514F.8B Prior authorizations — exemptions.

1. For purposes of this section:

a. *"Covered person"* means the same as defined in section 514F.8.

b. *"Emergency medical condition"* means the same as defined in 42 C.F.R. §438.114.

c. *"Health benefit plan"* means the same as defined in section 514J.102.

d. *"Health care professional"* means the same as defined in section 514J.102.

e. *"Health carrier"* means the same as defined in section 514F.8.

f. *"Prior authorization"* means the same as defined in section 514F.8.

g. *"Utilization review"* means the same as defined in section 514F.4, subsection 3.

2. A health carrier shall not require prior authorization for, or impose additional utilization review requirements on, a covered person for any of the following:

a. A cancer-related screening if the cancer-related screening is recommended by the covered person's health care professional based on the most recently updated national comprehensive cancer network clinical practice guidelines in oncology which are designated as category 2A or lower.

b. Diagnosis and treatment of an emergency medical condition that develops or becomes evident in a covered person while the covered person is receiving inpatient care that meets inpatient care standards, if the emergency medical condition is reasonably determined by a health care professional to be a life-threatening condition unless the covered person receives immediate assessment and treatment.

3. This section applies to all of the following:

a. Health benefit plans delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2027.

b. Requests for prior authorization for a cancer-related screening, if the screening is recommended by the covered person's health care professional based on the most recently updated national comprehensive cancer network clinical practice guidelines in oncology designated as category 2A or lower, and is made on or after January 1, 2027.

c. Requests for prior authorization for the diagnosis and treatment of an emergency medical condition that develops or becomes evident in a covered person while the covered person is receiving inpatient care that meets inpatient care standards, if the emergency medical condition is reasonably determined by a health care professional to be a life-threatening condition unless the covered person receives immediate assessment and treatment if the request is made on or after January 1, 2027.

4. *a.* This section applies to the following classes of third-party payment provider contracts, policies, or plans delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2027:

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

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

(3) An individual or group health maintenance organization contract regulated under chapter 514B.

(4) A plan established for public employees pursuant to chapter 509A.

b. This section shall not apply to accident-only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, Medicare supplement, long-term care, basic hospital and medical-surgical expense coverage as defined by the commissioner of insurance, disability income insurance coverage, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance.

5. The commissioner of insurance may adopt rules pursuant to chapter 17A to administer this section.

2026 Acts, ch 1087, §7
Referred to in §514F.8E
NEW section

514F.8C Utilization review organizations — audits.

1. As used in this section, unless the context otherwise requires:

a. "Audit" means a review, investigation, or request for additional documentation by a utilization review organization before or after issuing payment on a claim to a health care provider.

b. "Commissioner" means the commissioner of insurance.

c. "Health care provider" means the same as defined in section 514F.8.

d. "Health carrier" means the same as defined in section 514F.8.

e. "Utilization review organization" means the same as defined in section 514F.8.

2. *a.* A utilization review organization that conducts an audit shall notify the health care provider that submitted the claim of the initiation of the audit no later than fifteen calendar days after the date the utilization review organization selects the claim for audit.

b. A utilization review organization shall complete an audit of a claim and issue a determination on the claim to the health care provider that submitted the claim no later than forty-five calendar days after the date that the utilization review organization receives all requested documentation regarding the claim from the health care provider.

c. A health care provider that submitted a claim that is the subject of an audit by a utilization review organization that receives an adverse determination regarding the claim may appeal the adverse determination no later than thirty calendar days after the date the health care provider receives the audit determination.

d. A utilization review organization shall consider an appeal under paragraph "*c*" and issue a final determination on the claim that is the subject of the appeal no later than thirty calendar days after the date the utilization review organization receives notice of the appeal.

e. If, after a hearing, the commissioner finds that a utilization review organization has violated this subsection, the claim shall be approved by the utilization review organization and promptly paid, including interest at the rate of ten percent per annum.

3. A health care provider may opt-in to receive electronic delivery of notices and audit determinations from a utilization review organization. A utilization review organization may determine the method by which a health care provider may opt-in.

4. *a.* This section applies to the following classes of third-party payment provider contracts, policies, or plans delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2027:

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

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

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(3) An individual or group health maintenance organization contract regulated under chapter 514B.

(4) A plan established for public employees pursuant to chapter 509A.

b. This section shall not apply to accident-only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, Medicare supplement, long-term care, basic hospital and medical-surgical expense coverage as defined by the commissioner of insurance, disability income insurance coverage, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance.

5. The commissioner may adopt rules pursuant to chapter 17A to administer and enforce this section.

6. *a.* This section shall apply to an audit initiated on or after January 1, 2027.

b. This section shall not apply to a claim that is under active fraud investigation by a state or federal authority.

2026 Acts, ch 1087, §3
Referred to in §514F.8E
NEW section

514F.8D Health carriers — standards of conduct.

1. As used in this section, unless the context otherwise requires:

a. "Health care provider" means the same as defined in section 514J.102.

b. "Health carrier" means the same as defined in section 514F.8.

2. A health carrier shall not impose on a health care provider, directly or indirectly, any financial penalty, reimbursement reduction, or administrative fee, or terminate a health care provider's participation in the health carrier's network, based on the health care provider's referral to, or affiliation with, an out-of-network health care provider.

3. A health carrier shall not interfere with, or participate in any capacity in, a health care provider's decisions regarding staffing and referrals, except as otherwise provided by law.

4. A health carrier shall not offer, attempt to enforce, or enforce an agreement, or an amendment to an agreement, with a health care provider without providing an opportunity for negotiation.

5. The commissioner of insurance may adopt rules pursuant to chapter 17A to administer and enforce this section.

2026 Acts, ch 1087, §4; 2026 Acts, ch 1200, §27
Referred to in §514F.8E
NEW section

514F.8E Enforcement.

The remedy for noncompliance with section 514F.8, 514F.8A, 514F.8B, 514F.8C, or 514F.8D shall be those remedies authorized by chapters 505 and 507B pursuant to the procedures set forth in sections 507B.6, 507B.7, and 507B.8. Upon a finding of a pattern or practice of noncompliance with sections 514F.8, 514F.8A, 514F.8B, 514F.8C, or 514F.8D, the commissioner of insurance may also suspend a utilization review organization's authority to conduct utilization review.

2026 Acts, ch 1087, §8
NEW section

514F.9 Continuity of care — nonmedical switching.

1. *Definitions.* For the purpose of this section:

a. "Commissioner" means the commissioner of insurance.

b. "Cost sharing" means any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirement.

c. "Covered person" means the same as defined in section 514J.102.

d. "Demonstrated bioavailability" means the same as defined in section 155A.3.

e. "Formulary" means a complete list of prescription drugs eligible for coverage under a health benefit plan.

f. "Generic name" means the same as defined in section 155A.3.

g. "Health benefit plan" means the same as defined in section 514J.102.

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h. "Health care professional" means the same as defined in section 514J.102.

i. "Health care services" means the same as defined in section 514J.102.

j. "Health carrier" means an entity subject to the insurance laws and regulations of this state, or subject to the jurisdiction of the commissioner, including an insurance company offering sickness and accident plans, a health maintenance organization, a nonprofit health service corporation, a plan established pursuant to chapter 509A for public employees, or any other entity providing a plan of health insurance, health care benefits, or health care services. *"Health carrier"* does not include the department of health and human services, or a managed care organization acting pursuant to a contract with the department of health and human services to administer the medical assistance program under chapter 249A or the healthy and well kids in Iowa (Hawki) program under chapter 514I.

k. "Interchangeable biological product" means the same as defined in section 155A.3.

l. "Utilization review organization" means the same as defined in section 514F.7.

2. *Nonmedical switching.* With respect to a health carrier that has entered into a health benefit plan with a covered person that covers prescription drug benefits, all of the following apply:

a. A health carrier, health benefit plan, or utilization review organization shall not limit or exclude coverage of a prescription drug for any covered person who is medically stable on such drug as determined by the prescribing health care professional, if all of the following apply:

(1) The prescription drug was previously approved by the health carrier for coverage for the covered person.

(2) The covered person's prescribing health care professional has prescribed the drug for the covered person's medical condition within the previous six months.

(3) The covered person continues to be an enrollee of the health benefit plan.

b. Coverage of a covered person's prescription drug, as described in paragraph *"a"*, shall continue through the last day of the covered person's eligibility under the health benefit plan, or through the last day of the health benefit plan year, whichever is earlier.

c. Prohibited limitations and exclusions referred to in paragraph *"a"* include but are not limited to the following:

(1) Limiting or reducing the maximum coverage of prescription drug benefits.

(2) Increasing cost sharing for a covered prescription drug.

(3) Moving a prescription drug to a more restrictive tier if the health carrier uses a formulary with tiers.

(4) Removing a prescription drug from a formulary, unless the United States food and drug administration has issued a statement about the drug that calls into question the clinical safety of the drug, or the manufacturer of the drug has notified the United States food and drug administration of a manufacturing discontinuance or potential discontinuance of the drug as required by section 506C of the Federal Food, Drug, and Cosmetic Act, as codified in 21 U.S.C. §356c.

d. This subsection shall not be construed to prohibit a substitution, a formulary change, or a preference by a health carrier for a prescribed drug product that has the same generic name and demonstrated bioavailability, or that is an interchangeable biological product.

3. *Limitations.* This section shall not be construed to do any of the following:

a. Prevent a health care professional from prescribing another drug covered by the health carrier that the health care professional deems medically necessary for the covered person.

b. Prevent a health carrier from doing any of the following:

(1) Adding a prescription drug to its formulary.

(2) Removing a prescription drug from its formulary if the drug manufacturer has removed the drug for sale in the United States.

4. *Enforcement.* The commissioner may take any enforcement action under the commissioner's authority to enforce compliance with this section.

2024 Acts, ch 1144, §1, 2

Section applies to a health benefit plan that is delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2025; 2024 Acts, ch 1144, §2

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CHAPTER 514G

LONG-TERM CARE INSURANCE ACT

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

514G.1 through 514G.8 Repealed by 2008 Acts, ch 1175, §16.
514G.9 Reserved.
514G.10 Long-term care consumer guide. Repealed by 2008 Acts, ch 1175, §16.
514G.101 Title and purpose.
514G.102 Scope.
514G.103 Definitions.
514G.104 Extraterritorial jurisdiction — group long-term care insurance.
514G.105 Disclosure and performance standards for long-term care insurance.
514G.106 Incontestability period.
514G.107 Nonforfeiture benefits.
514G.108 Prompt payment of claims — requirements.
514G.109 Benefit trigger determinations — notice — appeals.
514G.110 Independent review of benefit trigger determinations.
514G.111 Authority to promulgate rules.
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514G.113 Penalties.

514G.1 through 514G.8 Repealed by 2008 Acts, ch 1175, §16.

514G.9 Reserved.

514G.10 Long-term care consumer guide. Repealed by 2008 Acts, ch 1175, §16.

514G.101 Title and purpose.

This chapter may be known and cited as the *"Long-term Care Insurance Act"*. The purpose of this chapter is to promote the public interest, to promote the availability of long-term care insurance, to protect applicants for long-term care insurance from unfair or deceptive sales or enrollment practices, to establish standards for long-term care insurance, to facilitate public understanding and comparison of long-term care insurance policies, and to facilitate flexibility and innovation in the development of long-term care insurance coverage.

2008 Acts, ch 1175, §2

514G.102 Scope.

The requirements of this chapter apply to policies delivered or issued for delivery in this state on or after July 1, 2008. The requirements of this chapter related to independent review of benefit trigger determinations apply to all claims made on or after January 1, 2009. The requirements of this chapter related to prompt payment of claims and the payment of interest apply to all long-term care insurance policies. This chapter is not intended to supersede the obligations of entities subject to this chapter to comply with the substance of other applicable insurance laws not in conflict with this chapter, except that laws and regulations designed and intended to apply to Medicare supplement insurance policies shall not be applied to long-term care insurance.

2008 Acts, ch 1175, §3; 2009 Acts, ch 145, §11, 55; 2015 Acts, ch 128, §21, 50, 51

514G.103 Definitions.

As used in this chapter, unless the context requires otherwise:

1. *"Activities of daily living"* means at least bathing, continence, dressing, eating, toileting, and transferring.

2. *"Applicant"* means either of the following:

a. In the case of an individual long-term care insurance policy, the person who seeks to contract for benefits.

b. In the case of a group long-term care insurance policy, the proposed certificate holder.

3. *"Benefit trigger"* means a contractual provision in a policy of long-term care insurance that conditions the payment of benefits on a determination of the insured's ability to perform activities of daily living and on cognitive impairment, or on other conditions of the insured as

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specified in the policy. For purposes of a qualified long-term care insurance contract, *"benefit trigger"* means a determination by a licensed health care practitioner that an insured is a chronically ill individual. For purposes of this definition, *"licensed health care practitioner"* means the same as defined in section 7702B(c)(4) of the Internal Revenue Code.

4. *"Certificate"* means any certificate issued under a group long-term care insurance policy, which policy has been delivered or issued for delivery in this state.

5. *"Chronically ill individual"* means the same as defined in section 7702B(c)(2) of the Internal Revenue Code.

6. *"Claim"* means a request for payment of benefits under an in-force long-term care insurance policy, regardless of whether the benefit claimed is covered under the policy or any terms or conditions of the policy have been met.

7. *"Cognitive impairment"* means a deficiency in a person's short-term or long-term memory; orientation as to person, place, and time; deductive or abstract reasoning; or judgment as it relates to safety awareness.

8. *"Commissioner"* means the commissioner of insurance.

9. *"Group long-term care insurance"* means a long-term care insurance policy that is delivered or issued for delivery in this state to any of the following:

a. One or more employers or labor organizations, or to a trust or to the trustee or trustees of a fund established, created, or maintained by one or more employers or labor organizations or a combination thereof, for the benefit of employees or former employees or a combination thereof, or for members or former members or a combination thereof, of the employers or labor organizations.

b. Any professional, trade, or occupational association for its members or former or retired members, or a combination thereof, if the association meets both of the following requirements:

(1) Is composed of individuals all of whom are or were actively engaged in the same profession, trade, or occupation.

(2) Has been maintained in good faith for purposes other than obtaining insurance.

c. (1) An association or associations, or to a trust or to the trustee or trustees of a fund established, created, or maintained for the benefit of members of one or more associations, which files evidence with the commissioner prior to advertising, marketing, or offering a policy within this state by the association or associations, or their insurer, that the following organizational requirements have been met:

(a) At the outset, there is a minimum of one hundred members of the association or associations.

(b) The association or associations have been organized and maintained in good faith for purposes other than that of obtaining insurance.

(c) The association or associations have been in active existence for at least one year at the time of filing.

(d) The association or associations have a constitution and bylaws that require all of the following:

(i) The association or associations have regular meetings, not less than annually, to further the purposes of the members.

(ii) Except for credit unions, the association or associations collect dues or solicit contributions from members.

(iii) The members have voting privileges and representation on a governing board and committees.

(2) Thirty days after the required evidentiary filings have been made, the association or associations shall be deemed to satisfy the organizational requirements, unless the commissioner makes a finding that the association or associations do not satisfy those requirements.

d. A group other than those described in paragraphs *"a"* through *"c"*, subject to a finding by the commissioner that all of the following are true:

(1) The issuance of the group policy is not contrary to the best interests of the public.

(2) The issuance of the group policy would result in economies of acquisition or administration.

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(3) The benefits are reasonable in relation to the premiums charged.

10. *"Independent review organization"* means a review organization certified by the commissioner pursuant to section 514G.110, subsection 4.

11. *"Insurer"* means an entity qualified and licensed by the insurance division to transact the business of insurance in this state by a certificate issued pursuant to chapter 508, 512B, 514, or 514B.

12. *"Licensed health care professional"* means a qualified professional in an appropriate field for determining an insured's functional or cognitive impairment as it relates to the insured's specific diagnosis. Licensed health care professionals include but are not limited to physical therapists, occupational therapists, neurologists, physical medicine specialists, and rehabilitation medicine specialists.

13. *a. "Long-term care insurance"* means any insurance policy or rider advertised, marketed, offered, or designed to provide coverage for not less than twelve consecutive months for each covered person on an expense-incurred, indemnity, prepaid, or other basis, for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services that are provided in a setting other than an acute care unit of a hospital. *"Long-term care insurance"* includes group and individual annuities and life insurance policies or riders that directly provide or supplement long-term care insurance. The term also includes a policy or rider that provides for payment of benefits based upon cognitive impairment or the loss of functional capacity. The term also includes a qualified long-term care insurance contract. Long-term care insurance may be issued by an insurer.

b. "Long-term care insurance" does not include any insurance policy that is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income or related asset-protection coverage, accident-only coverage, specified disease or specified accident coverage, or limited benefit health coverage. With regard to life insurance, *"long-term care insurance"* does not include life insurance policies that accelerate the death benefit specifically for one or more of the qualifying events of terminal illness, medical conditions requiring extraordinary medical intervention or permanent institutional confinement, and that provide the option of a lump-sum payment for those benefits, where neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care.

c. Notwithstanding any other provision of this chapter, any product advertised, marketed, or offered as long-term care insurance shall be subject to the provisions of this chapter.

14. *"Policy"* means any policy, contract, subscriber agreement, rider, or endorsement delivered or issued for delivery in this state by an insurer; fraternal benefit society; nonprofit health, hospital, or medical service corporation; prepaid health plan; or health maintenance organization or any similar organization.

15. *"Preexisting condition"* means a condition for which medical advice or treatment was recommended by, or received from, a provider of health care services within six months preceding the effective date of coverage of an individual.

16. *"Qualified long-term care insurance contract"* or *"federally tax-qualified long-term care insurance contract"* means any of the following:

a. An individual or group insurance contract that meets the requirements of section 7702B(b) of the Internal Revenue Code, as follows:

(1) The only insurance protection provided under the contract is coverage of qualified long-term care services. A contract does not fail to satisfy the requirements of this subparagraph because payments are made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

(2) The contract does not pay or reimburse expenses incurred for services or items to the extent that the expenses are reimbursable under Tit. XVIII of the federal Social Security Act, as amended, or would be reimbursable but for the application of a deductible or coinsurance amount. The requirements of this subparagraph do not apply to expenses that are reimbursable under Tit. XVIII of the federal Social Security Act only as a secondary payor. A contract does not fail to satisfy the requirements of this subparagraph because

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payments are made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

(3) The contract is guaranteed renewable within the meaning of section 7702B(b)(1)(C) of the Internal Revenue Code.

(4) The contract does not provide for a cash surrender value or for other money that can be paid, assigned or pledged as collateral for a loan, or borrowed except as provided in subparagraph (5).

(5) All refunds of premiums and all policyholder dividends or similar accounts under the contract are to be applied as a reduction in future premiums or to increase future benefits, except that a refund in the event of the death of the insured or a complete surrender or cancellation of the contract shall not exceed the aggregate premiums paid under the contract.

(6) The contract meets the consumer protection provisions set forth in section 7702B(g) of the Internal Revenue Code.

b. The portion of a life insurance contract that provides long-term care insurance coverage by rider or as part of the contract and that satisfies the requirements of section 7702B(b) and (e) of the Internal Revenue Code.

2008 Acts, ch 1175, §4; 2012 Acts, ch 1023, §80; 2021 Acts, ch 181, §13
Referred to in §508C.3, 514G.104, 514G.105, 514G.107, 514G.110, 514H.1

514G.104 Extraterritorial jurisdiction — group long-term care insurance.

Group long-term care insurance coverage shall not be offered to a resident of this state under a group policy issued in another state unless either this state or another state with statutory and regulatory requirements for long-term care insurance that are substantially similar to those adopted in this state has made a determination that the group to which the policy is issued meets the requirements of section 514G.103, subsection 9, paragraph *"d"*.

2008 Acts, ch 1175, §5; 2009 Acts, ch 145, §12

514G.105 Disclosure and performance standards for long-term care insurance.

1. *Prohibited policy practices.* A long-term care insurance policy shall not:

a. Be canceled, nonrenewed, or otherwise terminated on the grounds of the age or deterioration of the mental or physical health of the insured individual or certificate holder.

b. Contain a provision establishing a new waiting period in the event that existing coverage is converted to or replaced by a new or other policy form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual, the certificate holder, or the group policyholder.

c. Provide coverage for skilled nursing care only, or provide significantly more coverage for skilled nursing care in a facility than coverage for lower levels of care.

2. *Preexisting conditions.*

a. A long-term care insurance policy or certificate, other than a policy or certificate issued to a group as described in section 514G.103, subsection 9, shall not use a definition of "preexisting condition" that is more restrictive than the definition contained in section 514G.103, subsection 15.

b. A long-term care insurance policy or certificate, other than a policy or certificate issued to a group as described in section 514G.103, subsection 9, shall not exclude coverage for a loss or confinement that is the result of a preexisting condition unless the loss or confinement begins within six months following the effective date of coverage of an insured individual.

c. The commissioner may extend the limitation periods set forth in paragraphs *"a"* and *"b"* as to specific age group categories in specific policy forms upon finding that such an extension is in the best interest of the public.

d. The requirements of paragraph *"a"* do not prohibit an insurer from using an application form designed to elicit the complete health history of an applicant, and on the basis of the answers on that application, underwriting in accordance with that insurer's established underwriting standards. Unless otherwise provided in the policy or certificate, a preexisting condition, regardless of whether it is disclosed on the application, is not required to be covered until the waiting period described in paragraph *"b"* expires. A long-term care insurance policy or certificate shall not exclude, or use waivers or riders of any kind to

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exclude, limit, or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions beyond the waiting period described in paragraph *"b"*.

3. *Prior hospitalization or institutionalization.*

a. A long-term care insurance policy shall not be delivered or issued for delivery in this state if the policy does any of the following:

(1) Conditions eligibility for any benefits on a prior hospitalization requirement.

(2) Conditions eligibility for any benefits provided in an institutional care setting on the receipt of a higher level of institutional care.

(3) Conditions eligibility for any benefits other than waiver of premium, post-confinement, post-acute care, or recuperative benefits on a prior institutionalization requirement.

b. A long-term care insurance policy that contains post-confinement, post-acute care, or recuperative benefits shall contain, in a clearly visible, separate paragraph or the policy or certificate entitled "limitations or conditions on eligibility for benefits", a description of such limitations or conditions, including any required number of days of confinement.

c. A long-term care insurance policy or rider that conditions eligibility for noninstitutional benefits on the prior receipt of institutional care shall not require a prior institutional stay of more than thirty days.

d. A long-term care insurance policy or rider that provides benefits only following institutionalization shall not condition such benefits upon admission to a facility for the same or related conditions within a period of less than thirty days after discharge from the institution.

4. *Right to return — free look — refund.*

a. A long-term care insurance applicant shall have the right to return the long-term care insurance policy or certificate within thirty days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason.

b. A long-term care insurance policy or certificate delivered or issued for delivery in this state shall have a notice prominently displayed on the first page of the policy or certificate, or attached thereto, which states in substance that the applicant has the right to return the policy or certificate within thirty days of its delivery and to have the premium refunded if, after examination of the policy or certificate, other than a certificate issued pursuant to a policy issued to a group as described in section 514G.103, subsection 9, paragraph *"a"*, the applicant is not satisfied for any reason.

c. Any premium refund shall be made to the applicant within thirty days of the return.

5. *Denials — refund.* If an application is denied by an insurer, any premium refund shall be made to the applicant within thirty days of the denial.

6. *Outline of coverage.*

a. A written outline of coverage shall be delivered to a prospective applicant for long-term care insurance at the time of the initial solicitation for coverage which prominently directs the attention of the applicant to the document and its purpose.

b. The commissioner shall prescribe, by rule, a standard format, including style, arrangement, and overall appearance, and content of the outline of coverage.

c. In the case of producer solicitations, a producer shall deliver the outline of coverage to a prospective applicant prior to the presentation of an application or enrollment form.

d. In the case of direct response solicitations, the outline of coverage shall be presented in conjunction with any application or enrollment form.

e. In the case of a policy issued to a group as described in section 514G.103, subsection 9, paragraph *"a"*, an outline of coverage is not required to be delivered to the applicant, provided that the information described in subsection 7 of this section, paragraphs *"a"* through *"f"*, is contained in other enrollment materials provided. Upon request, such other enrollment materials shall be made available to the commissioner.

7. *Contents of outline of coverage.* An outline of coverage of long-term care insurance shall include all of the following:

a. A description of the principal benefits and coverage provided in the policy.

b. A statement of the principal exclusions, reductions, and limitations contained in the policy.

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c. A statement of the terms under which the policy or certificate, or both, may be continued in force or discontinued, including any reservation in the policy of a right to change the premium. Continuation or conversion provisions of group coverage shall be specifically described.

d. A statement that the outline of coverage is a summary of coverage only, not a contract of insurance, and that the policy or group master policy contains governing contractual provisions.

e. A description of the terms under which the policy or certificate may be returned and the premium refunded.

f. A brief description of the relationship of cost of care and benefits.

g. A statement that discloses to the policyholder or certificate holder whether the policy is intended to be a federally tax-qualified long-term care insurance contract under section 7702B(b) of the Internal Revenue Code.

8. *Contents of group certificate.* A certificate issued pursuant to a group long-term care insurance policy which policy is delivered or issued for delivery in this state shall include all of the following:

a. A description of the principal benefits and coverage provided in the policy.

b. A statement of the principal exclusions, reductions, and limitations contained in the policy.

c. A statement that the group master policy determines governing contractual provisions.

9. *Time for delivery.* If an application for a long-term care insurance policy or certificate is approved, the issuer shall deliver the policy or certificate of insurance to the applicant no later than thirty days after the date of approval.

10. *Individual life insurance — policy summary.*

a. A written policy summary shall accompany the delivery of an individual life insurance policy that provides long-term care benefits within the policy or by rider. In the case of direct response solicitations, the insurer shall deliver a policy summary upon the applicant's request or at the time of policy delivery, whichever occurs first.

b. A policy summary shall include all of the following:

(1) An explanation of how the long-term care benefit interacts with other components of the policy, including deductions from death benefits.

(2) An illustration of the amount of benefits, the length of benefits, and the guaranteed lifetime benefits if any, for each covered person.

(3) Any exclusions, reductions, or limitations on long-term care benefits.

(4) A statement that a long-term care inflation protection option required by 191 IAC 39.10 is not available under this policy.

(5) If applicable to the policy type, the summary shall also include all of the following:

(a) A disclosure of the effect of exercising other rights under the policy.

(b) A disclosure of guarantees related to long-term care costs of insurance charges.

(c) Current and projected maximum lifetime benefits.

c. The requirements of a policy summary set forth in paragraph *"b"* may be incorporated into the basic illustration required to be delivered in accordance with 191 IAC ch. 14, or into the life insurance policy summary required to be delivered in accordance with 191 IAC 15.4.

11. *Monthly report.* If a long-term care benefit, funded through a life insurance vehicle by the acceleration of the death benefit, is in benefit payment status, a monthly report shall be provided to the policyholder. The report shall include all of the following:

a. Any long-term care benefits paid out during the month.

b. An explanation of any changes in the policy, including but not limited to changes in death benefits or cash values due to long-term care benefits being paid out.

c. The amount of long-term care benefits existing or remaining.

12. *Claim denial.* If a claim made under a long-term care insurance policy is denied, the issuer, within sixty days of the date of receipt of a written request by the policyholder, certificate holder, or a representative thereof, shall provide a written explanation of the reasons for the denial, and shall make all information directly related to the denial available to the requestor.

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13. *Compliance.* Any policy or rider advertised, marketed, or offered as long-term care insurance or nursing home insurance shall comply with the provisions of this chapter.

2008 Acts, ch 1175, §6; 2011 Acts, ch 34, §117; 2015 Acts, ch 29, §74
Referred to in §514H.1

514G.106 Incontestability period.

1. An insurer may rescind a long-term care insurance policy or certificate or deny an otherwise valid long-term care insurance claim if the policy or certificate has been in force for less than six months upon a showing of misrepresentation that is material to the insurer's acceptance for coverage.

2. An insurer may rescind a long-term care insurance policy or certificate or deny an otherwise valid long-term care insurance claim if the policy or certificate has been in force for at least six months but less than two years, upon a showing of misrepresentation that is both material to the acceptance for coverage and pertains to the condition for which benefits are sought.

3. An insurer shall not contest a long-term care insurance policy or certificate that has been in force for two or more years solely upon the grounds of misrepresentation. Such a policy or certificate may be contested only upon a showing that the insured knowingly and intentionally misrepresented relevant facts relating to the insured's health.

4. A long-term care insurance policy or certificate may be field-issued if the compensation paid to the field issuer is not based on the number of policies or certificates issued. For the purposes of this subsection, a *"field-issued"* policy means a policy or certificate issued by a producer or third-party administrator pursuant to the underwriting authority granted to the producer or third-party administrator by an insurer and using the insurer's underwriting guidelines.

5. An insurer that has paid benefits under a long-term care insurance policy or certificate shall not recover such benefit payments if the policy or certificate is rescinded.

6. The provisions of this section are applicable to life insurance policies or certificates that accelerate benefits for long-term care. However, if an insured dies, the remaining death benefits of a life insurance policy that accelerates benefits for long-term care are not governed by this section but by the provisions of section 508.28. In all other situations, this section shall apply to life insurance policies that accelerate benefits for long-term care.

2008 Acts, ch 1175, §7

514G.107 Nonforfeiture benefits.

1. Except as otherwise provided in subsection 2, a long-term care insurance policy or certificate shall not be delivered or issued for delivery in this state unless the policyholder or certificate holder has been offered the option of purchasing a policy or certificate that includes a nonforfeiture benefit. A nonforfeiture benefit may be offered in the form of a rider that is attached to the policy or certificate. If the policyholder or certificate holder declines the nonforfeiture benefit, the insurer shall provide a contingent benefit upon lapse that is available for a specified period of time following a substantial increase in premium rates.

2. When a group long-term care insurance policy or certificate is delivered or issued for delivery in this state, an offer of benefits shall be made to the group policyholder that meets the requirements of subsection 1. However, if the policy is delivered or issued for delivery to a group as described in section 514G.103, subsection 9, paragraph *"d"*, that is not a continuing care retirement community or other similar entity, the offer of benefits shall be made to each proposed certificate holder.

3. The commissioner shall, by rule, specify the type or types of nonforfeiture benefits to be offered as part of long-term care insurance policies and certificates, the standards for such nonforfeiture benefits, and the standards for contingent benefit upon lapse including a specified period of time during which a contingent benefit upon lapse will be available and what constitutes a substantial premium rate increase that will trigger a contingent benefit upon lapse as provided in subsection 1.

2008 Acts, ch 1175, §8

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514G.108 Prompt payment of claims — requirements.

1. An insurer providing long-term care insurance under this chapter and subject to state insurance regulation shall either accept and pay or deny a clean claim. For the purposes of this section, *"clean claim"* means a properly completed paper or electronic request for payment that contains all necessary information for the insurer to timely adjudicate and pay claims for long-term care benefits under the policy, does not involve coordination of benefits for third-party liability or subrogation, and does not involve the existence of particular circumstances requiring special treatment that prevents a prompt payment from being made.

2. The commissioner shall adopt rules establishing processes for timely adjudication and payment of claims for long-term care benefits by insurers.

3. Payment of a clean claim shall include interest at the rate of ten percent per annum when an insurer or other entity that administers or processes claims on behalf of the insurer fails to timely pay a clean claim.

2008 Acts, ch 1175, §9

514G.109 Benefit trigger determinations — notice — appeals.

1. *Notice.* When a long-term care insurer determines that the benefit trigger in an insured's long-term care insurance policy has not been met, the insurer shall provide a clear, written notice to the insured of all of the following:

a. The reason that the insurer determined that the insured's benefit trigger has not been met.

b. The insurer's internal appeal process provided under the insured's long-term care insurance policy.

c. The insured's right, after exhaustion of the insurer's internal appeal process, to have the benefit trigger determination reviewed under the independent review process set forth in section 514G.110.

2. *Internal appeal.*

a. An insured may request an internal appeal of a benefit trigger determination by sending a written request to the insurer, along with any additional supporting information, within sixty days after the insured receives the notice described in subsection 1. The internal appeal shall be considered by an individual or group of individuals designated by the insurer, provided that the individual or individuals making the internal appeal decision shall not be the same individual or individuals who made the initial benefit trigger determination. All internal appeals shall be completed and written notice of the internal appeal decision sent to the insured within sixty days of the insurer's receipt of all necessary information upon which a final determination can be made.

b. If the determination that the benefit trigger was not met is upheld upon internal appeal, the notice of the appeal decision shall describe additional internal appeal rights that are offered by the insurer, if any. Nothing in this paragraph shall require an insurer to offer any internal appeal rights other than those described in paragraph *"a"*.

c. If the determination that the benefit trigger was not met is upheld after the internal appeal process has been exhausted and there is no new information not previously provided to the insurer for consideration, the insurer shall provide the insured with a written description of the insured's right to request an independent review of the benefit trigger determination.

3. *Receipt of notice.* Notices required by this section shall be deemed received within five days after the date of mailing.

2008 Acts, ch 1175, §10, 18

Referred to in §514G.110

514G.110 Independent review of benefit trigger determinations.

1. *Request.* An insured may file a written request for independent review of a benefit trigger determination with the commissioner after the internal appeal process has been exhausted. The request shall be filed within sixty days after the insured receives written notice of the insurer's internal appeal decision.

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2. *Eligibility for review.* The commissioner shall certify that the request is eligible for independent review if all of the following criteria are satisfied:

a. The insured was covered by a long-term care insurance policy issued by the insurer at the time the benefit trigger determination was made.

b. The sole reason for requesting an independent review is to review the insurer's determination that the benefit trigger was not met.

c. The insured has exhausted all internal appeal procedures provided under the insured's long-term care insurance policy.

d. The written request for independent review was filed by the insured within sixty days from the date of receipt of the insurer's internal appeal decision.

3. *Notice of eligibility.* The commissioner shall provide written notice regarding eligibility of a request for independent review to the insured and the insurer within two business days from the date of receipt of the request.

a. If the commissioner decides that the request is not eligible for independent review, the written notice shall indicate the reasons for that decision.

b. If the commissioner certifies that the request is eligible for independent review, the insurer may appeal that certification by filing a written notice of appeal with the commissioner within three business days from the date of receipt of the notice of certification. If upon further review, the commissioner upholds the certification, the commissioner shall promptly notify the insured and the insurer in writing of the reasons for that decision.

4. *Qualifications of independent review organizations.* The commissioner shall maintain a list of qualified independent review organizations that are certified by the commissioner. Independent review organizations shall be recertified by the commissioner every two years in order to remain on the list. In order to be certified, an independent review organization shall meet all of the following criteria:

a. Have on staff, or contract with, a qualified, licensed health care professional in an appropriate field for determining an insured's functional or cognitive impairment who can conduct an independent review.

(1) In order to be qualified, a licensed health care professional who is a physician shall hold a current certification by a recognized American medical specialty board in a specialty appropriate for determining an insured's functional or cognitive impairment.

(2) In order to be qualified, a licensed health care professional who is not a physician shall hold a current certification in the specialty in which that person is licensed, by a recognized American specialty board in a specialty appropriate for determining an insured's functional or cognitive impairment.

b. Ensure that any licensed health care professional who conducts an independent review has no history of disciplinary actions or sanctions, including but not limited to the loss of staff privileges or any participation restrictions taken or pending by any hospital or state or federal government regulatory agency.

c. Ensure that the independent review organization or any of its employees, agents, or licensed health care professionals utilized does not receive compensation of any type that is dependent on the outcome of a review.

d. Ensure that the independent review organization or any of its employees, agents, or licensed health care professionals utilized are not in any manner related to, employed by, or affiliated with the insured or with a person who previously provided medical care to the insured.

e. Ensure that an independent review organization or any of its employees, agents, or licensed health care professionals utilized is not a subsidiary of, or owned or controlled by, an insurer or by a trade association of insurers of which the insurer is a member.

f. Have a quality assurance program on file with the commissioner that ensures the timeliness and quality of reviews performed, the qualifications and independence of the licensed health care professionals who perform the reviews, and the confidentiality of the review process.

g. Have on staff or contract with a licensed health care practitioner, as defined in section 514G.103, subsection 3, who is qualified to certify that an individual is chronically ill for purposes of a qualified long-term care insurance contract.

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5. *Independent review process.* The independent review process shall be conducted as follows:

a. Within three business days of receiving a notice from the commissioner of the certification of a request for independent review or receipt of a denial of an insurer's appeal from such a certification, the insurer shall do all of the following:

(1) Select an independent review organization from the list certified by the commissioner and notify the insured in writing of the name, address, and telephone number of the selected independent review organization. The selected independent review organization shall utilize a licensed health care professional with qualifications appropriate to the benefit trigger determination that is under review.

(2) Notify the independent review organization that it has been selected to conduct an independent review of a benefit trigger determination and provide sufficient descriptive information to enable the independent review organization to provide licensed health care professionals who will be qualified to conduct the review.

(3) Provide the commissioner with a copy of the notices sent to the insured and to the selected independent review organization.

b. Within three business days of receiving a notice from an insurer that it has been selected to conduct an independent review, the independent review organization shall do one of the following:

(1) Accept its selection as the independent review organization, designate a qualified licensed health care professional to perform the independent review, and provide notice of that designation to the insured and the insurer, including a brief description of the health care professional's qualifications and the reasons that person is qualified to determine whether the insured's benefit trigger has been met. A copy of this notice shall be sent to the commissioner via facsimile. The independent review organization is not required to disclose the name of the health care professional selected.

(2) Decline its selection as the independent review organization or, if the independent review organization does not have a licensed health care professional who is qualified to conduct the independent review available, request additional time from the commissioner to have a qualified licensed health care professional certified, and provide notice to the insured, the insurer, and the commissioner. The commissioner shall notify the independent review organization, the insured, and the insurer of how to proceed within three business days of receipt of such notice from the independent review organization.

c. An insured may object to the independent review organization selected by the insurer or to the licensed health care professional designated by the independent review organization to conduct the review by filing a notice of objection along with reasons for the objection, with the commissioner within ten days of receipt of a notice sent by the independent review organization pursuant to paragraph *"b"*. The commissioner shall consider the insured's objection and shall notify the insured, the insurer, and the independent review organization of the commissioner's decision to sustain or deny the objection within two business days of receipt of the objection.

d. Within five business days of receiving a notice from the independent review organization accepting its selection or within five business days of receiving a denial of an objection to the independent review organization selected, whichever is later, the insured may submit any information or documentation in support of the insured's claim to both the independent review organization and the insurer.

e. Within fifteen days of receiving a notice from the independent review organization accepting its selection or within three business days of receipt of a denial of an objection to the independent review organization selected, whichever is later, an insurer shall do all of the following:

(1) Provide the independent review organization with any information submitted to the insurer by the insured in support of the insured's internal appeal of the insurer's benefit trigger determination.

(2) Provide the independent review organization with any other relevant documents used by the insurer in making its benefit trigger determination.

(3) Provide the insured and the commissioner with confirmation that the information

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required under subparagraphs (1) and (2) has been provided to the independent review organization, including the date the information was provided.

f. The independent review organization shall not commence its review until fifteen days after the selection of the independent review organization is final including the resolution of any objection made pursuant to paragraph "*c*". During this time period, the insurer may consider any information provided by the insured pursuant to paragraph "*d*" and overturn or affirm the insurer's benefit trigger determination based on such information. If the insurer overturns its benefit trigger determination, the independent review process shall immediately cease.

g. In conducting a review, the independent review organization shall consider only the information and documentation provided to the independent review organization pursuant to paragraphs "*d*" and "*e*".

h. The independent review organization shall submit its decision as soon as possible, but not later than thirty days from the date the independent review organization receives the information required under paragraphs "*d*" and "*e*", whichever is received later. The decision shall include a description of the basis for the decision and the date of the benefit trigger determination to which the decision relates. The independent review organization, for good cause, may request an extension of time from the commissioner to file its decision. A copy of the decision shall be mailed to the insured, the insurer, and the commissioner.

i. All medical records submitted for use by the independent review organization shall be maintained as confidential records as required by applicable state and federal laws. The commissioner shall keep all information obtained during the independent review process confidential pursuant to section 505.8, subsection 8, except that the commissioner may share some information obtained as provided under section 505.8, subsection 8, and as required by this chapter and rules adopted pursuant to this chapter.

j. If an insured dies before completion of the independent review, the review shall continue to completion if there is potential liability of an insurer to the estate of the insured or to a provider for rendering qualified long-term care services to the insured.

6. *Costs.* All reasonable fees and costs of the independent review organization in conducting an independent review under this section shall be paid by the insurer.

7. *Immunity.* An independent review organization that conducts a review under this section is not liable for damages arising from determinations made during the review. Immunity does not apply to any act or omission made by an independent review organization in bad faith or that involves gross negligence.

8. *Effect of independent review decision.*

a. The review decision by the independent review organization conducting the review is binding on the insurer.

b. The independent review process set forth in this section shall not be considered a contested case under chapter 17A.

c. An insured may appeal the review decision by the independent review organization conducting the review by filing a petition for judicial review in the district court in the county in which the insured resides. The petition for judicial review shall be filed within fifteen business days after the issuance of the review decision by the independent review organization. The petition shall name the insured as the petitioner and the insurer as the respondent. The petitioner shall not name the independent review organization as a party. The commissioner shall not be named as a respondent unless the insured alleges action or inaction by the commissioner under the standards articulated under section 17A.19, subsection 10. Allegations made against the commissioner under section 17A.19, subsection 10, must be stated with particularity. The commissioner may, upon motion, intervene in a judicial review proceeding brought pursuant to this paragraph. The findings of fact by the independent review organization conducting the review are conclusive and binding on appeal.

d. An insurer shall not be subject to any penalties, sanctions, or damages for complying in good faith with a review decision rendered by an independent review organization pursuant to this section.

e. Nothing contained in this section or in section 514G.109 shall be construed to limit the

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right of an insurer to assert any rights an insurer may have under a long-term care insurance policy related to:

(1) An insured's misrepresentation.

(2) Changes in the insured's benefit eligibility.

(3) Terms, conditions, and exclusions contained in the policy, other than failure to meet the benefit trigger.

f. The requirements of this section and section 514G.109 are not applicable to a group long-term care insurance policy that is governed by the federal Employee Retirement Income Security Act of 1974, as codified at 29 U.S.C. §1001 et seq.

g. The provisions of this section and section 514G.109 are in lieu of and supersede any other third-party review requirement contained in chapter 514J or in any other provision of law.

h. The insured may bring an action in the district court in the county in which the insured resides to enforce the review decision of the independent review organization conducting the review or the decision of the court on appeal.

9. *Receipt of notice.* Notice required by this section shall be deemed received within five days after the date of mailing.

2008 Acts, ch 1175, §11, 18; 2011 Acts, ch 34, §118; 2017 Acts, ch 105, §1; 2021 Acts, ch 181, §14

Referred to in §514G.103, 514G.109

514G.111 Authority to promulgate rules.

The commissioner may adopt rules pursuant to chapter 17A related to long-term care insurance and to the administration and enforcement of this chapter, including but not limited to the following:

1. Promoting adequate premiums and protecting policyholders in the event of substantial rate increases.

2. Establishing minimum standards for producer education, compensation, and testing; marketing practices; reporting practices; and penalties related to the sale of long-term care insurance in this state.

3. Establishing loss ratio standards for long-term care insurance policies with specific reference to such policies.

4. Providing standards for full and fair disclosure by setting forth the manner and content of disclosures required for the sale of long-term care insurance policies including terms of renewability; initial and subsequent conditions of eligibility; nonduplication of coverage provisions; coverage of dependents; effect of preexisting conditions; termination, continuation, or conversion of policies; probationary periods; limitations, exceptions, and reductions; elimination periods; requirements for replacement; recurrent conditions; and definitions of terms.

5. Requiring certain remedial actions necessitated by changes in the long-term care insurance market to provide fair and reasonable protections for long-term care insurance purchasers and beneficiaries.

6. Ensuring the prompt payment of clean claims.

7. Administering the independent review process of insurers' benefit trigger determinations.

2008 Acts, ch 1175, §12

514G.112 Severability.

If any provision of this chapter or the application of this chapter to any person or circumstance is for any reason held to be invalid, the remainder of the chapter and the application of the provision to other persons or circumstances shall not be affected.

2008 Acts, ch 1175, §13

514G.113 Penalties.

In addition to any other penalties provided by the laws of this state, any insurer or any producer found to have violated a provision of this chapter or any other requirement of this

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state relating to the regulation of long-term care insurance or the marketing of such insurance shall be subject to a fine of up to three times the amount of any commission paid for each policy involved in the violation, or up to ten thousand dollars, whichever is greater. A fine collected under this section shall be deposited as provided in section 505.7.

2008 Acts, ch 1175, §14; 2009 Acts, ch 181, §75

CHAPTER 514H

LONG-TERM CARE ASSET DISREGARD INCENTIVES

Referred to in §87.4, 249A.35, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

514H.1 Definitions.
514H.2 Iowa long-term care asset disregard incentive program — establishment and administration.
514H.3 Eligibility.
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514H.5 Asset disregard adjustment.
514H.6 Application of asset disregard to determination of individual's assets.
514H.7 Prior program — discontinuation of program.
514H.8 Reciprocal agreements to extend asset disregard.
514H.9 Rules.

514H.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Deficit Reduction Act of 2005"* means section 6021(a)(1)(A) of Pub. L. No. 109-171 as it pertains to the expansion of state long-term care insurance partnership programs.

2. *"Long-term care facility"* means a facility licensed under chapter 135C or an assisted living program certified under chapter 231C.

3. *"Long-term care insurance"* means long-term care insurance as defined in section 514G.103 and regulated in section 514G.105.

4. *"Qualified long-term care insurance policy"* means a long-term care insurance contract that is issued by an insurer or other person who complies with section 514H.4.

5. *"Qualified long-term care services"* means qualified long-term care services as defined in section 7702B(c) of the Internal Revenue Code.

6. *"Qualified state long-term care insurance partnership"* means an approved state plan amendment, according to the Deficit Reduction Act of 2005 that provides for the disregard of any assets or resources in an amount equal to the insurance benefit payments that are made to or on behalf of an individual who is a beneficiary.

2005 Acts, ch 166, §2, 13; 2008 Acts, ch 1175, §15; 2009 Acts, ch 145, §13, 14

514H.2 Iowa long-term care asset disregard incentive program — establishment and administration.

1. The Iowa long-term care asset disregard incentive program is established to do all of the following:

a. Provide incentives for individuals to insure against the costs of providing for their long-term care needs.

b. Provide a mechanism for individuals to qualify for coverage of the costs of their long-term care needs under the medical assistance program without first being required to substantially exhaust all their resources.

c. Assist in developing methods for increasing access to and the affordability of long-term care insurance.

d. Alleviate the financial burden on the state's medical assistance program by encouraging the pursuit of private initiatives.

2. The insurance division of the department of insurance and financial services shall administer the program in cooperation with the department of health and human services. Each agency shall take all necessary actions, including filing an appropriate medical

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assistance state plan amendment to the state Medicaid plan to take full advantage of the benefits and features of the Deficit Reduction Act of 2005.

2005 Acts, ch 166, §3, 13; 2009 Acts, ch 145, §15; 2023 Acts, ch 19, §1205, 2732

514H.3 Eligibility.

An individual who is the beneficiary of a qualified long-term care insurance policy approved by the insurance division may be eligible for assistance under the medical assistance program using the asset disregard provisions pursuant to section 514H.5.

2005 Acts, ch 166, §4, 13; 2009 Acts, ch 145, §16
Referred to in §514H.5

514H.4 Insurer requirements.

An insurer or other person who wishes to issue a qualified long-term care insurance policy in Iowa shall conform with all policy guidelines as expressed in the Deficit Reduction Act of 2005 and in Iowa law and rules.

2005 Acts, ch 166, §5, 13; 2009 Acts, ch 145, §17
Referred to in §514H.1

514H.5 Asset disregard adjustment.

1. As used in this section, *"asset disregard"* means a one dollar increase in the amount of assets an individual, who is the beneficiary of a qualified long-term care insurance policy and meets the requirements of section 514H.3, may retain under section 249A.35 for each one dollar of benefit paid out under the individual's qualified long-term care insurance policy for qualified long-term care services.

2. When the department of health and human services determines whether an individual is eligible for medical assistance under chapter 249A, the department shall make an asset disregard adjustment for any individual who meets the requirements of section 514H.3. The asset disregard shall be available after benefits of the qualified long-term care insurance policy have been applied to the cost of qualified long-term care services as required under this chapter.

2005 Acts, ch 166, §6, 13; 2009 Acts, ch 145, §18; 2023 Acts, ch 19, §1206; 2026 Acts, ch 1040, §104
Referred to in §249A.35, 514H.3, 514H.6, 514H.7, 514H.8
Subsection 1 amended

514H.6 Application of asset disregard to determination of individual's assets.

A public program administered by the state that provides long-term care services and bases eligibility upon the amount of the individual's assets shall apply the asset disregard under section 514H.5 in determining the amount of the individual's assets.

2005 Acts, ch 166, §7, 13

514H.7 Prior program — discontinuation of program.

1. If the Iowa long-term care asset disregard incentive program is discontinued, an individual who is covered by a qualified long-term care insurance policy prior to the date the program is discontinued is eligible to continue to receive an asset disregard as defined under section 514H.5.

2. An individual who is covered by a long-term care insurance policy under the long-term care asset preservation program established pursuant to chapter 249G, Code 2005, on or before November 17, 2005, is eligible to continue to receive the asset adjustment as defined under that chapter.

3. The insurance division, in cooperation with the department of health and human services, shall adopt rules to provide an asset disregard to individuals who are covered by a long-term care insurance policy prior to November 17, 2005, consistent with the Iowa long-term care asset disregard incentive program.

2005 Acts, ch 166, §8, 13; 2009 Acts, ch 145, §19; 2023 Acts, ch 19, §1207

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514H.8 Reciprocal agreements to extend asset disregard.

The department of health and human services may enter into reciprocal agreements with other states to extend the asset disregard under section 514H.5 to Iowa residents who had purchased or were covered by qualified long-term care insurance policies in other states.

2005 Acts, ch 166, §9, 13; 2009 Acts, ch 145, §20; 2023 Acts, ch 19, §1208

514H.9 Rules.

The insurance division of the department of insurance and financial services in cooperation with the department of health and human services shall adopt rules pursuant to chapter 17A as necessary to administer this chapter.

2005 Acts, ch 166, §10, 13; 2009 Acts, ch 145, §21; 2023 Acts, ch 19, §1209, 2733

CHAPTER 514I

HEALTHY AND WELL KIDS IN IOWA PROGRAM

Referred to in §87.4, 135.22B, 217.36, 252E.1, 252E.2A, 283A.2, 296.7, 331.301, 364.4, 432.13, 505.25, 505.28, 505.29, 505.34, 509.3A, 510B.1, 513B.2, 513C.3, 514A.3B, 514B.32, 514C.36, 514E.1, 514F.8, 514F.9, 669.14, 670.7

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514I.1 Intent of the general assembly.

1. It is the intent of the general assembly to provide health care coverage to eligible children that improves access to preventive, diagnostic, and treatment health services which result in improved health status using in part resources made available from the passage of Tit. XXI of the federal Social Security Act.

2. It is the intent of the general assembly that the program be implemented and administered in compliance with Tit. XXI of the federal Social Security Act. If, as a condition of receiving federal funds for the program, federal law requires implementation and administration of the program in a manner not provided in this chapter, during a period when the general assembly is not in session, the department, with the approval of the medical assistance advisory council, shall proceed to implement and administer those provisions, subject to review by the next regular session of the general assembly.

3. It is the intent of the general assembly, recognizing the importance of outreach to the successful utilization of the program by eligible children, that within the limitations of funding allowed for outreach and administration expenses, the maximum amount possible be used for outreach.

4. It is the intent of the general assembly that the Hawki program be an integral part of the continuum of health insurance coverage and that the program be developed and implemented in such a manner as to facilitate movement of families between health insurance providers and to facilitate the transition of families to private sector health insurance coverage.

5. It is the intent of the general assembly that if federal reauthorization of the state children's health insurance program provides sufficient federal allocations to the state and authorization to cover such children as an option under the state children's health insurance program, the department shall expand coverage under the state children's health insurance

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program to cover children with family incomes at or below three hundred percent of the federal poverty level.

98 Acts, ch 1196, §2, 16; 2003 Acts, ch 108, §131; 2008 Acts, ch 1188, §5, 6; 2009 Acts, ch 118, §23; 2023 Acts, ch 19, §1210; 2024 Acts, ch 1170, §473

514I.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Benchmark benefit package"* means any of the following:

a. The standard blue cross/blue shield preferred provider option service benefit plan, described in and offered under 5 U.S.C. §8903(1).

b. A health benefits coverage plan that is offered and generally available to state employees in this state.

c. The plan of a health maintenance organization as defined in 42 U.S.C. §300e, with the largest insured commercial, nonmedical assistance enrollment of covered lives in the state.

2. *"Cost sharing"* means the payment of a premium or copayment as provided for by Tit. XXI of the federal Social Security Act and section 514I.10.

3. *"Department"* means the department of health and human services.

4. *"Director"* means the director of health and human services.

5. *"Eligible child"* means an individual who meets the criteria for participation in the program under section 514I.8.

6. *"Hawki program"* or *"program"* means the healthy and well kids in Iowa program created in this chapter to provide health insurance coverage to eligible children.

7. *"Health insurance coverage"* means health insurance coverage as defined in 42 U.S.C. §300gg-91.

8. *"Medical assistance advisory council"* or *"advisory council"* means the medical assistance advisory council created in section 249A.4B.

9. *"Participating insurer"* means any of the following:

a. An entity licensed by the division of insurance of the department of insurance and financial services to provide health insurance in Iowa that has contracted with the department to provide health insurance coverage to eligible children under this chapter.

b. A managed care organization acting pursuant to a contract with the department to administer the Hawki program.

10. *"Qualified child health plan"* or *"plan"* means health insurance coverage provided by a participating insurer under this chapter.

98 Acts, ch 1196, §3, 16; 2003 Acts, ch 108, §131; 2008 Acts, ch 1188, §7; 2009 Acts, ch 118, §24; 2014 Acts, ch 1092, §184; 2017 Acts, ch 148, §92; 2019 Acts, ch 124, §1; 2022 Acts, ch 1131, §65; 2023 Acts, ch 19, §1211, 2734; 2024 Acts, ch 1170, §474

514I.3 Hawki program — established.

1. The Hawki program, a statewide program designed to improve the health of children and to provide health insurance coverage to eligible children on a regional basis which complies with Tit. XXI of the federal Social Security Act, is established and shall be implemented January 1, 1999.

2. Health insurance coverage under the program shall be provided by participating insurers and through qualified child health plans.

3. The department is designated to receive the state and federal funds appropriated or provided for the program, and to submit and maintain the state plan for the program, which is approved by the centers for Medicare and Medicaid services of the United States department of health and human services.

4. Nothing in this chapter shall be construed or is intended as, or shall imply, a grant of entitlement for services to persons who are eligible for participation in the program based upon eligibility consistent with the requirements of this chapter. Any state obligation to provide services pursuant to this chapter is limited to the extent of the funds appropriated or provided for this chapter.

5. Participating insurers under this chapter are not subject to the requirements of chapters 513B and 513C.

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6. Health care coverage provided under this chapter in accordance with Tit. XXI of the federal Social Security Act shall be recognized as prior creditable coverage for the purposes of private individual and group health insurance coverage.

98 Acts, ch 1196, §4, 16; 2002 Acts, ch 1050, §45; 2003 Acts, ch 108, §131; 2009 Acts, ch 118, §25; 2023 Acts, ch 19, §1212

514I.4 Director and department — duties — powers.

1. The director, with the approval of the medical assistance advisory council, shall implement this chapter. The director shall do all of the following:

a. At least every six months, evaluate the scope of the program currently being provided under this chapter, project the probable cost of continuing the program, and compare the probable cost with the remaining balance of the state appropriation made for payment of assistance under this chapter during the current appropriation period. The director shall report the findings of the evaluation to the advisory council and shall annually report findings to the governor and the general assembly by January 1.

b. Establish premiums to be paid to participating insurers for provision of health insurance coverage.

c. Contract with participating insurers to provide health insurance coverage under this chapter.

d. Recommend to the advisory council proposed rules necessary to implement the program.

e. Recommend to the board individuals to serve as members of the clinical advisory committee.

2. *a.* The director, with the approval of the advisory council, may contract with participating insurers to provide dental-only services.

b. The director, with the approval of the advisory council, may contract with participating insurers to provide the supplemental dental-only coverage to otherwise eligible children who have private health care coverage as specified in the federal Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. No. 111-3.

3. The department may enter into contracts with other persons whereby the other person provides some or all of the functions, pursuant to rules adopted by the advisory council, which are required of the director or the department under this section. All contracts entered into pursuant to this section shall be made available to the public.

4. The department shall do or shall provide for all of the following:

a. Determine eligibility for program enrollment as prescribed by federal law and regulation, using policies and procedures adopted by rule of the department pursuant to chapter 17A. The department shall not enroll a child who has group health coverage unless expressly authorized by such rules.

b. Enroll qualifying children in the program with maintenance of a supporting eligibility file or database.

c. Utilize the department's eligibility system to maintain eligibility files with pertinent eligibility determination and ongoing enrollment information including but not limited to data regarding beneficiaries, enrollment dates, disenrollments, and annual financial redeterminations.

d. Provide for administrative oversight and monitoring of federal requirements.

e. Perform annual financial reviews of eligibility for each beneficiary.

f. Collect and track monthly family premiums to assure that payments are current.

g. Notify each participating insurer of new program enrollees who are enrolled by the department in that participating insurer's plan.

h. Verify the number of program enrollees with each participating insurer for determination of the amount of premiums to be paid to each participating insurer.

i. Maintain data for the purpose of quality assurance reports as required by rule of the advisory council.

j. (1) Establish the family cost sharing amounts for children of families with incomes of one hundred fifty percent or more but not exceeding two hundred percent of the federal

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poverty level, of not less than ten dollars per individual and twenty dollars per family, if not otherwise prohibited by federal law, with the approval of the advisory council.

(2) Establish for children of families with incomes exceeding two hundred percent but not exceeding three hundred percent of the federal poverty level, family cost sharing amounts, and graduated premiums based on a rationally developed sliding fee schedule, in accordance with federal law, with the approval of the advisory council.

k. Perform annual, random reviews of enrollee applications to ensure compliance with program eligibility and enrollment policies. Quality assurance reports shall be made to the advisory council based upon the data maintained by the department.

l. Perform other duties as determined by the advisory council.

98 Acts, ch 1196, §5, 16; 2003 Acts, ch 108, §131; 2003 Acts, ch 124, §1; 2003 Acts, ch 175, §38; 2009 Acts, ch 118, §26, 27; 2013 Acts, ch 138, §95; 2019 Acts, ch 124, §2, 3; 2023 Acts, ch 19, §1213; 2024 Acts, ch 1170, §475

514I.5 Medical assistance advisory council — duties.

1. The medical assistance advisory council shall establish policy for, direct the department on, and adopt rules for the Hawki program.

2. The advisory council shall approve any contract entered into pursuant to this chapter. All contracts entered into pursuant to this chapter shall be made available to the public.

3. The medical assistance advisory council shall do all of the following:

a. Define, in consultation with the department, the regions of the state for which plans are offered in a manner as to ensure access to services for all children participating in the program.

b. Approve the benefit package design, review the benefit package design on a periodic basis, and make necessary changes in the benefit design to reflect the results of the periodic reviews.

c. Develop, with the assistance of the department, an outreach plan, and provide for periodic assessment of the effectiveness of the outreach plan. The plan shall provide outreach to families of children likely to be eligible for assistance under the program, to inform them of the availability of and to assist the families in enrolling children in the program. The outreach efforts may include, but are not limited to, solicitation of cooperation from programs, agencies, and other persons who are likely to have contact with eligible children, including but not limited to those associated with the educational system, and the development of community plans for outreach and marketing. Other state agencies shall assist the department in data collection related to outreach efforts to potentially eligible children and their families.

d. In consultation with the clinical advisory committee, assess the initial health status of children participating in the program, establish a baseline for comparison purposes, and develop appropriate indicators to measure the subsequent health status of children participating in the program.

e. Review, in consultation with the department, and take necessary steps to improve interaction between the program and other public and private programs which provide services to the population of eligible children.

f. By January 1, annually, prepare, with the assistance of the department, and submit a report to the governor, the general assembly, and the council on health and human services, concerning the advisory council's activities, findings, and recommendations.

g. Solicit input from the public regarding the program and related issues and services.

h. Establish and consult with a clinical advisory committee to make recommendations to the board regarding the clinical aspects of the Hawki program.

i. Prescribe the elements to be included in a health improvement program plan required to be developed by a participating insurer. The elements shall include but are not limited to health maintenance and prevention and health risk assessment.

j. Make recommendations to the general assembly by January 1 annually concerning the provision of health insurance coverage to children with special health care needs. The recommendations shall address, but are not limited to, all of the following:

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(1) The definition of the target population of children with special health care needs for the purposes of determining eligibility under the program.

(2) Eligibility options for and assessment of children with special health care needs for eligibility.

(3) Benefit options for children with special health care needs.

(4) Options for enrollment of children with special health care needs in and disenrollment of children with special health care needs from qualified child health plans utilizing a capitated fee form of payment.

(5) The appropriateness and quality of care for children with special health care needs.

(6) The coordination of health services provided for children with special health care needs under the program with services provided by other publicly funded programs.

k. Develop options and recommendations to allow children eligible for the Hawki program to participate in qualified employer-sponsored health plans through a premium assistance program. The options and recommendations shall ensure reasonable alignment between the benefits and costs of the Hawki program and the employer-sponsored health plans consistent with federal law. In addition, the advisory council shall implement the premium assistance program options described under the federal Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. No. 111-3, for the Hawki program.

4. The medical assistance advisory council, in consultation with the department, shall adopt rules which address, but are not limited to addressing, all of the following:

a. Implementation and administration of the program.

b. Qualifying standards for selecting participating insurers for the program.

c. The benefits to be included in a qualified child health plan which are those included in a benchmark or benchmark equivalent plan and which comply with Tit. XXI of the federal Social Security Act. Benefits covered shall include but are not limited to all of the following:

(1) Inpatient hospital services including medical, surgical, intensive care unit, mental health, and substance use disorder services.

(2) Nursing care services including skilled nursing facility services.

(3) Outpatient hospital services including emergency room, surgery, lab, and x-ray services and other services.

(4) Physician services, including surgical and medical, and including office visits, newborn care, well-baby and well-child care, immunizations, urgent care, specialist care, allergy testing and treatment, mental health visits, and substance use disorder visits.

(5) Ambulance services.

(6) Physical therapy.

(7) Speech therapy.

(8) Durable medical equipment.

(9) Home health care.

(10) Hospice services.

(11) Prescription drugs.

(12) Dental services including preventive services.

(13) Medically necessary hearing services.

(14) Vision services including corrective lenses.

(15) Translation and interpreter services as specified pursuant to the federal Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. No. 111-3.

(16) Chiropractic services.

(17) Occupational therapy.

d. Presumptive eligibility criteria for the program. Presumptive eligibility shall be provided for eligible children.

e. The amount of any cost sharing under the program which shall be assessed based on family income and which complies with federal law.

f. The reasons for disenrollment including, but not limited to, nonpayment of premiums, eligibility for medical assistance or other insurance coverage, admission to a public institution, relocation from the area, and change in income.

g. Conflict of interest provisions applicable to participating insurers and between members of the advisory council and participating insurers.

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h. Penalties for breach of contract or other violations of requirements or provisions under the program.

i. A mechanism for participating insurers to report any rebates received to the department.

j. The data to be maintained by the department including data to be collected for the purposes of quality assurance reports.

k. The use of provider guidelines in assessing the well-being of children, which may include the use of the bright futures for infants, children, and adolescents program as developed by the federal maternal and child health bureau and the American academy of pediatrics guidelines for well-child care.

5. *a.* The medical assistance advisory council may provide approval to the director to contract with participating insurers to provide dental-only services. In determining whether to provide such approval to the director, the advisory council shall take into consideration the impact on the overall program of single source contracting for dental services.

b. The medical assistance advisory council may provide approval to the director to contract with participating insurers to provide the supplemental dental-only coverage to otherwise eligible children who have private health care coverage as specified in the federal Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. No. 111-3.

6. The medical assistance advisory council shall monitor the capacity of Medicaid managed care organizations acting pursuant to a contract with the department to administer the Hawki program to specifically and appropriately address the unique needs of children and children's health delivery.

98 Acts, ch 1196, §6, 16; 99 Acts, ch 208, §38; 2002 Acts, ch 1175, §37; 2003 Acts, ch 108, §131; 2003 Acts, ch 124, §2 – 7; 2003 Acts, ch 175, §39; 2007 Acts, ch 218, §106; 2008 Acts, ch 1156, §51, 58; 2008 Acts, ch 1188, §8, 9; 2009 Acts, ch 118, §28 – 31; 2010 Acts, ch 1133, §1; 2011 Acts, ch 34, §119; 2011 Acts, ch 120, §11; 2013 Acts, ch 138, §96, 97; 2016 Acts, ch 1139, §104, 105; 2019 Acts, ch 124, §4 – 7; 2022 Acts, ch 1131, §66; 2023 Acts, ch 19, §1214; 2024 Acts, ch 1170, §476

514I.6 Participating insurers.

Participating insurers shall meet the qualifying standards established by rule under this chapter and shall perform all of the following functions:

1. Provide plan cards and membership booklets to qualifying families.

2. Provide or reimburse accessible, quality medical or dental services.

3. Require that any plan provided by the participating insurer establishes and maintains a conflict management system that includes methods for both preventing and resolving disputes involving the health or dental care needs of eligible children, and a process for resolution of such disputes.

4. Provide the department with all of the following information pertaining to the participating insurer's plan:

a. A list of providers of medical or dental services under the plan.

b. Information regarding plan rules relating to referrals to specialists.

c. Information regarding the plan's conflict management system.

d. Other information as directed by the advisory council.

5. Submit a plan for a health improvement program to the department, for approval by the advisory council.

6. Develop a plan for provider network development including criteria for access to pediatric subspecialty services.

7. Permit any chiropractor licensed under chapter 151 who is located in the geographic coverage area served by the plan and who agrees to abide by the plan's terms, conditions, reimbursement rates, and quality standards to serve as a participating provider in any plan offered to eligible children under this chapter, including but not limited to a limited provider network plan as defined in section 514C.13.

98 Acts, ch 1196, §7, 16; 2003 Acts, ch 108, §131; 2003 Acts, ch 124, §8; 2009 Acts, ch 118, §32, 33; 2010 Acts, ch 1133, §2; 2019 Acts, ch 124, §8; 2024 Acts, ch 1170, §477, 478

514I.7 Administrative contractor. Repealed by 2019 Acts, ch 124, §9.

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514I.8 Eligible child.

1. *a.* Effective July 1, 1998, and notwithstanding any medical assistance program eligibility criteria to the contrary, medical assistance shall be provided to, or on behalf of, an eligible child under the age of nineteen whose family income does not exceed one hundred thirty-three percent of the federal poverty level, as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

b. Effective July 1, 2000, and notwithstanding any medical assistance program eligibility criteria to the contrary, medical assistance shall be provided to, or on behalf of, an eligible infant whose family income does not exceed two hundred percent of the federal poverty level, as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

c. Effective July 1, 2009, and notwithstanding any medical assistance program eligibility criteria to the contrary, medical assistance shall be provided to, or on behalf of, a pregnant woman or an eligible child who is an infant and whose family income is at or below three hundred percent of the federal poverty level, as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

2. A child may participate in the Hawki program if the child meets all of the following criteria:

a. Is less than nineteen years of age.

b. Is a resident of this state.

c. Is a member of a family whose income does not exceed three hundred percent of the federal poverty level, as defined in 42 U.S.C. §9902(2), including any revision required by such section, and in accordance with the federal Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. No. 111-3. The modified adjusted gross income methodology prescribed in section 2101 of the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148, shall be used to determine family income under this paragraph.

d. Is not eligible for medical assistance pursuant to chapter 249A.

e. Is not currently covered under a group health plan as defined in 42 U.S.C. §300gg-91(a)(1) unless allowed by rule of the advisory council.

f. Is not a member of a family that is eligible for health benefits coverage under a state health benefits plan on the basis of a family member's employment with a public agency in this state.

g. Is not a patient in an institution for mental diseases.

3. In accordance with the rules adopted by the advisory council, a child may be determined to be presumptively eligible for the program pending a final eligibility determination. Following final determination of eligibility, a child shall be eligible for a twelve-month period. At the end of the twelve-month period, a review of the circumstances of the child's family shall be conducted to establish eligibility and cost sharing for the subsequent twelve-month period. Pending such review of the circumstances of the child's family, the child shall continue to be eligible for and remain enrolled in the same plan if the family complies with requirements to provide information and verification of income, otherwise cooperates in the annual review process, and submits the completed review form and any information necessary to establish continued eligibility in a timely manner in accordance with administrative rules.

4. Once an eligible child is enrolled in a plan, the enrollee may request to change plans within ninety days of initial enrollment for any reason and at any time for cause, as defined in 42 C.F.R. §438.56(d)(2). Otherwise, an enrollee may change plan enrollment once a year on the enrollee's anniversary date.

98 Acts, ch 1196, §9, 16; 98 Acts, ch 1223, §34; 2000 Acts, ch 1221, §8, 9; 2003 Acts, ch 108, §131; 2003 Acts, ch 124, §11; 2008 Acts, ch 1188, §11; 2009 Acts, ch 118, §17, 35; 2013 Acts, ch 138, §100 – 103; 2014 Acts, ch 1092, §115; 2015 Acts, ch 137, §105, 162, 163; 2023 Acts, ch 19, §1215; 2024 Acts, ch 1170, §479, 480; 2025 Acts, ch 86, §46

Referred to in §514I.2

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514I.8A Hawki — all income-eligible children.

The department shall provide coverage to individuals under nineteen years of age who meet the income eligibility requirements for the Hawki program and for whom federal financial participation is or becomes available for the cost of such coverage.

2009 Acts, ch 118, §14; 2023 Acts, ch 19, §1216

514I.8B Inmates of public institutions — suspension of medical assistance.

1. Following the first thirty days of commitment, the department shall suspend, but not terminate, the eligibility of an eligible child who is an inmate of a public institution as defined in 42 C.F.R. §435.1010, who is enrolled in the medical assistance program under this chapter at the time of commitment to the public institution, and who remains eligible for medical assistance under this chapter except for the eligible child's institutional status, during the entire period of the eligible child's commitment to the public institution.

2. To the extent applicable, the public institution and the department shall comply with the reporting requirements and the expediting of the restoration of an eligible child's medical assistance benefits under this chapter upon the eligible child's discharge, consistent with section 249A.38.

3. The department shall adopt rules pursuant to chapter 17A to administer this section.

2025 Acts, ch 86, §47

514I.9 Program benefits.

1. The advisory council shall review the benefits package annually and shall determine additions to or deletions from the benefits package offered. The advisory council shall submit the recommendations to the general assembly for any amendment to the benefits package.

2. Benefits, in addition to those required by rule, may be provided to eligible children by a participating insurer if the benefits are provided at no additional cost to the state.

98 Acts, ch 1196, §10, 16; 2003 Acts, ch 108, §131; 2010 Acts, ch 1061, §180; 2013 Acts, ch 138, §104; 2023 Acts, ch 19, §1217; 2024 Acts, ch 1170, §481

514I.10 Cost sharing.

1. Cost sharing for eligible children whose family income is below one hundred fifty percent of the federal poverty level shall not exceed the standards permitted under 42 U.S.C. §1396o(a)(3) or §1396o(b)(1).

2. Cost sharing for eligible children whose family income equals or exceeds one hundred fifty percent but does not exceed two hundred percent of the federal poverty level may include a premium or copayment amount which does not exceed five percent of the annual family income. The amount of any premium or the copayment amount shall be based on family income and size.

3. Cost sharing for an eligible child whose family income exceeds two hundred percent but does not exceed three hundred percent of the federal poverty level may include copayments and graduated premium amounts which do not exceed the limitations of federal law.

4. The payment to and acceptance by an automated case management system or the department of the premium required under this section shall not automatically confer initial or continuing program eligibility on an individual. A premium paid to and accepted through the department's premium payment process that is subsequently determined to be untimely or to have been paid on behalf of an individual ineligible for the program shall be refunded to the remitter in accordance with rules adopted by the department.

98 Acts, ch 1196, §11, 16; 2000 Acts, ch 1221, §10; 2003 Acts, ch 124, §12; 2008 Acts, ch 1014, §4; 2008 Acts, ch 1188, §12; 2009 Acts, ch 118, §36; 2014 Acts, ch 1026, §115; 2025 Acts, ch 30, §89

Referred to in §514I.2

514I.11 Hawki trust fund.

1. A Hawki trust fund is created in the state treasury under the authority of the department, in which all appropriations and other revenues of the program such as grants, contributions, and participant payments shall be deposited and used for the purposes of the

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program. The moneys in the fund shall not be considered revenue of the state, but rather shall be funds of the program.

2. The trust fund shall be separate from the general fund of the state and shall not be considered part of the general fund of the state. The moneys in the trust fund are not subject to section 8.33 and shall not be transferred, used, obligated, appropriated, or otherwise encumbered, except to provide for the purposes of this chapter and except as provided in subsection 4. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the trust fund shall be credited to the trust fund.

3. Moneys in the fund are appropriated to the department and shall be used to offset any program costs.

4. The department may transfer moneys appropriated from the fund to be used for the purpose of expanding health care coverage to children under the medical assistance program.

5. The department shall provide periodic updates to the general assembly regarding expenditures from the fund.

99 Acts, ch 203, §52; 2003 Acts, ch 108, §131; 2005 Acts, ch 175, §124, 125; 2008 Acts, ch 1188, §13; 2009 Acts, ch 118, §37; 2023 Acts, ch 19, §1218

514I.12 Hawki expansion program. Repealed by 2009 Acts, ch 118, §41.

514I.13 Prior authorizations — exemptions.

1. For purposes of this section:

a. "Emergency medical condition" means the same as defined in 42 C.F.R. §438.114.

b. "Health care professional" means a person licensed or certified under the laws of this state to provide health care services to an eligible child.

c. "Managed care organization" means an entity acting pursuant to a contract with the department to administer the Hawki program.

d. "Prior authorization" means any process used by the department or a managed care organization to determine if, before a health care service is furnished to an eligible child, the service is covered or medically necessary.

e. "Utilization review" means a set of formal techniques used to monitor or evaluate the medical necessity, appropriateness, or efficiency of a health care service.

2. The department, or a managed care organization, shall not require prior authorization for, or impose additional utilization review requirements on, an eligible child for any of the following:

a. A cancer-related screening recommended for the eligible child by the eligible child's health care professional in accordance with the most recently updated national comprehensive cancer network clinical practice guidelines in oncology which are designated as category 2A or lower.

b. The diagnosis and treatment of an emergency medical condition that develops or becomes evident in an eligible child while the eligible child is receiving inpatient care that meets inpatient care standards, if the emergency medical condition is reasonably determined by a health care professional to present a life-threatening risk unless the eligible child receives immediate assessment and treatment.

3. This section applies to all of the following:

a. All contracts between the department and a managed care organization that are delivered, issued for delivery, continued, extended, or renewed on or after January 1, 2027.

b. All requests for prior authorizations made on or after January 1, 2027.

4. The department may adopt rules pursuant to chapter 17A to administer this section.

2026 Acts, ch 1087, §11
NEW section

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CHAPTER 514J

EXTERNAL REVIEW OF HEALTH CARE COVERAGE DECISIONS

Referred to in §87.4, 296.7, 331.301, 364.4, 505.8, 505.26, 505.28, 505.29, 514F.7, 514G.110, 669.14, 670.7

514J.1 through 514J.15 Repealed by 2011 Acts, ch 101, §21.
514J.101 Purpose — applicability.
514J.102 Definitions.
514J.103 Applicability and scope.
514J.104 Notice of right to external review.
514J.105 Request for external review.
514J.106 Exhaustion of internal grievance process — exceptions — expedited external review request.
514J.107 External review — standard.
514J.108 External review — expedited.
514J.109 External review of experimental or investigational treatment adverse determinations.
514J.110 Effect of external review decision.
514J.111 Approval of independent review organizations.
514J.112 Minimum qualifications for independent review organizations.
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514J.115 Expenses of external review.
514J.116 Disclosure requirements.
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514J.118 Severability.
514J.119 Penalties.
514J.120 Applicability.

514J.1 through 514J.15 Repealed by 2011 Acts, ch 101, §21.

514J.101 Purpose — applicability.

The purpose of this chapter is to provide uniform standards for the establishment and maintenance of external review procedures to assure that covered persons have the opportunity for an independent review of an adverse determination or final adverse determination made by a health carrier as required by the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, which amends the Public Health Service Act and adopts, in part, 42 U.S.C. §300gg-19, and to address issues which are unique to the external review process in this state.

2011 Acts, ch 101, §1; 2022 Acts, ch 1032, §87

514J.102 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *a. "Adverse determination"* means a determination by a health carrier that an admission, availability of care, continued stay, or other health care service, other than a dental care service, that is a covered benefit has been reviewed and, based upon the information provided, does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care, or effectiveness, and the requested service or payment for the service is therefore denied, reduced, or terminated.

b. For the purposes of denial of a dental care service, *"adverse determination"* means a determination by a health carrier that a dental care service that is a covered benefit has been reviewed and, based upon the information provided, does not meet the health carrier's requirements for medical necessity, and the requested service or payment for the service is therefore denied, reduced, or terminated in whole or in part.

c. "Adverse determination" does not include a denial of coverage for a service or treatment specifically listed in plan or evidence of coverage documents as excluded from coverage.

2. *"Authorized representative"* means any of the following:

a. A person to whom a covered person has given express written consent to represent the covered person in an external review.

b. A person authorized by law to provide substituted consent for a covered person.

c. A family member of the covered person when the covered person is unable to provide consent.

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d. The covered person's treating health care professional when the covered person is unable to provide consent.

3. *"Best evidence"* means evidence based on randomized clinical trials. If randomized clinical trials are not available, *"best evidence"* means evidence based on cohort studies or case-control studies. If randomized clinical trials, cohort studies, or case-control studies are not available, *"best evidence"* means evidence based on case-series studies. If none of these are available, *"best evidence"* means evidence based on expert opinion.

4. *"Case-control study"* means a retrospective evaluation of two groups of patients with different outcomes to determine which specific interventions the patients received.

5. *"Case-series study"* means an evaluation of a series of patients with a particular outcome, without the use of a control group.

6. *"Certification"* means a determination by a health carrier that an admission, availability of care, continued stay, or other health care service has been reviewed and, based on the information provided, satisfies the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care, and effectiveness.

7. *"Clinical review criteria"* means the written screening procedures, decision abstracts, clinical protocols, and practice guidelines used by a health carrier to determine the necessity and appropriateness of health care services.

8. *"Cohort study"* means a prospective evaluation of two groups of patients with only one group of patients receiving a specific intervention.

9. *"Commissioner"* means the commissioner of insurance.

10. *"Covered benefits"* or *"benefits"* means those health care services to which a covered person is entitled under the terms of a health benefit plan.

11. *"Covered person"* means a policyholder, subscriber, enrollee, or other individual participating in a health benefit plan.

12. *"Dental care services"* means diagnostic, preventive, maintenance, and therapeutic dental care that is provided in accordance with chapter 153.

13. *"Disclose"* means to release, transfer, or otherwise divulge protected health information to any person other than the individual who is the subject of the protected health information.

14. *"Emergency medical condition"* means the sudden and, at the time, unexpected onset of a health condition or illness that requires immediate medical attention, where failure to provide medical attention would result in a serious impairment to bodily functions, serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy.

15. *"Emergency services"* means health care items and services furnished or required to evaluate and treat an emergency medical condition.

16. *"Evidence-based standard"* means the conscientious, explicit, and judicious use of the current best evidence based on the overall systematic review of the research in making decisions about the care of individual patients.

17. *"Expert opinion"* means a belief or an interpretation by specialists with experience in a specific area about the scientific evidence pertaining to a particular service, intervention, or therapy.

18. *"Facility"* means an institution providing health care services or a health care setting, including but not limited to hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing centers, residential treatment centers, diagnostic, laboratory and imaging centers, and rehabilitation and other therapeutic health settings.

19. *"Final adverse determination"* means an adverse determination involving a covered benefit that has been upheld by a health carrier at the completion of the health carrier's internal grievance process.

20. *"Health benefit plan"* means a policy, contract, certificate, or agreement offered or issued by a health carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.

21. *"Health care professional"* means a physician or other health care practitioner licensed, accredited, registered, or certified to perform specified health care services consistent with state law.

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22. *"Health care provider"* or *"provider"* means a health care professional or a facility.

23. *"Health care services"* means services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease. *"Health care services"* includes dental care services.

24. *"Health carrier"* means an entity subject to the insurance laws and regulations of this state, or subject to the jurisdiction of the commissioner, including an insurance company offering sickness and accident plans, a health maintenance organization, a nonprofit health service corporation, a plan established pursuant to chapter 509A for public employees, or any other entity providing a plan of health insurance, health care benefits, or health care services.

25. *"Health information"* means information or data, whether oral or recorded in any form or medium, and personal facts or information about events or relationships that relates to any of the following:

a. The past, present, or future physical, mental, or behavioral health or condition of a covered person or a member of the covered person's family.

b. The provision of health care services to a covered person.

c. Payment to a health care provider for the provision of health care services to a covered person.

26. *"Independent review organization"* means an entity that conducts independent external reviews of adverse determinations and final adverse determinations.

27. *"Medical or scientific evidence"* means evidence found in any of the following sources:

a. Peer-reviewed scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff.

b. Peer-reviewed medical literature, including literature relating to therapies reviewed and approved by a qualified institutional review board, biomedical compendia, and other medical literature that meet the criteria of the national institutes of health's national library of medicine for indexing in index medicus or medline, or of elsevier science ltd. for indexing in excerpta medicus or embase.

c. Medical journals recognized by the United States secretary of health and human services under section 1861(t)(2) of the federal Social Security Act.

d. The following standard reference compendia:

(1) American hospital formulary service drug information.

(2) Drug facts and comparisons.

(3) American dental association accepted dental therapeutics.

(4) United States pharmacopoeia drug information.

e. Findings, studies, or research conducted by or under the auspices of federal government agencies and nationally recognized federal research institutes, including any of the following:

(1) Federal agency for health care research and quality.

(2) National institutes of health.

(3) National cancer institute.

(4) National academy of sciences.

(5) Centers for Medicare and Medicaid services.

(6) Federal food and drug administration.

(7) Any national board recognized by the national institutes of health for the purpose of evaluating the medical value of health care services.

f. Any other medical or scientific evidence that is comparable to the sources listed in paragraphs *"a"* through *"e"*.

28. *"NAIC"* means the national association of insurance commissioners.

29. *"Person"* means an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity, or any combination of the foregoing.

30. *"Protected health information"* means health information that meets either of the following descriptions:

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a. Health information that identifies a covered person who is the subject of the information.

b. Health information with respect to which there is a reasonable basis to believe that the information could be used to identify a covered person.

31. *"Randomized clinical trial"* means a controlled, prospective study of patients that have been randomized into an experimental group and a control group at the beginning of the study with only the experimental group of patients receiving a specific intervention, which includes study of the groups for variables and anticipated outcomes over time.

2011 Acts, ch 101, §2; 2014 Acts, ch 1140, §108 – 110; 2017 Acts, ch 148, §93, 94

Referred to in §148J.1, 155A.48, 505.26, 514C.3C, 514C.4A, 514C.34, 514C.36, 514C.37, 514F.7, 514F.8, 514F.8A, 514F.8B, 514F.8D, 514F.9, 686D.2

514J.103 Applicability and scope.

1. Except as provided in subsection 2, this chapter shall apply to all health carriers.

2. This chapter shall not apply to any of the following:

a. A policy or certificate that provides coverage only for a specified disease, specified accident or accident-only, credit, disability income, hospital indemnity, long-term care, vision care, or any other limited supplemental benefit.

b. A Medicare supplement policy of insurance, as defined by the commissioner by rule.

c. Coverage under a plan through Medicare, Medicaid, or the federal employees health benefits program, any coverage issued under 10 U.S.C. ch. 55, and any coverage issued as supplemental to that coverage.

d. Any coverage issued as supplemental to liability insurance.

e. Workers' compensation or similar insurance.

f. Automobile medical-payment insurance or any insurance under which benefits are payable with or without regard to fault, whether written on a group blanket or individual basis.

2011 Acts, ch 101, §3; 2014 Acts, ch 1140, §111

514J.104 Notice of right to external review.

1. A health carrier shall notify a covered person or the covered person's authorized representative, if known, in writing of the covered person's right to request an external review and include the appropriate statements and information set forth in this chapter at the time the health carrier sends written notice of a final adverse determination.

2. *a.* The notice shall include the following, or substantially equivalent, language:

> We have denied your request for the provision of or payment for a health care service or course of treatment. You may have the right to have our decision reviewed by health care professionals who have no association with us if our decision involved making a judgment as to the medical necessity, appropriateness, health care setting, level of care, or effectiveness of the health care service or treatment you requested by submitting a request for external review to the commissioner of insurance.

b. The notice shall include the current address and contact information for the commissioner as specified in administrative rule.

3. The health carrier shall include in the notice a statement informing the covered person or the covered person's authorized representative, if known, of the following:

a. If the covered person has a medical condition pursuant to which the time frame for completion of a standard external review would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function, the covered person or the covered person's authorized representative may file a request for an expedited external review.

b. If the final adverse determination concerns an admission, availability of care, continued stay, or health care service for which the covered person received emergency services, but has not been discharged from a facility, the covered person or the covered person's authorized representative may request an expedited external review.

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c. If the final adverse determination concerns a denial of coverage based on a determination that the recommended or requested health care service or treatment is experimental or investigational as provided in section 514J.109, the covered person may file a request for external review pursuant to section 514J.109. In addition, if the covered person's treating health care professional certifies in writing that the recommended or requested health care service or treatment that is the subject of the recommendation or request would be significantly less effective if not promptly initiated, the covered person or the covered person's authorized representative may request an expedited external review pursuant to section 514J.109, subsection 18.

4. The health carrier shall include with the notice a copy of the descriptions of both the standard and expedited external review procedures the health carrier is required to provide pursuant to section 514J.116, highlighting the provisions in the external review procedures that give the covered person or the covered person's authorized representative the opportunity to submit additional information and including any forms used to process an external review.

5. The health carrier shall also include with the notice an authorization form, or other document approved by the commissioner that complies with the requirements of 45 C.F.R. §164.508 and with Tit. I of the federal Genetic Information Nondiscrimination Act of 2008, Pub. L. No. 110-233, 122 Stat. 881, by which the covered person or the covered person's authorized representative authorizes the health carrier and the covered person's treating health care provider to disclose protected health information, including medical records, concerning the covered person that is pertinent to the external review.

2011 Acts, ch 101, §4

514J.105 Request for external review.

A covered person or the covered person's authorized representative may make a request for an external review of a final adverse determination. Except for a request for an expedited external review, all requests for external review shall be made in writing to the commissioner. The commissioner may prescribe by rule the form and content of external review requests.

2011 Acts, ch 101, §5

514J.106 Exhaustion of internal grievance process — exceptions — expedited external review request.

1. Except as otherwise provided in this section, a request for an external review shall not be made until the covered person or the covered person's authorized representative has exhausted the health carrier's internal grievance process and received a final adverse determination.

2. A covered person or the covered person's authorized representative shall be considered to have exhausted the health carrier's internal grievance process if the covered person or the covered person's authorized representative has filed a grievance involving an adverse determination and, except to the extent the covered person or the covered person's authorized representative requested or agreed to a delay, has not received a written decision on the grievance from the health carrier within thirty days following the date the covered person or the covered person's authorized representative filed the grievance with the health carrier.

3. A covered person or the covered person's authorized representative may file a request for an expedited external review of an adverse determination without exhausting the health carrier's internal grievance process under either of the following circumstances:

a. The covered person has a medical condition pursuant to which the time frame for completion of an internal review of the grievance involving an adverse determination would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function as provided in section 514J.108.

b. The adverse determination involves a denial of coverage based on a determination that the recommended or requested health care service or treatment is experimental or investigational and the covered person's treating physician certifies in writing that the recommended or requested health care service or treatment that is the subject of the adverse

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determination would be significantly less effective if not promptly initiated as provided in section 514J.109.

4. A request for an external review of an adverse determination may be made before the covered person or the covered person's authorized representative has exhausted the health carrier's internal grievance procedures whenever the health carrier agrees to waive the exhaustion requirement. If the requirement to exhaust the health carrier's internal grievance procedures is waived, the covered person or the covered person's authorized representative may file a request with the commissioner in writing for a standard external review.

2011 Acts, ch 101, §6
Referred to in §514J.107, 514J.109

514J.107 External review — standard.

1. A covered person or the covered person's authorized representative may file a written request for an external review with the commissioner within four months after any of the following events:

a. The date of receipt of a final adverse determination.

b. The failure of a health carrier to issue a written decision within thirty days following the date the covered person or the covered person's authorized representative filed a grievance involving an adverse determination as provided in section 514J.106, subsection 2.

c. The agreement of the health carrier to waive the requirement that the covered person or the covered person's authorized representative exhaust the health carrier's internal grievance procedures before filing a request for external review of an adverse determination as provided in section 514J.106, subsection 4.

2. Within one business day after the date of receipt of a request for external review, the commissioner shall send a copy of the request to the health carrier.

3. Within five business days following the date of receipt of the external review request from the commissioner, the health carrier shall complete a preliminary review of the request to determine whether:

a. The individual is or was a covered person under the health benefit plan at the time the health care service was recommended or requested.

b. The health care service that is the subject of the adverse determination or of the final adverse determination is a covered service under the covered person's health benefit plan, but for a determination by the health carrier that the health care service is not covered because it does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care, or effectiveness.

c. The covered person or the covered person's authorized representative has exhausted the health carrier's internal grievance process, unless the covered person or the covered person's authorized representative is not required to exhaust the health carrier's internal grievance process pursuant to section 514J.106 or this section.

d. The covered person or the covered person's authorized representative has provided all the information and forms required to process an external review request.

4. Within one business day after completion of a preliminary review pursuant to subsection 3, the health carrier shall notify the commissioner and the covered person or the covered person's authorized representative in writing whether the request is complete and whether the request is eligible for external review.

a. If the health carrier determines that the request is not complete, the health carrier shall notify the covered person or the covered person's authorized representative and the commissioner in writing that the request is not complete and what information or materials are needed to make the request complete.

b. If the health carrier determines that the request is not eligible for external review, the health carrier shall issue a notice of initial determination in writing informing the covered person or the covered person's authorized representative and the commissioner of that determination and the reasons the request is not eligible for review. The health carrier shall also include a statement in the notice informing the covered person or the covered person's authorized representative that the health carrier's initial determination of ineligibility may be appealed to the commissioner.

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5. The commissioner may specify by rule the form required for the health carrier's notice of initial determination and any supporting information to be included in the notice.

6. The commissioner may determine that a request is eligible for external review, notwithstanding a health carrier's initial determination that the request is not eligible, and refer the request for external review. In making this determination, the commissioner's decision shall be made in accordance with the terms of the covered person's health benefit plan and shall be subject to all applicable provisions of this chapter.

7. Within one business day after receipt of notice from a health carrier that a request for external review is eligible for external review or upon a determination by the commissioner that a request is eligible for external review, the commissioner shall do all of the following:

a. Assign an independent review organization from the list of approved independent review organizations maintained by the commissioner and notify the health carrier of the name of the assigned independent review organization. The assignment of an independent review organization shall be done on a random basis among those approved independent review organizations qualified to conduct the particular external review based on the nature of the health care service that is the subject of the adverse determination or final adverse determination and other circumstances, including conflict of interest concerns.

b. Notify the covered person or the covered person's authorized representative in writing that the request is eligible and has been accepted for external review including the name of the assigned independent review organization and that the covered person or the covered person's authorized representative may submit in writing to the independent review organization within five business days following receipt of such notice from the commissioner, additional information that the independent review organization shall consider when conducting the external review. The independent review organization may, in the organization's discretion, accept and consider additional information submitted by the covered person or the covered person's authorized representative after five business days.

8. Within five business days after receipt of notice from the commissioner pursuant to subsection 7, the health carrier shall provide to the independent review organization the documents and any information considered in making the adverse determination or final adverse determination. Failure by the health carrier to provide the documents and information within the time specified shall not delay the conduct of the external review.

9. If the health carrier fails to provide the documents and information within the time specified, the independent review organization may terminate the external review and make a decision to reverse the adverse determination or final adverse determination. Within one business day after making such a decision, the independent review organization shall notify the covered person or the covered person's authorized representative, the health carrier, and the commissioner of its decision.

10. The independent review organization shall review all of the information and documents received pursuant to subsection 8 and any other information submitted in writing to the independent review organization by the covered person or the covered person's authorized representative pursuant to subsection 7, paragraph "*b*". Upon receipt of any information submitted by the covered person or the covered person's authorized representative, the independent review organization shall, within one business day, forward the information to the health carrier. In reaching a decision the independent review organization is not bound by any decisions or conclusions reached during the health carrier's internal grievance process.

11. Upon receipt of information forwarded pursuant to subsection 10, a health carrier may reconsider its adverse determination or final adverse determination that is the subject of the external review.

a. Reconsideration by the health carrier of its determination shall not delay or terminate the external review. The external review shall only be terminated if the health carrier decides, upon completion of its reconsideration, to reverse its determination and provide coverage or payment for the health care service that is the subject of the adverse determination or final adverse determination.

b. Within one business day after making a decision to reverse its adverse determination or final adverse determination, the health carrier shall notify the covered person or the

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covered person's authorized representative, the independent review organization, and the commissioner in writing of its decision. The independent review organization shall terminate the external review upon receipt of notice of the health carrier's decision to reverse its adverse determination or final adverse determination.

12. In addition to the documents and information provided to the independent review organization pursuant to this section, the independent review organization shall, to the extent the information or documents are available and the independent review organization considers them appropriate, consider the following in reaching a decision:

a. The covered person's pertinent medical records.

b. The treating health care professional's recommendation.

c. Consulting reports from appropriate health care professionals and other documents submitted by the health carrier, covered person, or the covered person's treating physician or other health care professional.

d. The terms of coverage under the covered person's health benefit plan with the health carrier, to ensure that the independent review organization's decision is not contrary to the terms of coverage under the covered person's health benefit plan with the health carrier.

e. The most appropriate practice guidelines, which shall include applicable evidence-based standards and may include any other practice guidelines developed by the federal government, national or professional medical societies, boards, and associations.

f. Any applicable clinical review criteria developed and used by the health carrier.

g. The opinion of the independent review organization's clinical reviewer after considering the information or documents described in paragraphs "*a*" through "*f*" to the extent the information or documents are available and the clinical reviewer considers them relevant.

13. *a.* Within forty-five days after the date of receipt of a request for an external review, the independent review organization shall provide written notice of its decision to uphold or reverse the adverse determination or final adverse determination of the health carrier to the covered person or the covered person's authorized representative, the health carrier, and the commissioner.

b. The independent review organization shall include in its decision all of the following:

(1) A general description of the reason for the request for external review.

(2) The date the independent review organization received the assignment from the commissioner to conduct the external review.

(3) The date the external review was conducted.

(4) The date of the decision.

(5) The principal reason or reasons for its decision, including what applicable evidence-based standards, if any, were a basis for its decision.

(6) The rationale for its decision.

(7) References to evidence or documentation, including evidence-based standards, considered in reaching its decision.

14. Upon receipt of notice of a decision reversing the adverse determination or final adverse determination of the health carrier, the health carrier shall immediately approve the coverage that was the subject of the determination.

2011 Acts, ch 101, §7; 2016 Acts, ch 1011, §96

Referred to in §514J.108

514J.108 External review — expedited.

1. Notwithstanding section 514J.107, a covered person or the covered person's authorized representative may make an oral or written request to the commissioner for an expedited external review at the time the covered person or the covered person's authorized representative receives any of the following:

a. An adverse determination that involves a medical condition of the covered person for which the time frame for completion of an internal review of a grievance involving an adverse determination would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function.

b. A final adverse determination that involves a medical condition where the time frame

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for completion of a standard external review would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function.

c. A final adverse determination that concerns an admission, availability of care, continued stay, or health care service for which the covered person received emergency services, and the covered person has not been discharged from a facility.

2. *a.* Upon receipt of a request for an expedited external review, the commissioner shall immediately send written notice of the request to the health carrier.

b. Immediately upon receipt of notice of a request for expedited external review, the health carrier shall complete a preliminary review of the request to determine whether the request meets the eligibility requirements for external review set forth in section 514J.107, subsection 3, and this section.

c. The health carrier shall then immediately issue a notice of initial determination informing the commissioner and the covered person or the covered person's authorized representative of its eligibility determination including a statement informing the covered person or the covered person's authorized representative of the right to appeal that determination to the commissioner.

d. The commissioner may specify by rule the form required for the health carrier's notice of initial determination and any supporting information to be included in the notice.

3. The commissioner may determine that a request is eligible for expedited external review, notwithstanding a health carrier's initial determination that the request is not eligible. In making a determination, the commissioner's decision shall be made in accordance with the terms of the covered person's health benefit plan and shall be subject to all applicable provisions of this chapter. The commissioner shall make a determination pursuant to this subsection as expeditiously as possible.

4. *a.* Upon receipt of notice from a health carrier that a request is eligible for expedited external review or upon a determination by the commissioner that a request is eligible for expedited external review, the commissioner shall immediately assign an independent review organization from the list of approved independent review organizations maintained by the commissioner to conduct the expedited external review. The commissioner shall then immediately notify the health carrier and the covered person or the covered person's authorized representative of the name of the assigned independent review organization.

b. The assignment of an independent review organization shall be done on a random basis among those approved independent review organizations qualified to conduct the particular external review based on the nature of the health care service that is the subject of the adverse determination or final adverse determination and other circumstances, including conflict of interest concerns.

5. Upon receiving notice of the independent review organization assigned to conduct the expedited external review, the health carrier shall provide or transmit all necessary documents and information considered in making the adverse determination or final adverse determination to the independent review organization electronically or by telephone or facsimile or any other available expeditious method.

6. The independent review organization is not bound by any decisions or conclusions reached during the health carrier's internal grievance process. The independent review organization shall consider the documents and information provided by the health carrier, and to the extent the information or documents are available and the independent review organization considers them appropriate, shall consider the following in reaching a decision:

a. The covered person's pertinent medical records.

b. The treating health care professional's recommendation.

c. Consulting reports from appropriate health care professionals and other documents submitted by the health carrier, covered person or the covered person's authorized representative, or the covered person's treating physician or other health care professional.

d. The terms of coverage under the covered person's health benefit plan with the health carrier, to ensure that the independent review organization's decision is not contrary to the terms of coverage under the covered person's health benefit plan with the health carrier.

e. The most appropriate practice guidelines, which shall include applicable

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evidence-based standards and may include any other practice guidelines developed by the federal government, national or professional medical societies, boards, and associations.

f. Any applicable clinical review criteria developed and used by the health carrier.

g. The opinion of the independent review organization's clinical reviewer after considering the information or documents described in paragraphs *"a"* through *"f"* to the extent the information or documents are available and the clinical reviewer considers them relevant.

7. *a.* As expeditiously as the covered person's medical condition or circumstances require, but in no event more than seventy-two hours after the date of receipt of an eligible request for expedited external review, the assigned independent review organization shall do all of the following:

(1) Make a decision to uphold or reverse the adverse determination or final adverse determination of the health carrier.

(2) Notify the covered person or the covered person's authorized representative, the health carrier, and the commissioner of its decision.

b. If the notice given by the independent review organization pursuant to paragraph *"a"* was not in writing, within forty-eight hours after providing that notice, the independent review organization shall provide written confirmation of the decision to the covered person or the covered person's authorized representative, the health carrier, and the commissioner that includes the information set forth in section 514J.107, subsection 13, paragraph *"b"*.

c. Upon receipt of the notice of decision by an independent review organization pursuant to paragraph *"a"* reversing the adverse determination or final adverse determination, the health carrier shall immediately approve the coverage that was the subject of the adverse determination or final adverse determination.

2011 Acts, ch 101, §8; 2012 Acts, ch 1021, §99
Referred to in §514J.106, 514J.109

514J.109 External review of experimental or investigational treatment adverse determinations.

1. Within four months after the date of receipt of a notice of an adverse determination or final adverse determination that involves a denial of coverage based on a determination that the health care service or treatment recommended or requested is experimental or investigational, a covered person or the covered person's authorized representative may file a request for external review with the commissioner.

2. Within one business day after the date of receipt of the request, the commissioner shall notify the health carrier of the request.

3. Within five business days following the date of receipt of notice of a request for external review pursuant to this section, the health carrier shall complete a preliminary review of the request to determine whether:

a. The individual is or was a covered person under the health benefit plan at the time the health care service or treatment was recommended or requested.

b. The recommended or requested health care service or treatment that is the subject of the adverse determination or final adverse determination meets the following conditions:

(1) Is a covered benefit under the covered person's health benefit plan except for the health carrier's determination that the service or treatment is experimental or investigational for a particular medical condition.

(2) Is not explicitly listed as an excluded benefit under the covered person's health benefit plan with the health carrier.

c. The covered person's treating physician has certified that one of the following situations is applicable:

(1) Standard health care services or treatments have not been effective in improving the condition of the covered person.

(2) Standard health care services or treatments are not medically appropriate for the covered person.

(3) There is no available standard health care service or treatment covered by the health

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carrier that is more beneficial than the recommended or requested health care service or treatment sought.

d. The covered person's treating physician has certified in writing one of the following:

(1) That the recommended or requested health care service or treatment that is the subject of the adverse determination or final adverse determination is likely to be more beneficial to the covered person, in the physician's opinion, than any available standard health care services or treatments.

(2) The physician is a licensed, board-certified, or board-eligible physician qualified to practice in the area of medicine appropriate to treat the covered person's condition, and that scientifically valid studies using accepted protocols demonstrate that the health care service or treatment recommended or requested that is the subject of the adverse determination or final adverse determination is likely to be more beneficial to the covered person than any available standard health care services or treatments.

e. The covered person or the covered person's authorized representative has exhausted the health carrier's internal grievance process, unless the covered person or the covered person's authorized representative is not required to exhaust the health carrier's internal grievance process pursuant to section 514J.106 or 514J.108.

f. The covered person or the covered person's authorized representative has provided all the information and forms required by the commissioner that are necessary to process an external review request pursuant to this section.

4. Within one business day after completion of the preliminary review pursuant to subsection 3, the health carrier shall notify the commissioner and the covered person or the covered person's authorized representative in writing whether the request is complete and whether the request is eligible for external review pursuant to this section. If the request is not complete, the health carrier shall notify the commissioner and the covered person or the covered person's authorized representative in writing and include in the notice what information or materials are needed to make the request complete. If the request is not eligible for external review, the health carrier shall notify the covered person or the covered person's authorized representative and the commissioner in writing and include in the notice the reasons for its ineligibility.

5. The commissioner may specify by rule the form required for the health carrier's notice of initial determination and any supporting information to be included in the notice. The notice of initial determination shall include a statement informing the covered person or the covered person's authorized representative that a health carrier's initial determination that the external review request is ineligible for review may be appealed to the commissioner.

6. The commissioner may determine that a request is eligible for external review pursuant to this section, notwithstanding a health carrier's initial determination that the request is ineligible, and require that it be referred for external review. In making this determination, the commissioner's decision shall be made in accordance with the terms of the covered person's health benefit plan and shall be subject to all applicable provisions of this chapter.

7. Within one business day after receipt of the notice from the health carrier that the external review request is eligible for external review or upon a determination by the commissioner that a request is eligible for external review, the commissioner shall do all of the following:

a. Assign an independent review organization from the list of approved independent review organizations maintained by the commissioner and notify the health carrier of the name of the assigned independent review organization.

b. Notify the covered person or the covered person's authorized representative in writing of the request's eligibility and acceptance for external review and the name of the assigned independent review organization and that the covered person or the covered person's authorized representative may submit in writing to the independent review organization, within five business days following the date of receipt of such notice, additional information that the independent review organization shall consider when conducting the external review. The independent review organization may, in the organization's discretion, accept

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and consider additional information submitted by the covered person or the covered person's authorized representative after five business days.

8. Within one business day after receipt of the notice of assignment to conduct the external review, the assigned independent review organization shall select one or more clinical reviewers, as it determines is appropriate pursuant to subsection 9 to conduct the external review.

9. In selecting clinical reviewers, the independent review organization shall select physicians or other health care professionals who meet the minimum qualifications described in this chapter and, through clinical experience in the past three years, are experts in the treatment of the covered person's condition and knowledgeable about the recommended or requested health care service or treatment that is the subject of the adverse determination or the final adverse determination. Neither the covered person or the covered person's authorized representative nor the health carrier shall choose or control the choice of the clinical reviewers selected to conduct the external review.

10. Each clinical reviewer selected shall provide a written opinion to the independent review organization regarding whether the recommended or requested health care service or treatment should be covered. Each clinical reviewer shall review all of the information and documents received and any other information submitted in writing by the covered person or the covered person's authorized representative. In reaching an opinion, a clinical reviewer is not bound by any decisions or conclusions reached during the health carrier's internal grievance process.

11. Within five business days after receipt of notice of the assignment of the independent review organization, the health carrier shall provide to the independent review organization the documents and any information considered in making the adverse determination or the final adverse determination. Failure by the health carrier to provide the documents and information within the time specified shall not delay the conduct of the external review.

12. If the health carrier fails to provide the documents and information within the time specified, the independent review organization may terminate the external review and make a decision to reverse the adverse determination or final adverse determination. Within one business day after making such a decision, the independent review organization shall notify the covered person or the covered person's authorized representative, the health carrier, and the commissioner.

13. Within one business day after the receipt of any information submitted by the covered person or the covered person's authorized representative, the independent review organization shall forward the information to the health carrier. Upon receipt of the forwarded information, the health carrier may reconsider its adverse determination or final adverse determination that is the subject of the external review.

a. Reconsideration by the health carrier of its adverse determination or final adverse determination shall not delay or terminate the external review. The external review shall only be terminated if the health carrier decides, upon completion of its reconsideration, to reverse its determination and provide coverage or payment for the recommended or requested health care service or treatment that is the subject of the determination.

b. Within one business day after making a decision to reverse its determination, the health carrier shall notify the covered person or the covered person's authorized representative, the independent review organization, and the commissioner in writing of its decision. The independent review organization shall terminate the external review upon receipt of such notice from the health carrier.

14. *a.* Within twenty days after being selected to conduct the external review, each clinical reviewer shall provide an opinion to the assigned independent review organization regarding whether the recommended or requested health care service or treatment should be covered pursuant to this section.

b. Each clinical reviewer's opinion shall be in writing and include the following information:

(1) A description of the covered person's medical condition.

(2) A description of the indicators relevant to determining whether there is sufficient evidence to demonstrate that the recommended or requested health care service or treatment

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is likely to be more beneficial to the covered person than any available standard health care services or treatments and that the adverse risks of the recommended or requested health care service or treatment would not be substantially increased over those of available standard health care services or treatments.

(3) A description and analysis of any medical or scientific evidence considered in reaching the opinion.

(4) A description and analysis of any applicable evidence-based standards.

(5) Information on whether the reviewer's rationale for the opinion is based on either of the factors described in subsection 15, paragraph *"e"*.

15. In addition to the documents and information provided, each clinical reviewer, to the extent the information or documents are available and the reviewer considers them appropriate, shall consider all of the following in reaching an opinion:

a. The covered person's pertinent medical records.

b. The treating physician's recommendation or request.

c. Consulting reports from appropriate health care professionals and other documents submitted by the health carrier, the covered person or the covered person's authorized representative, or the covered person's treating physician or other health care professional.

d. The terms of coverage under the covered person's health benefit plan with the health carrier to ensure that, but for the health carrier's determination that the recommended or requested health care service or treatment that is the subject of the opinion is experimental or investigational, the reviewer's opinion is not contrary to the terms of coverage under the covered person's health benefit plan with the health carrier.

e. Whether either of the following factors is applicable:

(1) The recommended or requested health care service or treatment has been approved by the federal food and drug administration, if applicable, for the condition.

(2) Medical or scientific evidence or evidence-based standards demonstrate that the expected benefits of the recommended or requested health care service or treatment is likely to be more beneficial to the covered person than any available standard health care service or treatment and the adverse risks of the recommended or requested health care service or treatment would not be substantially increased over those of available standard health care services or treatments.

16. *a.* If a majority of the clinical reviewers opine that the recommended or requested health care service or treatment should be covered, the independent review organization shall make a decision to reverse the health carrier's adverse determination or final adverse determination.

b. If a majority of the clinical reviewers opine that the recommended or requested health care service or treatment should not be covered, the independent review organization shall make a decision to uphold the health carrier's adverse determination or final adverse determination.

c. If the clinical reviewers are evenly split as to whether the recommended or requested health care service or treatment should be covered, the independent review organization shall obtain the opinion of an additional clinical reviewer in order for the independent review organization to make a decision based on the opinions of a majority of the clinical reviewers.

d. The additional clinical reviewer selected shall use the same information to reach an opinion as the clinical reviewers who have already submitted their opinions.

e. The selection of an additional clinical reviewer under this subsection shall not extend the time within which the assigned independent review organization is required to make a decision based on the opinions of the clinical reviewers for the external review.

17. Within twenty days after it receives the opinion of each clinical reviewer, the assigned independent review organization shall make a decision based on the opinions of the clinical reviewer or reviewers, to uphold or reverse the adverse determination or final adverse determination of the health carrier and provide written notice of the decision to the covered person or the covered person's authorized representative, the health carrier, and the commissioner.

18. *a.* A covered person or the covered person's authorized representative may make a written or oral request to the commissioner for an expedited external review of the adverse

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determination or final adverse determination pursuant to this subsection if the covered person's treating physician certifies, in writing, that the recommended or requested health care service or treatment that is the subject of the request would be significantly less effective if not promptly initiated.

(1) Upon receipt of a request for an expedited external review pursuant to this subsection, the commissioner shall immediately notify the health carrier.

(2) Upon receipt of notice of the request for expedited external review, the health carrier shall immediately determine whether the request is eligible for external review as provided in subsection 3, paragraphs *"a"* through *"f"*, and shall immediately issue a notice of initial determination informing the commissioner and the covered person or the covered person's authorized representative of its eligibility determination. The notice of initial determination of eligibility issued by a health carrier shall include a statement informing the covered person or the covered person's authorized representative that the health carrier's initial determination that the external review request is ineligible for expedited external review may be appealed to the commissioner.

(3) The commissioner may determine that a request is eligible for external review, notwithstanding a health carrier's initial determination that the request is not eligible, and refer the request for external review. In making this determination, the commissioner's decision shall be made in accordance with the terms of the covered person's health benefit plan and shall be subject to all applicable provisions of this chapter.

b. (1) Upon receipt of the notice of initial determination that the request is eligible for expedited external review or upon a determination by the commissioner that the request is eligible for expedited external review, the commissioner shall immediately assign an independent review organization to conduct the expedited external review, from the list of approved independent review organizations maintained by the commissioner, and notify the health carrier of the name of the assigned independent review organization.

(2) Upon receipt of notice of the independent review organization assigned to conduct an expedited external review, the health carrier shall provide or transmit all necessary documents and information considered in making the adverse determination or final adverse determination to the independent review organization electronically or by telephone or facsimile or any other available expeditious method.

(3) A clinical reviewer or clinical reviewers shall be selected immediately by the independent review organization and shall provide an opinion orally or in writing to the assigned independent review organization as expeditiously as the covered person's medical condition or circumstances require, but in no event more than five calendar days after being selected. If the opinion provided was not in writing, within forty-eight hours following the date the opinion was provided, the clinical reviewer shall provide written confirmation of the opinion to the assigned independent review organization and include all required information in support of the opinion.

c. Within forty-eight hours after the date of receipt of the opinion of each clinical reviewer, the assigned independent review organization shall make a decision based on the opinions of the clinical reviewer or reviewers as to whether to reverse or uphold the adverse determination or final adverse determination and provide notice of the decision orally or in writing to the covered person or the covered person's authorized representative, the health carrier, and the commissioner. If the notice was provided orally, within forty-eight hours after the date of providing that notice, the independent review organization shall provide written confirmation of the decision to the covered person or the covered person's authorized representative, the health carrier, and the commissioner.

d. The independent review organization shall include in the notice of its decision all of the following:

(1) A general description of the reason for the request for an expedited external review.

(2) The written opinion of each clinical reviewer, including the recommendation of each clinical reviewer as to whether the recommended or requested health care service or treatment should be covered and the rationale for the reviewer's recommendation.

(3) The date the independent review organization was assigned by the commissioner to conduct the expedited external review.

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(4) The date the expedited external review was conducted.
(5) The date of its decision.
(6) The principal reason or reasons for its decision.
(7) The rationale for its decision.

19. Upon receipt of notice of a decision of the independent review organization reversing an adverse determination or final adverse determination, the health carrier shall immediately approve coverage of the recommended or requested health care service or treatment that was the subject of the determination.

2011 Acts, ch 101, §9; 2011 Acts, ch 131, §71, 158
Referred to in §514J.104, 514J.106

514J.110 Effect of external review decision.

1. An external review decision pursuant to this chapter is binding on the health carrier except to the extent the health carrier has other remedies available under applicable Iowa law. The external review process shall not be considered a contested case under chapter 17A.

2. *a.* A covered person or the covered person's authorized representative may appeal the external review decision made by an independent review organization by filing a petition for judicial review either in Polk county district court or in the district court in the county in which the covered person resides. The petition for judicial review must be filed within fifteen business days after the issuance of the review decision. The petition shall name the covered person or the covered person's authorized representative, or the person's health care provider as the petitioner. The respondent shall be the health carrier. The petition shall not name the independent review organization as a party.

b. The commissioner shall not be named as a respondent unless the petitioner alleges action or inaction by the commissioner under the standards articulated in section 17A.19, subsection 10. Allegations against the commissioner under section 17A.19, subsection 10, shall be stated with particularity. The commissioner may, upon motion, intervene in the judicial review proceeding. The findings of fact by the independent review organization conducting the external review are conclusive and binding on appeal.

3. The health carrier shall follow and comply with the decision of the court on appeal. The health carrier or treating health care provider shall not be subject to any penalties, sanctions, or award of damages for following and complying in good faith with the external review decision of the independent review organization or the decision of the court on appeal.

4. The covered person or the covered person's authorized representative may bring an action in Polk county district court or in the district court in the county in which the covered person resides to enforce the external review decision of the independent review organization or the decision of the court on appeal.

5. A covered person or the covered person's authorized representative shall not file a subsequent request for external review involving any determination for which the covered person or the covered person's authorized representative has already received an external review decision.

6. If a covered person dies before the completion of the external review process, the process shall continue to completion if there is potential liability of a health carrier to the estate of the covered person.

7. *a.* If a covered person who has already received health care services under a health benefit plan requests external review of the plan's adverse determination or final adverse determination and changes to another health benefit plan before the external review process is completed, the health carrier whose coverage was in effect at the time the health care service was received is responsible for completing the external review process.

b. If a covered person who has not yet received health care services requests external review of a health benefit plan's adverse determination or final adverse determination and then changes to another plan prior to receipt of the health care services and completion of the external review process, the external review process shall begin anew with the

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covered person's current health carrier. In this instance, the external review process shall be conducted as an expedited external review.

2011 Acts, ch 101, §10

514J.111 Approval of independent review organizations.

1. The commissioner shall approve applications submitted by independent review organizations to conduct external reviews under this chapter. The commissioner may retain an outside expert to perform reviews of such applications.

2. In order to be eligible for approval by the commissioner to conduct external reviews, an independent review organization shall meet all of the following requirements:

a. Be accredited by a nationally recognized private accrediting entity that the commissioner determines has independent review organization accreditation standards that are equivalent to or exceed the minimum qualifications for independent review organizations established in this chapter.

b. Submit an application in a form and format as directed by the commissioner.

c. Meet the minimum qualifications contained in section 514J.112.

3. The commissioner may approve independent review organizations that are not accredited by a nationally recognized private accrediting entity if there are no acceptable nationally recognized private accrediting entities providing independent review organization accreditation.

4. The commissioner shall develop an application form for initially approving and for reapproving independent review organizations to conduct external reviews.

5. The commissioner may charge an initial application fee and a renewal fee as specified by rule.

6. The approval of an independent review organization to conduct external reviews by the commissioner pursuant to this chapter is effective for two years, unless the commissioner determines that the independent review organization is not satisfying the minimum qualifications of this chapter. If the commissioner determines that an independent review organization has lost its accreditation or no longer satisfies the minimum requirements established under this chapter, the commissioner shall terminate approval of the independent review organization to conduct external reviews and remove the independent review organization from the list of independent review organizations approved to conduct external reviews that is maintained by the commissioner.

7. The commissioner shall maintain a list of currently approved independent review organizations.

2011 Acts, ch 101, §11

514J.112 Minimum qualifications for independent review organizations.

1. To be approved to conduct external reviews pursuant to this chapter, an independent review organization shall have and maintain written policies and procedures that govern all aspects of both the standard external review process and the expedited external review process and that include, at a minimum, all of the following:

a. A quality assurance mechanism that does all of the following:

(1) Ensures that external reviews are conducted within the specified time frames and that required notices are provided in a timely manner.

(2) Ensures the selection of qualified and impartial clinical reviewers to conduct external reviews on behalf of the independent review organization and suitable matching of reviewers to specific cases and that the independent review organization employs or contracts with an adequate number of clinical reviewers to meet this objective.

(3) Ensures the confidentiality of medical and treatment records and clinical review criteria.

(4) Establishes and maintains written procedures to ensure that the independent review organization is unbiased in addition to any other procedures required under this section.

(5) Ensures that any person employed by or under contract with the independent review organization adheres to the requirements of this chapter.

b. A toll-free telephone service to receive information related to external reviews

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twenty-four hours a day, seven days a week, that is capable of accepting, recording, or providing appropriate instruction to incoming telephone callers outside normal business hours.

c. An agreement and a system to maintain required records and provide access to those records by the commissioner.

2. Each clinical reviewer assigned by an independent review organization to conduct external reviews shall be a physician or other appropriate health care professional who meets all of the following minimum qualifications:

a. Is an expert in the treatment of the covered person's medical condition that is the subject of the external review.

b. Is knowledgeable about the recommended or requested health care service or treatment through recent or current actual clinical experience treating patients with the same or similar medical condition as the covered person.

c. Holds a nonrestricted license in a state of the United States and, for physicians, a current certification by a recognized American medical specialty board in the area or areas appropriate to the subject of the external review.

d. Has no history of disciplinary actions or sanctions, including loss of staff privileges or participation restrictions, that have been taken or are pending by any hospital, governmental agency or unit, or regulatory body that raise a substantial question as to the clinical reviewer's physical, mental, or professional competence or moral character.

3. An independent review organization shall not own or control, be a subsidiary of, or in any way be owned or controlled by, or exercise control with, a health benefit plan, a national, state, or local trade association of health benefit plans, or a national, state, or local trade association of health care providers.

4. Neither the independent review organization selected to conduct an external review nor any clinical reviewer assigned by the independent organization to conduct an external review shall have a material professional, familial, or financial conflict of interest with any of the following:

a. The health carrier that is the subject of the external review.

b. The covered person whose health care service or treatment is the subject of the external review or the covered person's authorized representative.

c. Any officer, director, or management employee of the health carrier that is the subject of the external review.

d. The health care professional or the health care professional's medical group or independent practice association recommending the health care service or treatment that is the subject of the external review.

e. The facility at which the recommended health care service or treatment would be provided.

f. The developer or manufacturer of the principal drug, device, procedure, or other therapy being recommended for the covered person whose health care service treatment is the subject of the external review.

5. In determining whether an independent review organization or a clinical reviewer of the independent review organization has a material professional, familial, or financial conflict of interest as provided in subsection 4, the commissioner shall take into consideration situations where the independent review organization to be assigned to conduct an external review of a specified case or a clinical reviewer to be assigned by the independent review organization to conduct an external review of a specified case may have an apparent professional, familial, or financial relationship or connection with a person described in subsection 4, but the characteristics of that relationship or connection are such that they do not constitute a material professional, familial, or financial conflict of interest that would prohibit selection of the independent review organization or the clinical reviewer to conduct the external review.

6. *a.* An independent review organization that is accredited by a nationally recognized private accrediting entity that has independent review accreditation standards that the commissioner has determined are equivalent to or exceed the minimum qualifications of this section shall be presumed to be in compliance with the requirements of this section.

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b. The commissioner shall initially and periodically review the standards of each nationally recognized private accrediting entity that provides accreditation to independent review organizations to determine whether the accrediting entity's standards are, and continue to be, equivalent to or exceed the minimum qualifications established under this section. The commissioner may accept a review of those standards conducted by the national association of insurance commissioners for the purpose of making a determination under this subsection.

c. Upon request, a nationally recognized private accrediting entity shall make its current independent review organization accreditation standards available to the commissioner or to the national association of insurance commissioners in order for the commissioner to determine if the accrediting entity's standards are equivalent to or exceed the minimum qualifications established under this section. The commissioner may exclude consideration of accreditation of independent review organizations by any private accrediting entity whose standards have not been reviewed by the national association of insurance commissioners.

2011 Acts, ch 101, §12
Referred to in §514J.111

514J.113 Immunity for independent review organizations.

An independent review organization, a clinical reviewer working on behalf of an independent review organization, or an employee, agent, or contractor of an independent review organization shall not be liable in damages to any person for any opinions rendered or acts or omissions performed within the scope of the duties of the organization, the clinical reviewer, or an employee, agent, or contractor of the organization under this chapter during, or upon completion of, an external review conducted pursuant to this chapter, unless the opinion was rendered or the act or omission was performed in bad faith or involved gross negligence.

2011 Acts, ch 101, §13

514J.114 External review reporting requirements.

1. *a.* An independent review organization assigned to conduct an external review shall maintain written records in the aggregate by state and by health carrier of all requests for external review for which it conducted an external review during a calendar year.

b. Each independent review organization required to maintain written records pursuant to this section shall submit to the commissioner, upon request, a report in the format specified by the commissioner. The report shall include in the aggregate by state and by health carrier all of the following:

(1) The total number of requests for external review assigned to the independent review organization.

(2) The average length of time for resolution of each request for external review assigned to the independent review organization.

(3) A summary of the types of coverages or cases for which an external review was requested, in the format required by the commissioner by rule.

(4) Any other information required by the commissioner.

c. The independent review organization shall retain the written records for at least three years.

2. *a.* Each health carrier shall maintain written records in the aggregate by state and by type of health benefit plan offered by the health carrier of all requests for external review that the health carrier receives notice of from the commissioner pursuant to this chapter.

b. Each health carrier required to maintain written records of requests for external review pursuant to this subsection shall submit to the commissioner, upon request, a report in the format specified by the commissioner. The report shall include in the aggregate by state and by type of health benefit plan offered all of the following:

(1) The total number of requests for external review of the health carrier's adverse determinations and final adverse determinations.

(2) Of the total number of requests for external review, the number of requests determined eligible for external review.

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(3) The number of requests for external review resolved and, of those resolved, the number resolved upholding the adverse determination or final adverse determination of the health carrier and the number resolved reversing the adverse determination or final adverse determination of the health carrier.

(4) The number of external reviews that were terminated as the result of a reconsideration by the health carrier of its adverse determination or final adverse determination after the receipt of additional information from the covered person or the covered person's authorized representative.

(5) Any other information the commissioner may request or require.

c. The health carrier shall retain the written records for at least three years.

2011 Acts, ch 101, §14

514J.115 Expenses of external review.

The health carrier against which a request for a standard external review or an expedited external review is filed shall pay the costs of retaining an independent review organization to conduct the external review.

2011 Acts, ch 101, §15

514J.116 Disclosure requirements.

1. Each health carrier shall include a description of the external review procedures contained in this chapter in or attached to any policy, certificate, membership booklet, outline of coverage, or other evidence of coverage that is provided to a covered person. The description shall be in a format prescribed by the commissioner by rule.

2. The description required by subsection 1 shall include a statement that informs the covered person of the right of the covered person to file a request for an external review of an adverse determination or final adverse determination of the health carrier with the commissioner. The statement shall explain that external review is available when the adverse determination or final adverse determination involves an issue of medical necessity, appropriateness, health care setting, level of care, or effectiveness. The statement shall include the telephone number and address of the commissioner. The statement shall also inform the covered person that when filing a request for external review, the covered person will be required to authorize the release of any medical records of the covered person that may be required to be reviewed for the purpose of reaching a decision on the request for external review.

2011 Acts, ch 101, §16
Referred to in §514J.104, 514J.120

514J.117 Rulemaking authority.

The commissioner may adopt rules pursuant to chapter 17A to carry out the provisions of this chapter.

2011 Acts, ch 101, §17

514J.118 Severability.

If any provision of this chapter, or the application of the provision to any person or circumstance is held invalid, the remainder of the chapter, and the application of the provision to persons or circumstances other than those to which it is held invalid, shall not be affected.

2011 Acts, ch 101, §18

514J.119 Penalties.

A person who fails to comply with the provisions of this chapter or the rules adopted pursuant to this chapter is subject to the penalties provided under chapter 507B.

2011 Acts, ch 101, §19

514J.120 Applicability.

1. This chapter applies to all requests for external review filed on or after July 1, 2011.

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2. Section 514J.116 applies to all health benefit plans delivered, issued for delivery, continued, or renewed in this state on or after July 1, 2011.

2011 Acts, ch 101, §20

CHAPTER 514K

HEALTH CARE PLAN INFORMATION

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

514K.1 Health care plan disclosures — information to enrollees.
514K.2 Health carrier disclosures — public internet sites.

514K.1 Health care plan disclosures — information to enrollees.

1. A health maintenance organization or an insurer using a preferred provider arrangement shall provide to each of its enrollees at the time of enrollment, and shall make available to each prospective enrollee upon request, written information as required by rules adopted by the commissioner. The information required by rule shall include but not be limited to all of the following:

a. A description of the plan's benefits and exclusions.

b. Enrollee cost-sharing requirements.

c. A list of participating providers.

d. Disclosure of the existence of any drug formularies used and, upon request, information about the specific drugs included in the formulary.

e. An explanation for accessing emergency care services.

f. Any policies addressing investigational or experimental treatments.

g. The methodologies used to compensate providers.

h. Performance measures as determined by the commissioner and the director.

i. Information on how to access internal and external grievance procedures.

2. The commissioner shall annually publish a consumer guide providing a comparison by plan on performance measures, network composition, and other key information to enable consumers to better understand plan differences.

99 Acts, ch 41, §21; 2017 Acts, ch 148, §95, 96

514K.2 Health carrier disclosures — public internet sites.

1. A carrier that provides small group health coverage pursuant to chapter 513B or individual health coverage pursuant to chapter 513C and that offers for sale a policy, contract, or plan that covers the essential health benefits required pursuant to section 1302 of the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148, and its implementing regulations, shall provide to each of its enrollees at the time of enrollment, and shall make available to prospective enrollees and enrollees, insurance producers licensed under chapter 522B, and the general public, on the carrier's internet site, all of the following information in a clear and understandable form for use in comparing policies, contracts, and plans, and coverage and premiums:

a. Any items or services, including prescription drugs, that have a coinsurance requirement where the cost-sharing required depends on the cost of the item or service.

b. The specific prescription drugs available on the carrier's formulary, the specific prescription drugs covered when furnished by a physician or clinic, and any clinical prerequisites or prior authorization requirements for coverage of the drugs.

c. How medications will specifically be included in or excluded from the deductible, including a description of all out-of-pocket costs that may not apply to the deductible for a prescription drug.

2. A carrier that provides a summary of benefits and coverage to its enrollees in accordance with 26 C.F.R. §54.9815-2715, 29 C.F.R. §2590.715-2715, and 45 C.F.R. §147.200 is deemed to be in compliance with this section unless the commissioner of insurance

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determines that these federal regulations, or the successors to any of these federal regulations, fail to require the information required pursuant to this section in a clear and understandable form.

2016 Acts, ch 1122, §6, 14

Section is applicable to health insurance policies, contracts, or plans that are delivered, issued for delivery, continued, or renewed on or after January 1, 2017; 2016 Acts, ch 1122, §14

CHAPTER 514L

UNIFORM PRESCRIPTION DRUG INFORMATION CARD

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

514L.1 Definitions.
514L.2 Uniform prescription drug information cards.
514L.3 Application — enforcement.

514L.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Guide"* means the most recent national council for prescription drug programs pharmacy identification card implementation guide, or its successor.

2. *"Prescription drug"* means prescription drug as defined in section 155A.3 and includes a device as defined in section 155A.3.

3. *"Provider of third-party payment or prepayment of prescription drug expenses"* or *"provider"* means a provider of an individual or group policy of accident or health insurance or an individual or group hospital or health care service contract issued pursuant to chapter 509, 514, or 514A, a provider of a plan established pursuant to chapter 509A for public employees, a provider of an individual or group health maintenance organization contract issued and regulated under chapter 514B, a provider of a preferred provider contract issued pursuant to chapter 514F, a provider of a self-insured multiple employer welfare arrangement, and any other entity providing health insurance or health benefits which provide for payment or prepayment of prescription drug expenses coverage subject to state insurance regulation.

2001 Acts, ch 77, §1; 2017 Acts, ch 148, §97

514L.2 Uniform prescription drug information cards.

1. *a.* A provider of third-party payment or prepayment of prescription drug expenses, including the provider's agents or contractors and pharmacy benefits managers, that issues a card or other technology for claims processing and an administrator of the payor, excluding administrators of self-funded employer sponsored health benefit plans qualified under the federal Employee Retirement Income Security Act of 1974, shall issue to its insureds a card or other technology containing uniform prescription drug information. The commissioner of insurance shall adopt rules for the uniform prescription drug information card or technology applicable to those entities subject to regulation by the commissioner of insurance. The rules shall require at least both of the following regarding the card or technology:

(1) With respect to the information required, be consistent with the guide, except that the address of the pharmacy benefits manager shall not be required.

(2) With respect to the location of the information required, be substantially consistent with the guide.

b. Any information on the card shall be formatted and arranged in a manner that corresponds to the current content and format required by the provider for processing of claims.

2. A new uniform prescription drug information card or technology, as required pursuant to subsection 1, shall be issued by a provider of third-party payment or prepayment or the provider's agents or contractors or pharmacy benefits managers upon enrollment and reissued upon any change in the insured's coverage that impacts data contained on the

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card or technology. The commissioner of insurance shall review the national council for prescription drug programs implementation guide or successor document on an ongoing basis to determine changes, and shall modify or adopt rules as determined appropriate.

3. The card or other technology may be used for any health insurance or health benefits coverage and nothing in this chapter shall require a provider to issue a separate card for prescription drug coverage if the card or other technology can accommodate the information necessary to process claims.

4. This chapter shall not apply to prescription drug coverage provided through or in conjunction with any of the following:

a. Accident-only or disability income insurance coverage.

b. Hospital confinement indemnity coverage.

c. Coverage issued as a supplement to liability insurance.

d. Basic hospital and medical-surgical expense coverage.

e. Liability insurance, including general liability insurance and automobile liability insurance.

f. Workers' compensation or similar insurance.

g. Automobile medical payment insurance.

h. Credit only insurance.

i. Coverage for on-site medical clinic care.

j. Dental or vision coverage.

k. Benefits for long-term care, nursing home care, or community-based care.

l. Short-term hospital, medical, or major medical coverage.

m. Medicare supplemental as defined pursuant to 42 U.S.C. §1395ss(g)(1), coverage supplemental to the coverage provided under 10 U.S.C. §1071 – 1109, and similar coverage that is supplemental to coverage under group health insurance coverage as defined by the commissioner of insurance.

n. Any other similar limited benefits as defined by the commissioner of insurance.

2001 Acts, ch 77, §2; 2017 Acts, ch 148, §98

514L.3 Application — enforcement.

1. A health insurance or health benefits policy or contract issued and delivered, amended, or renewed on or after July 1, 2003, shall comply with this chapter.

2. The commissioner of insurance shall enforce this chapter and shall adopt rules necessary to implement this chapter.

2001 Acts, ch 77, §3

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CHAPTER 515

INSURANCE OTHER THAN LIFE

Referred to in §87.4, 235F.1, 296.7, 321H.3, 321N.4, 331.301, 364.4, 423.3, 490.905, 491.33, 505.28, 505.29, 506.14, 507.1, 508C.3, 509.5, 514A.1, 515B.1, 515B.2, 515B.9, 515C.10, 515F.32, 515G.1, 518.15, 518A.40, 519.9, 521.1, 521A.1, 521A.2, 521A.14, 521E.1, 521F.2, 521I.1, 522B.1, 522F.1, 533C.103, 535.8, 537.7103, 636.14, 636.16, 669.14, 670.7

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SUBCHAPTER I

INCORPORATION — RESTRICTIONS

515.1 Applicability.

Corporations formed for the purpose of insurance, other than life insurance, shall be governed by the provisions of chapter 490, chapter 491, or chapter 504, except as modified by the provisions of this chapter. The provisions of this chapter relative to insurance companies shall apply to all such companies, partnerships, associations, or individuals, except those associations governed by the provisions of chapter 518 or 518A, companies governed by the provisions of chapter 508 or 514, societies governed by the provisions of chapter 512B, and organizations governed by the provisions of chapter 514B, whether incorporated or not.

[C73, §1122; C97, §1684; C24, 27, 31, 35, 39, §**8896;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.1]

85 Acts, ch 239, §5; 89 Acts, ch 288, §192; 2004 Acts, ch 1049, §191; 2004 Acts, ch 1175, §393; 2008 Acts, ch 1074, §3

Referred to in §515.10

515.2 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

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state. An organization shall file with the commissioner bylaws and subsequent amendments to the bylaws within thirty days of adoption of the bylaws and amendments.

[C73, §1122; C97, §1685; C24, 27, 31, 35, 39, §**8897;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.2]

2000 Acts, ch 1023, §27; 2009 Acts, ch 145, §22

Referred to in §515.10

515.3 Certificate — recording.

If the commissioner of insurance approves them, the commissioner shall so certify, and the articles with the certificates of approval shall be recorded in the office of the secretary of state as articles of other corporations are, who shall endorse thereon the secretary of state's certificate thereof, as is required in case of other corporations for pecuniary profit.

[C73, §1123; C97, §1686; C24, 27, 31, 35, 39, §**8898;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.3]

Recording, §491.5

515.4 Name.

If the commissioner of insurance finds the name of the company to be so similar to one already appropriated by a corporation of the same character as to be likely to mislead the public or to cause inconvenience, the commissioner shall refuse the commissioner's certificate to the company's articles on that ground.

[C73, §1122; C97, §1687; C24, 27, 31, 35, 39, §**8899;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.4]

2021 Acts, ch 76, §127

515.5 Filing with commissioner.

The articles, when thus certified by the secretary of state as recorded in the secretary of state's office, or a copy thereof certified by the secretary of state as such, shall be filed in the office of the commissioner of insurance and remain therein.

[C73, §1123; C97, §1688; C24, 27, 31, 35, 39, §**8900;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.5]

515.6 Reserved.

515.7 Stock and mutual plan distinguished.

No company shall be organized to do business upon both stock and mutual plans; nor shall a company organized as a stock company do business upon the plan of a mutual company; nor shall a company organized upon the mutual plan do business or take risks upon the stock plan.

[C73, §1159; C97, §1690; C24, 27, 31, 35, 39, §**8902;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.7]

SUBCHAPTER II

STOCK COMPANIES

515.8 Paid-up capital and surplus required.

1. An insurance company other than a life insurance company shall not be incorporated to transact business upon the stock plan with less than five million dollars of capital and surplus, the entire amount of which shall be fully paid up in cash and invested as provided by law. An insurance company other than a life insurance company shall not increase its capital stock unless the amount of the increase is fully paid up in cash. An insurance company authorized to do business in Iowa that undergoes a change of control as defined under chapter 521A shall maintain the minimum capital and surplus requirements mandated by this section.

2. Notwithstanding subsection 1, an insurance company, other than a life insurance

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company, authorized to transact business under this chapter shall comply with the minimum capital requirements of this section or chapter 521E, whichever is greater.

[C73, §1124; C97, §1691; S13, §1783-e; C24, 27, 31, 35, 39, §**8903;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.8]

90 Acts, ch 1234, §33; 95 Acts, ch 185, §19; 96 Acts, ch 1046, §3; 98 Acts, ch 1057, §9
Referred to in §511.23, 515C.2

515.9 Reduction of capital or shares.

Any insurance company, other than life, may, upon the vote of a majority of its shares of stock represented at a meeting legally called for that purpose, reduce its capital stock and the number of shares thereof or the par value of the shares thereof, provided that the total amount of capital shall not be reduced to an amount less than the minimum required by law, but no part of its assets and property shall be distributed to its stockholders without the consent of the insurance commissioner.

[C27, 31, 35, §8903-b1; C39, §**8903.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.9]
Referred to in §511.23

515.10 Subscriptions of stock — applications.

After compliance by the incorporators with sections 515.1 and 515.2, the secretary of state shall certify the articles of incorporation to the commissioner of insurance. When the commissioner of insurance is satisfied that all provisions of law in relation to the promotion and organization of the corporation, including sections 506.4 through 506.6, have been complied with, the commissioner shall issue a certificate to that effect. The corporation may then open books for subscriptions to the stock of stock companies or, if a mutual company, take applications and receive premiums for insurance at such times and places as it may find convenient. The corporation may keep such books open until the full amount required is subscribed or taken, or the time granted therefor has expired, or until an order is issued by the commissioner of insurance to desist for failure to comply with the provisions of law in reference thereto.

[C73, §1125; C97, §1694; C24, 27, 31, 35, 39, §**8917;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.25]

2007 Acts, ch 152, §2
CS2007, §515.10
2020 Acts, ch 1063, §286
Referred to in §511.23

515.11 Reserved.

515.11A Transfer of stock.

Transfers of stock made by any stockholder or the stockholder's legal representative shall be subject to the provisions of chapters 491 and 492 relative to transfer of shares, and to such restrictions as the directors shall establish in their bylaws, except as hereinafter provided.

2008 Acts, ch 1074, §4

SUBCHAPTER III

MUTUAL COMPANIES

515.12 Mutual companies — conditions.

No mutual company shall issue policies or transact any business of insurance unless it shall hold a certificate of authority from the commissioner of insurance authorizing the transaction of such business, which certificate of authority shall not be issued until and unless the company shall comply with the following conditions:

1. It shall hold bona fide applications for insurance upon which it shall issue simultaneously, or it shall have in force, at least two hundred policies issued to at least two hundred members for the same kind of insurance upon not less than two hundred separate

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risks, each within the maximum single risk described herein; provided that not more than one hundred members shall be required for employer's liability and workers' compensation insurance.

2. The maximum single risk shall not exceed twenty percent of the admitted assets, or three times the average risk, or one percent of the insurance in force, whichever is the greater, any reinsurance taking effect simultaneously with the policy being deducted in determining such maximum single risk.

3. It shall have collected a premium upon each application, which premium shall be held in cash or securities in which insurance companies are authorized to invest, which shall be equal, in case of fire insurance, to not less than twice the maximum single risk assumed subject to one fire nor less than ten thousand dollars; and in any other kind of insurance, to not less than five times the maximum single risk assumed; and, in case of employer's liability and workers' compensation insurance, to not less than fifty thousand dollars.

4. For the purpose of transacting employer's liability and workers' compensation insurance, the applications shall cover not less than one thousand five hundred employees, each such employee being considered a separate risk for determining the maximum single risk.

5. *a.* The mutual company shall have in cash or in securities in which insurance companies are authorized to invest, surplus in an amount not less than five million dollars. The surplus so required may be advanced in accordance with section 515.19. A mutual company authorized to do business in Iowa that undergoes a change of control as defined under chapter 521A shall maintain the minimum surplus requirements mandated by this section.

b. However, the surplus requirements do not apply to a company which establishes and maintains guaranty capital as provided by section 515.20.

[C73, §1124; C97, §1692; C24, 27, 31, 35, 39, §**8906;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.12]

90 Acts, ch 1234, §36; 95 Acts, ch 185, §21; 2012 Acts, ch 1023, §157; 2025 Acts, ch 30, §90

Referred to in §515.12A, 515.13

515.12A Alternative minimum surplus levels.

A mutual company authorized to transact business under this chapter shall comply with the minimum surplus requirements of section 515.12 or chapter 521E, whichever is greater.

96 Acts, ch 1046, §7

515.13 Reservation.

The provisions of section 515.12, subsection 5, shall not apply to any company that had organized and was approved by the commissioner of insurance, but which had not completed its organization on May 28, 1937. Section 515.12, subsection 5, also shall not apply to any company licensed to issue policies prior to May 28, 1937.

[C39, §**8906.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.13]

2013 Acts, ch 30, §126; 2023 Acts, ch 66, §121

515.14 Membership in mutuals.

Any public or private corporation, board, or association in this state, or elsewhere, may make applications, enter into agreements for and hold policies in any such mutual insurance company. Any officer, stockholder, trustee, or local representative of any such corporation, board, association, or estate may be recognized as acting for, or on its behalf for the purpose of such membership, but shall not be personally liable upon such contract of insurance by reason of acting in such representative capacity. The right of any corporation organized under the laws of this state to participate as a member of any such mutual insurance company is hereby declared to be incidental to the purpose for which such corporation is organized and as much granted as the rights and powers expressly conferred.

[C73, §1124; C97, §1693; C24, 27, 31, 35, 39, §**8907;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.14]

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515.15 Voting power.

Every policyholder of such mutual company shall be a member of the company and shall be entitled to one vote, and such member may vote in person or by proxy as may be provided in the bylaws.

[C24, 27, 31, 35, 39, §**8908;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.15]

515.16 Maximum premium.

The maximum premium payable by any member of a mutual company shall be expressed in the policy and in the application for the insurance. Such maximum may be a cash premium and an additional contingent premium not less than the cash premium, or may be solely a cash premium, which premium may be made payable in installments or regular assessments. No policy shall be issued for a cash premium without an additional contingent premium unless the company has a surplus which is not less in amount than the capital stock required, at the time of the organization of such mutual insurance company, of domestic stock insurance companies writing the same kind of insurance; but said surplus shall not be less than one hundred thousand dollars.

[C24, 27, 31, 35, 39, §**8909;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.16]

515.17 Unearned premiums.

Such mutual company shall maintain unearned premium and other reserves separately for each kind of insurance, upon the same basis as that required of domestic insurance companies transacting the same kind of insurance; provided that any reserve for losses or claims based upon the premium income shall be computed upon the net premium income, after deducting any so-called dividend or premium returned or credited to the member.

[C24, 27, 31, 35, 39, §**8910;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.17]

515.18 Assessments.

Any such mutual company not possessed of assets at least equal to the unearned premium reserve and other liabilities shall make an assessment upon its members liable to assessment to provide for such deficiency, such assessment to be against each member in proportion to such liability as expressed in the member's policy; provided the commissioner may by written order, relieve the company from an assessment or other proceedings to restore such assets during the time fixed in such order.

[C24, 27, 31, 35, 39, §**8911;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.18]

Referred to in §515.20

515.19 Advancement of funds.

Any director, officer, or member of any such mutual company, or any other person, may advance to such company, any sum or sums of money necessary for the purpose of its business, or to enable it to comply with any of the requirements of the law, and such moneys and such interest thereon as may have been agreed upon, not exceeding the maximum statutory rate of interest, shall not be a liability or claim against the company or any of its assets, except as provided in this chapter, and upon approval of the commissioner of insurance may be repaid, but only out of the surplus earnings of such company. No commission or promotion expenses shall be paid in connection with the advance of any such money to the company. The amount of such advance shall be reported in each annual statement.

[C24, 27, 31, 35, 39, §**8912;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.19]

2013 Acts, ch 90, §156; 2020 Acts, ch 1063, §287

Referred to in §515.12, 515.20

515.20 Guaranty capital.

1. A mutual company organized under this chapter may establish and maintain guaranty capital of at least fifty thousand dollars made up of multiples of ten thousand dollars, divided into shares of not less than fifty dollars each, to be invested as provided for the investment of insurance capital and funds by section 515.35.

2. Guaranty shareholders shall be members of the corporation, and provision may be

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made for representation of the shareholders of the guaranty capital on the board of directors of the corporation. The representation shall not exceed one-third of the membership of the board. Guaranty shareholders in a mutual company are subject to the same regulations of law relative to their right to vote as apply to its policyholders.

3. The guaranty capital shall be applied to the payment of the legal obligations of the corporation only when the corporation has exhausted its assets in excess of the unearned premium reserve and other liabilities. If the guaranty capital is thus impaired, the directors may restore the whole, or any part of the capital, by assessment on the corporation's policyholders as provided for in section 515.18.

4. By a legal vote of the policyholders of the corporation at any regular or special meeting of the policyholders of the corporation, the guaranty capital may be fully retired or may be reduced to an amount of not less than fifty thousand dollars, if the net surplus of the corporation together with the remaining guaranty capital is equal to or exceeds the amount of minimum assets required by this chapter for such companies, and if the commissioner of insurance consents to the action. Due notice of the proposed action on the part of the corporation shall be included in the notice given to policyholders and shareholders of any annual or special meeting and notice of the meeting shall also be given in accordance with the corporation's articles of incorporation.

5. A company with guaranty capital, which has ceased to do business, shall not distribute among its shareholders or policyholders any part of its assets, or guaranty capital, until it has fully performed, or legally canceled, all of its policy obligations. Shareholders of the guaranty capital are entitled to interest on the par value of their shares at a rate to be fixed by the board of directors and approved by the commissioner, cumulative, payable semiannually, and payable only out of the surplus earnings of the company. However, the surplus account of the company shall not be reduced by the payment of the interest below the figure maintained at the time the guaranty capital was established. In addition, the interest payment shall not be made unless the surplus assets remaining after the payment of the interest at least equal the amount required by the statutes of Iowa to permit the corporation to continue in business.

6. In the event of the dissolution and liquidation of a corporation having guaranty capital under this section, the shareholders of the capital are entitled, after the payment of all valid obligations of the company, to receive the par value of their respective shares, together with any unpaid interest on their shares, before there may be any distribution of the assets of the corporation among its policyholders.

7. The provisions of this section are in addition to and independent of the provisions contained in section 515.19.

[C35, §8912-f1; C39, §**8912.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.20]
86 Acts, ch 1038, §1; 87 Acts, ch 115, §64; 2023 Acts, ch 66, §122
Referred to in §515.12, 515G.1

515.21 Additional policy provisions.

Such mutual company may insert in any form of policy prescribed by the law of this state any additional provisions or conditions required by its plan of insurance if not inconsistent or in conflict with any law of this state.

[C24, 27, 31, 35, 39, §**8913;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.21]

515.22 Countersigning policies. Repealed by 98 Acts, ch 1057, §13.

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SUBCHAPTER IV

GENERAL PROVISIONS

515.23 Prohibited loans.

Capital, surplus, funds, or other assets, or any part of any or all of the foregoing, shall not be directly or indirectly loaned to an officer, director, stockholder, or employee of a company or to a relative of an officer or director of a company.

[S13, §1783-e; C24, 27, 31, 35, 39, §**8905;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.11]

88 Acts, ch 1112, §401; 90 Acts, ch 1234, §35; 2015 Acts, ch 128, §50 – 52

C2016, §515.23

Referred to in §511.23

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 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 deducting 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.

[C24, 27, 31, 35, 39, §**8916;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.24]

2002 Acts, ch 1119, §181; 2006 Acts, ch 1117, §66; 2017 Acts, ch 54, §60

515.25 Remote participation in shareholders', members', or policyholders' meetings.

1. Shareholders of any class or series of shares, members, or policyholders may participate in any meeting of shareholders, members, or policyholders by means of remote communication to the extent the board of directors authorizes such participation for such class or series. Participation as a shareholder, member, or policyholder by means of remote communication shall be subject to such guidelines and procedures as the board of directors adopts, and shall be in conformity with subsection 2.

2. Shareholders, members, or policyholders participating in a shareholders', members', or policyholders' meeting by means of remote communication shall be deemed present and may vote at such a meeting if the company has implemented reasonable measures to do all of the following:

a. Verify that each person participating remotely as a shareholder is a shareholder, that each person participating remotely as a member is a member, or that each person participating remotely as a policyholder is a policyholder.

b. Provide such shareholders, members, or policyholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the shareholders, members, or policyholders, including an opportunity to communicate, and to read or hear the proceedings of the meeting, substantially concurrently with such proceedings.

3. Unless the bylaws require the meeting of shareholders, members, or policyholders to be held at a place, the board of directors may determine that any meeting of shareholders, members, or policyholders shall not be held at any place and shall instead be held solely by means of remote communication, but only if the company implements the measures specified in subsection 2.

2021 Acts, ch 165, §233, 248

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515.26 Directors.

The affairs of a company organized as provided by this chapter shall be managed by a number of directors of not less than five nor more than twenty-one.

[C73, §1126; C97, §1695; C24, 27, 31, 35, 39, §**8918;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.26]

91 Acts, ch 213, §25; 99 Acts, ch 165, §12; 2013 Acts, ch 124, §16

515.27 Election.

The annual meetings for the election of directors shall be held at such time as the articles of incorporation or bylaws of the company provide; but if for any cause no election is held, or there is a failure to elect at any annual meeting, then a special meeting for that purpose shall be held on the call of a majority of the directors, or of those persons holding a majority of the stock, or of a majority of policyholders if a mutual company, by giving thirty days' notice thereof in some newspaper of general circulation in the county in which the principal office of the company is located.

[C73, §1127; C97, §1696; C24, 27, 31, 35, 39, §**8919;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.27]

515.28 Term of office.

The directors chosen at any such annual or special meeting shall continue in office until the next annual meeting, and until their successors are elected and have accepted.

[C73, §1127; C97, §1696; C24, 27, 31, 35, 39, §**8920;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.28]

515.29 Classification of directors.

A company may in its articles of incorporation provide that the board of directors be divided into classes holding for a term of not to exceed five years and providing for the election of the members of one class at each annual meeting.

[C24, 27, 31, 35, 39, §**8921;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.29]

96 Acts, ch 1045, §4

515.30 Election of officers.

The directors shall elect a president, a secretary, and such other officers as may be necessary for transacting the business of the company.

[C73, §1128, 1129; C97, §1697, 1698; C24, 27, 31, 35, 39, §**8922, 8923;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §515.30, 515.31; C77, 79, 81, §515.30]

515.31 Filling of vacancies.

The directors shall have authority to fill vacancies occurring on the board of directors, and shall fill vacancies of officers occurring between regular elections.

[C73, §1128; C97, §1697; C24, 27, 31, 35, 39, §**8922;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §515.30; C77, 79, 81, §515.31]

515.32 Bylaws.

The company may adopt such bylaws and regulations not inconsistent with law as shall appear to it to be necessary for the regulation and conduct of the business.

[C73, §1129; C97, §1698; C24, 27, 31, 35, 39, §**8924;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.32]

2019 Acts, ch 59, §187

515.33 Record and inspection.

The directors shall keep full and correct entries of their transactions, which shall at all times be open to the inspection of the stockholders if a stock company, or policyholders if a mutual company, and to the inspection of persons invested by law with the right thereof.

[C73, §1129; C97, §1698; C24, 27, 31, 35, 39, §**8925;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.33]

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515.34 Reserved.

515.35 Investments.

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

a. This section applies to the investments of insurance companies other than life insurance companies.

b. 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 companies organized under this chapter. These standards, and the investment programs developed by companies, shall take into account the safety of the company's principal, investment yield and growth, stability in the value of the investment, and liquidity necessary to meet the company's expected business needs, and investment diversification.

c. Financial terms relating to insurance companies have the meanings assigned to them under statutory accounting methods. Financial terms relating to companies other than insurance companies 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, a company may elect to hold the investment under the subsection of its choice. This section does not prevent a company 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 national association of insurance commissioner's annual statement blank as admitted assets as of the December 31 immediately preceding the date the company acquires the investment.

b. *"Capital and surplus"*, for purposes of computing percentage limitations on particular types of investments, means the capital and surplus that is authorized to be shown as capital and surplus on the national association of insurance commissioners' annual statement blank as of the December 31 immediately preceding the date the company acquires the investment.

c. *"Clearing corporation"* means as defined in section 554.8102.

d. *"Custodian bank"* means a bank or trust company that is supervised and examined by state or federal authority having supervision over banks and is acting as custodian for a clearing corporation.

e. *"Issuer"* means as defined in section 554.8201.

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

g. *"National securities exchange"* means an exchange registered under section 6 of the Securities Exchange Act of 1934 or an exchange regulated under the laws of the Dominion of Canada.

h. *"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.

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

a. A company's investments shall be held in its own name or the name of its nominee, except as follows:

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(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 company 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 company provides that adequate evidence of the deposit is to be obtained and retained by the company or a custodian bank.

(2) A company may loan securities held by it to a broker-dealer registered under the Securities Exchange Act of 1934, a national bank, or a state bank, foreign bank, or trust company that is a member of the United States federal reserve system, and the loaned securities shall continue to be allowable investments of the company.

(a) The loan shall be fully collateralized by cash, cash equivalents, or obligations issued or guaranteed by the United States or an agency or instrumentality of the United States. The company shall take delivery of the collateral either directly or through an authorized custodian.

(b) If the loan is collateralized by cash or cash equivalents, the cash or cash equivalent collateral may be reinvested by the company in either individual securities which are allowable investments of the company or in repurchase agreements fully collateralized by such securities if the company takes delivery of the collateral either directly or through an authorized custodian or a pooled fund comprised of individual securities which are allowable investments of the company. If such reinvestment is made in individual securities or in repurchase agreements, the individual securities or the securities which collateralize the repurchase agreements shall mature in less than two hundred seventy days. If such reinvestment is made in a pooled fund, the average maturity of the securities comprising such pooled fund must be less than two hundred seventy days. Individual securities and securities comprising the pooled fund shall be investment grade.

(c) The loan shall be evidenced by a written agreement which provides all of the following:

(i) That the loan will be fully collateralized at all times during the term of the loan, and that the collateral will be adjusted as necessary each business day during the term of the loan to maintain the required collateralization in the event of market value changes in the loaned securities or collateral.

(ii) If the loan is fully collateralized by cash or cash equivalents, the cash or cash equivalent collateral may be reinvested by the company as provided in subparagraph division (b).

(iii) That the loan may be terminated by the company at any time, and that the borrower shall return the loaned stocks and obligations or equivalent stocks or obligations within five business days after termination.

(iv) That the company has the right to retain the collateral or use the collateral to purchase investments equivalent to the loaned securities if the borrower defaults under the terms of the agreement, and that the borrower remains liable for any losses and expenses incurred by the company due to default that are not covered by the collateral.

(d) Securities loaned pursuant to this subparagraph (2) are not eligible for investment of the company in excess of twenty percent of admitted assets.

(3) A company 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 company or for specific accounts of the company.

(4) 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

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company or 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 company making the investment.

(5) Transfers of ownership of investments held as described in paragraph "*a*", subparagraph (1), subparagraph division (c), and subparagraphs (3) and (4) 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 certificate, if any, evidencing the company's investment.

b. Except as provided in paragraph "*a*", subparagraph (5), if an investment is not evidenced by a certificate, adequate evidence of the company's investment shall be obtained from the issuer or its transfer or recording agent and retained by the company, 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 company.

4. *Investments.* Except as otherwise permitted by this section, a company organized under this chapter may invest in the following and no other:

a. United States government obligations. Obligations issued or guaranteed by the United States or an agency or instrumentality of the United States. 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. §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 this paragraph "*a*", 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. A company 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 of the United States, or a political subdivision of a state, or an instrumentality of a state or political subdivision of a state.

d. Canadian government obligations. Obligations issued or guaranteed by the Dominion of Canada, or by an agency or province of Canada, or by a political subdivision of a 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 of the United States, or the laws of Canada or a province of Canada, provided that a company shall not invest more than five percent of its admitted assets in the obligations of any one corporation or business trust. Aggregate investments in below investment grade bonds shall not exceed five percent of assets.

f. Stocks, limited partnership interests, and limited liability company interests.

(1) A company may invest in 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 of the United States, or the laws of Canada or a province of Canada.

(a) Stocks purchased under this section shall not exceed one hundred percent of capital and surplus. With the approval of the commissioner, a company may invest any amount in common stocks, preferred stocks, or other securities of one or more subsidiaries provided

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that after such investments the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(b) A company shall not invest more than ten percent of its capital and surplus in the stocks of any one corporation.

(2) In addition to those investments permitted under subparagraph (1), a company may invest in or otherwise acquire and hold a limited partnership interest in any limited partnership formed under the laws of any state, commonwealth, or territory of the United States, or under the laws of the United States. A company may invest in or otherwise acquire and hold a member interest in any limited liability company formed under the laws of any state, commonwealth, or territory of the United States or under the laws of the United States. A limited partnership or limited liability company interest shall not be acquired if the investment, valued at cost, exceeds two percent of the capital and surplus of the company or if the investment, plus the book value on the date of the investment of all limited partnership or limited liability company interests then held by the company and held under the authority of this subparagraph, exceeds ten percent of the capital and surplus of the company. A limited partnership or limited liability company interest shall not be acquired under this subparagraph unless the limited partnership or limited liability company is audited annually by an independent auditor.

g. Real estate mortgages. Mortgages and other interest-bearing securities that are first liens upon real estate located within this state or any other state of the United States. However, a mortgage or other security does not qualify as an investment under this paragraph if at the date of acquisition the total indebtedness secured by the lien exceeds seventy-five percent of the value of the property that is subject to the lien. Improvements shall not be considered in estimating value unless the owner contracts to keep them insured during the life of the loan in one or more reliable fire insurance companies authorized to transact business in this state and for a sum at least equal to the excess of the loan above seventy-five percent of the value of the ground, exclusive of improvements, and unless this insurance is payable in case of loss to the company investing its funds as its interest may appear at the time of loss. For the purpose of this section, a lien upon real estate shall not be held or construed to be other than a first lien by reason of the fact that drainage or other improvement assessments have been levied against the real estate covered by the lien, whether or not the installment of the assessments have matured, but in determining the value of the real estate for loan purposes the amount of drainage or other assessment tax that is unpaid shall be first deducted.

h. Real estate.

(1) (a) Except as provided in subparagraphs (2), (3), and (4) of this paragraph, a company may acquire, hold, and convey real estate only as follows:

(i) Real estate mortgaged to it in good faith as security for loans previously contracted, or for moneys due.

(ii) Real estate conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

(iii) Real estate purchased at sales on judgments, decrees, or mortgages obtained or made for debts previously contracted in the course of its dealings.

(iv) Real estate subject to a contract for deed under which the company holds the vendor's interest to secure the payments the vendee is required to make under the contract.

(b) All real estate specified in subparagraph division (a), subparagraph subdivisions (i), (ii), and (iii) shall be sold and disposed of within three years after the company acquires title to it, or within three years after the real estate ceases to be necessary for the accommodation of the company's business, and the company shall not hold any of those properties for a longer period unless the company elects to hold the property under another paragraph of this section, or unless the company procures a certificate from the commissioner of insurance that its interest will suffer materially by the forced sale of those properties and that the time for the sale is extended to the time the commissioner directs in the certificate.

(2) A company may acquire, hold, and convey real estate as required for the convenient accommodation and transaction of its business.

(3) A company may acquire real estate or an interest in real estate as an investment for

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the production of income, and may hold, improve, or otherwise develop, subdivide, lease, sell, and convey real estate so acquired directly or as a joint venture or through a limited or general partnership in which the company is a partner.

(4) A company may also acquire and hold real estate if the purpose of the acquisition is to enhance the sale value of real estate previously acquired and held by the company under this paragraph, and if the company expects the real estate so acquired to qualify under subparagraph (2) or (3) of this paragraph within three years after acquisition.

(5) A company may, after securing the written approval of the commissioner, acquire and hold real estate for the purpose of providing necessary living quarters for its employees. However, the company shall dispose of the real estate within three years after it has ceased to be necessary for that purpose unless the commissioner agrees to extend the holding period upon application by the company.

(6) A company shall not invest more than twenty-five percent of its total admitted assets in real estate. The cost of a parcel of real estate held for both the accommodation of business and for the production of income shall be allocated between the two uses annually. A company shall not invest more than ten percent of its total admitted assets in real estate held under subparagraph (3) of this paragraph.

(7) A company is not required to divest itself of real estate assets owned or contracted for prior to July 1, 1982, in order to comply with the limitations established under this paragraph.

i. Foreign investments. Obligations of and investments in foreign countries, as follows:

(1) A company may acquire and hold other investments in foreign countries that are required to be held as a condition of doing business in those countries, so long as such investments are of substantially the same types as those eligible for investment under this section.

(2) A company shall not invest more than two percent of its admitted assets in the stocks or stock equivalents of foreign corporations or business trusts, other than the stocks or stock equivalents of foreign corporations or business trusts incorporated or formed under the laws of Canada, and then only if the stocks or stock equivalents of such foreign corporations or business trusts are regularly traded on the New York, London, Paris, Zurich, Hong Kong, Toronto, or Tokyo stock exchange, or a similar exchange approved by the commissioner by rule or order.

(3) A company may invest in the obligations of a foreign government other than Canada or of a corporation incorporated under the laws of a foreign government other than Canada. Any such governmental obligation must be valid, legally authorized and issued, and on the date of acquisition have predominantly investment qualities and characteristics as provided by rule. Any such corporate obligation must on the date of acquisition have investment qualities and characteristics, and must not have speculative elements which are predominant, as provided by rule. A company shall not invest more than two percent of its admitted assets in the obligations of a foreign government other than Canada and the United Kingdom. Investments in obligations of the United Kingdom are not eligible in excess of four percent of admitted assets. A company shall not invest more than two percent of its admitted assets in the obligations of a corporation incorporated under the laws of a foreign government other than a corporation incorporated under the laws of Canada.

(4) A company shall not invest more than twenty percent of its admitted assets in foreign investments pursuant to this paragraph.

j. Personal property under lease. Personal property for intended lease or rental by the company in the United States or Canada. A company shall not invest more than five percent of its admitted assets under this paragraph.

k. Collateral loans. Obligations secured by the pledge of an investment authorized by paragraphs "*a*" through "*j*", subject to the following conditions:

(1) The pledged investment shall be legally assigned or delivered to the company.

(2) The pledged investment shall at the time of purchase have a market value of at least one hundred ten percent of the amount of the unpaid balance of the obligations.

(3) The company shall reserve the right to declare the obligation immediately due and payable if at any time after purchase the security depreciates to the point where the

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investment would not qualify under subparagraph (2) of this paragraph. However, additional qualifying security may be pledged to allow the investment to remain qualified.

l. Options transactions.

(1) A domestic fire and casualty company may only engage in the following transactions in options on an exchange and only when in accordance with the rules of the exchange on which the transactions take place:

(a) The sale of exchange-traded covered options.

(b) The purchase of exchange-traded covered options solely in closing purchase transactions.

(2) The commissioner shall adopt rules pursuant to chapter 17A regulating option sales under this subparagraph.

m. Venture capital funds. Shares or equity interests in venture capital funds which agree to invest an amount equal to at least fifty percent of the investments by a company in small businesses having their principal offices within this state and having either more than one-half of their assets within this state or more than one-half of their employees employed within this state. A company shall not invest more than five percent of its capital and surplus under this paragraph. For purposes of this paragraph, *"venture capital fund"* means a corporation, partnership, proprietorship, or other entity formed under the laws of the United States, or a state, district, or territory of the United States, whose principal business is or will be the making of investments in, and the provision of significant managerial assistance to, small businesses which meet the small business administration definition of small business. *"Equity interests"* means limited partnership interests and other equity interests in which liability is limited to the amount of the investment, but does not mean general partnership interests or other interests involving general liability. *"Venture capital fund"* includes an equity interest in the Iowa fund of funds as defined in section 15E.62 and an equity interest in an innovation fund as defined in section 15E.52.

n. Other investments.

(1) A company organized under this chapter may invest up to five percent of its admitted assets in securities or property of any kind, without restrictions or limitations except those imposed on business corporations in general.

(2) A company organized under this chapter may invest its assets in any additional forms not specifically included in paragraphs *"a"* through *"m"* and this paragraph when authorized by rules adopted by the commissioner.

5. *Rules.* The commissioner may adopt rules pursuant to chapter 17A to carry out the purposes and provisions of this section.

[C73, §1130, 1137; C97, §1699, 1703; S13, §1699; C24, 27, 31, 35, 39, §**8926, 8927;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.34, 515.35; 81 Acts, ch 169, §1; 82 Acts, ch 1051, §1]

85 Acts, ch 136, §2; 88 Acts, ch 1112, §402; 91 Acts, ch 26, §40; 96 Acts, ch 1138, §2, 84; 97 Acts, ch 186, §10; 98 Acts, ch 1014, §2; 99 Acts, ch 165, §13; 2001 Acts, ch 69, §29; 2003 Acts, ch 91, §34; 2004 Acts, ch 1110, §52 – 54; 2007 Acts, ch 137, §12; 2009 Acts, ch 41, §159 – 161; 2012 Acts, ch 1023, §120 – 122; 2013 Acts, ch 124, §17; 2014 Acts, ch 1092, §116, 117, 185; 2015 Acts, ch 128, §22, 50, 51

Referred to in §515.20, 518.14, 518A.12
Similar provisions, §511.8

515.36 Financial statements — mutual companies.

After complying with the requirements of the preceding sections of this chapter, the company shall file with the commissioner of insurance a satisfactory detailed statement showing the financial condition of the company, including all transactions had during its organization, together with a record of all moneys received and disbursed, a list of the stockholders, the amount of stock purchased by each, and the price paid. The incorporators or officers of such mutual company shall file the statement under oath required of stock companies.

[C73, §1131; C97, §1700; C24, 27, 31, 35, 39, §**8928, 8929;** C46, 50, 54, 58, 62, 66, §515.36, 515.37; C71, 73, 75, 77, 79, 81, §515.36]

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515.37 Subsidiary companies.

Any insurance company incorporated in this state may organize, or acquire by purchase, in whole or in part, subsidiary insurance and investment companies in which it owns not less than fifty-one percent of the common stock, and, subject to the approval of the insurance commissioner and provided that no company invest an amount in excess of thirty percent of its capital and surplus in the stock of such subsidiary companies, may:

1. Invest funds from surplus for each purpose.
2. Make loans to such subsidiaries.
3. Permit all or part of its officers and directors to serve as officers or directors of any such subsidiary companies.

[C71, 73, 75, 77, 79, 81, §515.37]

515.38 Examination — certificate of compliance.

Such commissioner may appoint in writing some disinterested person to make an examination and if it shall be found that the capital or assets required under this chapter of the company named, according to the nature of the business proposed to be transacted by such company, have been paid in, and are now possessed by it in money or such stock, bonds, and mortgages as are required by the preceding sections of this chapter, the commissioner shall so certify; but if the examination is made by another than the commissioner, the certificate shall be by that person, and under that person's oath.

[C73, §1131; C97, §1700; C24, 27, 31, 35, 39, §**8930;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.38]

2020 Acts, ch 1063, §288

Referred to in §515.41

515.39 Ownership of assets — oath.

The incorporators or officers of any such company, or proposed company, shall be required to state to the commissioner of insurance under oath that the capital or assets exhibited to the person making the examination are actually and in good faith the property of the company examined, and free and clear of any lien or claim on the part of any other person.

[C73, §1131; C97, §1700; C24, 27, 31, 35, 39, §**8931;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.39]

Referred to in §515.41

515.40 Form of certificate.

The certificate of examination of a mutual company shall be to the effect that it has received and has in its actual possession:

1. The cash premiums.
2. Actual contracts of insurance upon property, belonging to the signers thereof, and upon which the insurance applied for can properly be issued.
3. Other securities, as the case may be, to the extent and value required under this chapter.

[C97, §1700; C24, 27, 31, 35, 39, §**8932;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.40]

2020 Acts, ch 1063, §289

Referred to in §515.41

515.41 Certificate of authority.

The certificate and statements contemplated in sections 515.38 through 515.40 shall be filed in the division and the commissioner of insurance shall deliver to the company a copy of the report of the examination, in the event one is made, together with the commissioner's written permission for the company to commence the business proposed in its articles of incorporation, which permission shall be the company's authority to commence business and issue policies.

[C73, §1131; C97, §1700; C24, 27, 31, 35, 39, §**8933;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.41]

2021 Acts, ch 80, §325

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515.42 Tenure of certificate — renewal — evidence.

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 as provided in section 505.7.

[C73, §1131; C97, §1700; C24, 27, 31, 35, 39, §**8934;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.42]

88 Acts, ch 1112, §107; 2006 Acts, ch 1117, §67; 2009 Acts, ch 181, §76

515.43 Reserved.

515.44 Dividends.

The directors or managers of a stock company, incorporated under the laws of this state shall make no dividends except from the earned profits arising from their business, which shall not include contributed capital or contributed surplus.

[C73, §1136; C97, §1702; C24, 27, 31, 35, 39, §**8936;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.44]

Referred to in §515.46

515.45 Reserve fund required. Repealed by 2000 Acts, ch 1023, §59, 60.

515.46 Forfeiture of certificate of authority.

Any dividend made contrary to the provisions of section 515.44 or rules adopted by the commissioner shall subject the company making it to forfeiture of its certificate of authority.

[C73, §1136; C97, §1702; C24, 27, 31, 35, 39, §**8938;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.46]

2000 Acts, ch 1023, §28, 60

515.47 Unearned premium reserve — computation. Repealed by 2000 Acts, ch 1023, §59, 60.

515.48 Kinds of insurance.

Any company organized under this chapter or authorized to do business in this state may:

1. *a.* Insure dwelling houses, stores and all kinds of buildings and household furniture, and other property against direct or indirect or consequential loss or damage, including loss of use or occupancy and the depreciation of property lost or damaged by fire, smoke, smudge, lightning and other electrical disturbances, collision, falls, wind, tornado, cyclone, volcanic eruptions, earthquake, hail, frost, snow, sleet, ice, weather or climatic conditions, including excess or deficiency of moisture, flood, rain, or drought, rising of the waters of the ocean or its tributaries, bombardment invasion, insurrection, riot, strikes, labor disturbances, sabotage, civil war or commotion, military or usurped power, any order of a civil authority made to prevent the spread of a conflagration, epidemic or catastrophe, vandalism or malicious mischief, and by explosion whether fire ensues or not, except explosion on risks specified in subsection 6, provided, however, that there may be insured hereunder the following:

(1) Explosion of pressure vessels, not including steam boilers of more than fifteen pounds pressure, in buildings designed and used solely for residential purposes by not more than four families.

(2) Explosion of any kind originating outside of the insured building or outside of the building containing the property insured.

(3) Explosion of pressure vessels which do not contain steam or which are not operated with steam coils or steam jackets.

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(4) Loss or damage by insects or disease to farm crops or products, and loss of rental value of land used in producing such crops or products.

(5) Accidental injury to sprinklers, pumps, water pipes, elevator tanks and cylinders, steam pipes and radiators, plumbing and its fixtures, ventilating, refrigerating, heating, lighting, or cooking apparatus, or their connections, or conduits or containers of any gas, fluid, or other substance.

(6) Loss or damage to property of the insured caused by the breakage or leakage or by water, hail, rain, sleet, or snow seeping or entering through water pipes, leaks, or openings in buildings.

(7) Loss of and damage to glass, including lettering and ornamentation thereon, and against loss or damage caused by the breakage of glass.

(8) Loss or damage caused by railroad equipment, motor vehicles, airplanes, seaplanes, dirigibles, or other aircraft.

(9) Risks under a multiple peril nonassessable policy reasonably related to the ownership, use or occupancy of a private dwelling or dwellings.

b. Loss by depreciation as referred to in this subsection may include the cost of repair and replacement.

2. Insure the fidelity of persons holding places of private or public trust, or execute any bond or other obligation whenever the performance or refraining from any contract, act, duty or obligation is required or permitted by law to be made, given, or filed, including all bonds in criminal causes, and insure the maker, drawer, drawee, or endorser of checks, drafts, bills of exchange, or other commercial paper against loss by reason of any alteration of such instruments.

3. Insure the safekeeping of books, papers, moneys, stocks, bonds and all kinds of personal property from loss, damage or destruction from any cause, and receive them on deposit.

4. Insure against loss or damage by theft, injury, sickness, or death of animals and to furnish veterinary service.

5. *a.* Insure any person, the person's family or dependents, against bodily injury or death by accident, or against disability on account of sickness, or accident, including the granting of hospital, medical, surgical and sick care benefits, but such benefits shall not include the furnishing or replacing in kind of whole human blood or blood products of any kind; however, this provision shall not prohibit payments of indemnity for human blood or blood products. An insurer may contract with health care services providers and offer different levels of benefits to policyholders based upon the provider contracts.

b. Insure against legal liability, and against loss, damage, or expense incident to a claim of such liability, arising out of the death or injury of any person, or arising out of injury to the economic interests of any person as the result of error or negligence in rendering expert, fiduciary or professional service.

c. Insure against loss or damage to property caused by the accidental discharge or leakage of water from automatic sprinkler system and against loss or damage by water or other fluid or substance to any property resulting from the breakage or leakage of other apparatus or of water pipes or other conduits or containers or resulting from casual water entering into cracks or openings in buildings or by seepage through building walls, but not including loss or damage resulting from flood; and including insurance against accidental injury of such sprinklers, pumps, apparatus, conduits or containers.

d. Insure against loss in consequence of accidents or casualties of any kind to employees, including workers' compensation, or to persons or property resulting from any act of an employee, or any accident or casualty to person or property, or both, occurring in or connected with the transaction of insured's business, or from the operation of any machinery connected therewith; or to persons or property for which loss the insured is legally liable including an obligation of the insurer to pay medical, hospital, surgical, funeral or other benefits irrespective of legal liability of insured.

e. Insure against liability for loss or expense arising or resulting from accidents occurring by reason of the ownership, maintenance, or use of automobiles or other conveyances including aircraft, resulting in personal injuries or death, or damage to property belonging

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to others, or both, and for damages to assured's own automobile or aircraft when sustained through collision with another object, and insure the assured's own automobile or aircraft against loss or damage, including the loss of use thereof, by fire, lightning, windstorm, tornado, cyclone, hail, burglary or theft, vandalism, malicious mischief, or the wrongful conversion, disposal, or concealment thereof, or any one or more of such hazards, whether said automobile or aircraft is held under conditional sale, contract, or subject to chattel mortgages.

f. Insure against loss of or damage to any property of the insured resulting from collision of any object with such property.

6. Insure against loss or injury to person or property, or both, and against loss of rents or use of buildings, and other property growing out of explosion or rupture of boilers, pipes, flywheels, engines, pressure containers, machinery, and similar apparatus of any kind including equipment used for creating, transmitting, or applying power, light, heat, steam, air conditioning or refrigeration.

7. Insure against loss or damage resulting from burglary or robbery, or attempt thereat, or larceny.

8. Insure or guarantee and indemnify merchants, traders, and those engaged in business and giving credit from loss and damage by reason of giving and extending credit to their customers and those dealing with them, which business shall be known as credit insurance.

a. Such insurance may cover losses, less a deduction of an agreed percentage, not to exceed ten percent, representing anticipated profits, and a further deduction not to exceed thirty-three and one-third percent, on losses on credits extended to risks who have inferior ratings, and less an agreed deduction for normal loss.

b. Such coinsurance percentages shall be deducted in advance of the agreed normal loss from the gross covered loss sustained by the insured.

9. Insure vessels, boats, cargoes, goods, merchandise, freights, specie, bullion, jewelry, jewels, profits, commissions, bank notes, bills of exchange, and other evidence of debt, bottomry, and respondentia interest and every insurance appertaining to or connected with any or all risks or perils of navigation, transit, or transportation, including war risks, on or under any seas or other waters, on land or in the air, or while being assembled, packed, crated, baled, compressed or similarly prepared for shipment or while awaiting the same or during any delays, storage, transshipment, or reshipment, incident thereto, including marine builder's risks; and for loss or damage for which the insured is legally liable to persons or property in connection with or appertaining to marine, inland marine, transit, or transportation insurance, including liability for loss of or damage arising out of or in connection with the construction, repair, maintenance, storage or use of the subject matter of such insurance; and insure against loss or damage to silverware, musical instruments, furs, garments, fine arts, precious stones, jewels, jewelry, gold, silver, and other precious metals or valuable items whether used in business, transportation, trade or otherwise; and insure automobiles, airplanes, seaplanes, dirigibles or other aircraft, whether stationary or being operated under their own power, which include all or any of the hazards of fire, explosion, transportation, collision, loss by legal liability for damage to property resulting from the maintenance and use of automobiles, airplanes, seaplanes, dirigibles, or other aircraft, and loss by burglary or theft, vandalism, malicious mischief, or the wrongful conversion, disposal or concealment of automobiles whether held under conditional sale, contract, or subject to chattel mortgage, or any one or more of such hazards, including insurance against loss by reason of bodily injury to the person including medical, hospital and surgical expense irrespective of legal liability of insured.

10. Insure any additional risk not specifically included within any of the classes enumerated in this section, which is a proper subject for insurance, is not prohibited by law or contrary to sound public policy, and which, after public notice and hearing, is specifically approved by the commissioner of insurance, except title insurance or insurance against loss or damage by reason of defective title, encumbrances or otherwise. When such additional

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kind of insurance is approved by the commissioner, the commissioner shall designate within which classification of risks provided for in section 515.49 it shall fall.

[C73, §1132; C97, §1709; S13, §1709; C24, 27, 31, 35, 39, §**8940;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.48]

85 Acts, ch 239, §6; 2012 Acts, ch 1023, §157; 2016 Acts, ch 1073, §148; 2017 Acts, ch 54, §61; 2021 Acts, ch 80, §326, 327

Referred to in §321.1, 432.1, 432A.1, 508C.3, 517.1, 535.8, 811.3
Action on liability policy, chapter 516

515.49 Limitation on risks.

A company shall not expose itself to loss on any one risk or hazard to an amount exceeding ten percent of its surplus to policyholders unless one of the following applies:

1. The excess is reinsured in some other good and reliable company licensed to sell insurance in this state.

2. The excess is reinsured by a group of individual unincorporated insurers who are authorized to sell insurance in at least one state of the United States and who possess assets which are held in trust for the benefit of the American policyholders in the sum of not less than fifty million dollars, and a certificate of such reinsurance shall be furnished to the insured.

3. The excess is reinsured with a company which has, with respect to the ceding insurer, created a trust fund, made a deposit, or obtained letters of credit, on terms satisfactory to the commissioner.

[C73, §1132; C97, §1710; S13, §1710; C24, 27, 31, 35, 39, §**8941;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.49]

88 Acts, ch 1112, §403

Referred to in §515.48, 521.13

515.50 Loans — reinsurance. Repealed by 2007 Acts, ch 152, §84.

515.51 Policies — execution — requirements.

All policies or contracts of insurance except surety bonds made or entered into by the company may be made either with or without the seal of the company, but shall be subscribed by the president, or such other officer as may be designated by the directors for that purpose, and be attested to by the secretary or the secretary's designee of the company. A group motor vehicle or group homeowners policy shall not be written or delivered within this state unless such policy is an individual policy or contract form.

[C73, §1133; C97, §1712; C24, 27, 31, 35, 39, §**8943;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.51]

96 Acts, ch 1045, §5; 97 Acts, ch 186, §11; 2001 Acts, ch 69, §30

515.52 through 515.61 Repealed by 98 Acts, ch 1057, §13.

515.62 Transfer of stock. Repealed by 2008 Acts, ch 1074, §18. See §515.11A.

515.63 Annual statement.

The president or the vice president and secretary of each company organized or authorized to do business in the state shall annually on or before the first day of March of each year prepare under oath and file with the commissioner of insurance or a depository designated by the commissioner a full, true, and complete statement of the condition of such company on the last day of the preceding year, which shall exhibit the following items and facts:

1. The amount of capital stock of the company.
2. The names of the officers.
3. The name of the company and where located.
4. The amount of its capital stock paid up.
5. The property or assets held by the company, specifying:

a. The value of real estate owned by the company.

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b. The amount of cash on hand and deposited in banks to the credit of the company, and in what bank deposited.

c. The amount of cash in the hands of agents and in the course of transmission.

d. The amount of loans secured by first mortgage on real estate, with the rate of interest thereon.

e. The amount of all other bonds and loans and how secured, with the rate of interest thereon.

f. The amount due the company on which judgment has been obtained.

g. The amount of bonds of the state, of the United States, of any county or municipal corporation of the state, and of any other bonds owned by the company, specifying the amount and number thereof, and par and market value of each kind.

h. The amount of bonds, stock, and other evidences of indebtedness held by such company as collateral security for loans, with amount loaned on each kind, and its par and market value.

i. The amount of assessments on stock and premium notes, paid and unpaid.

j. The amount of interest actually due and unpaid.

k. All other securities and their value.

l. The amount for which premium notes have been given on which policies have been issued.

6. Liabilities of such company, specifying:

a. Losses adjusted and due.

b. Losses adjusted and not due.

c. Losses unadjusted.

d. Losses in suspense and the cause thereof.

e. Losses resisted and in litigation.

f. Dividends in scrip or cash, specifying the amount of each, declared but not due.

g. Dividends declared and due.

h. The amount required to reinsure all outstanding risks on the basis of the unearned premium reserve as required by law.

i. The amount due banks or other creditors.

j. The amount of money borrowed and the security therefor.

k. All other claims against the company.

7. The income of the company during the previous year, specifying:

a. The amount received for premiums, exclusive of premium notes.

b. The amount of premium notes received.

c. The amount received for interest.

d. The amount received for assessments or calls on stock notes, or premium notes.

e. The amount received from all other sources.

8. The expenditures during the preceding year, specifying:

a. The amount of losses paid during said term, stating how much of the same accrued prior, and how much subsequent, to the date of the preceding statement, and the amount at which such losses were estimated in such statement.

b. The amount paid for dividends.

c. The amount paid for commissions, salaries, expenses, and other charges of agents, clerks, and other employees.

d. The amount paid for salaries, fees, and other charges of officers and directors.

e. The amount paid for local, state, national and other taxes and duties.

f. The amount paid for all other expenses, including printing, stationery, rents, furniture, or otherwise.

9. The largest amount insured in any one risk.

10. The amount of risks written during the year then ending.

11. The amount of risks in force having less than one year to run.

12. The amount of risks in force having more than one and not over three years to run.

13. The amount of risks having more than three years to run.

14. The dividends, if any, declared on premiums received for risks not terminated.

15. All other information as required by the national association of insurance

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commissioners' annual statement blank. The annual statement blank shall be prepared in accordance with instructions prescribed by the commissioner. All financial information reflected in the annual report shall be kept and prepared in accordance with accounting practices and procedures prescribed by the commissioner. The commissioner may adopt by reference the annual statement handbook and the accounting practices and procedures manual of the national association of insurance commissioners.

[C73, §1141; C97, §1714; C24, 27, 31, 35, 39, §**8945;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.63]

91 Acts, ch 26, §41; 2003 Acts, ch 91, §35; 2016 Acts, ch 1011, §97

Referred to in §515.146, 515H.2

515.64 Accident insurance — record. Repealed by 2008 Acts, ch 1074, §18.

515.65 Reserved.

515.66 Annual statement of foreign company.

The annual statement of foreign companies doing business in this state shall also show, in addition to the foregoing matters, the amount of losses incurred and premiums received in the state during the preceding period, so long as such company continues to do business in this state.

[C73, §1146; C97, §1716; C24, 27, 31, 35, 39, §**8948;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.66]

515.67 Inquiry by commissioner. Repealed by 2007 Acts, ch 152, §84.

515.68 Changes in forms of statements.

The commissioner may from time to time make changes in the forms of statements required by this chapter which seem to the commissioner best adapted to elicit from the companies a true exhibit of their condition in respect to the several points enumerated in this chapter.

[C73, §1157; C97, §1719; C24, 27, 31, 35, 39, §**8950;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.68]

85 Acts, ch 228, §7

515.68A Foreign companies — reinsurance.

A foreign company authorized to do business in this state shall not assumptively reinsure a block of business which includes policyholders residing in this state to a company not authorized to do business in this state without the prior written approval of the commissioner.

97 Acts, ch 186, §12

515.69 Foreign companies — capital and surplus required.

1. A stock insurance company organized under or by the laws of any other state or foreign government for the purpose specified in this chapter, shall not, directly or indirectly, take risks or transact business of insurance in this state unless the company possesses the actual amount of capital and surplus required of any company organized pursuant to this chapter, or if the company is a mutual insurance company, the actual amount of surplus required of any mutual insurance company organized pursuant to this chapter, exclusive of assets deposited in a state, territory, district, or country for the special benefit or security of those insured in that state, territory, district, or country.

2. Notwithstanding subsection 1, a stock insurance company authorized to transact business under this section shall comply with the minimum capital and surplus requirements of this section or chapter 521E, whichever is greater.

[C73, §1144; C97, §1721; SS15, §1721; C24, 27, 31, 35, 39, §**8951;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.69]

92 Acts, ch 1162, §36; 96 Acts, ch 1046, §5; 2013 Acts, ch 124, §18

Referred to in §515.143

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515.70 Alien insurer defined.

1. An *"alien insurer"* is hereby defined to mean an insurance company incorporated or organized under the laws of any country other than the United States.

2. An alien insurer, with the approval of the commissioner, may be treated as a domestic insurer of this state in whole or in part. The approval of the commissioner may be based upon such factors as:

a. Maintenance of an appropriate trust account, surplus account, or other financial mechanism in this state.

b. Maintenance of all books and records of United States operations in this state.

c. Maintenance of a separate financial reporting system for its United States operations.

d. Any other provisions deemed necessary by the commissioner.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.70]

90 Acts, ch 1234, §37; 2012 Acts, ch 1023, §157

515.71 Deposit of securities — amount.

1. Every alien insurer authorized to transact business in this state shall at all times maintain a deposit with the commissioner of insurance in cash or in securities in which insurance companies are authorized to invest, of a sum equal to the greater of the reserve on all policies covering risks located in this state or one million dollars. The securities shall be approved, and the amount of the deposit shall be determined, by the commissioner. The commissioner, in the commissioner's discretion, may permit the withdrawal of interest earnings.

2. In lieu of the deposit provided in this section, an alien insurer may file with the commissioner a bond of equal amount executed by a licensed United States surety company, so conditioned for the protection of Iowa creditors and policyholders.

3. An alien insurer shall not be granted a certificate of authority to transact business in this state, or a renewal of the certificate, until such deposit is made, and the commissioner may revoke the certificate of authority of an alien insurer which fails to make the deposit within a reasonable period of time.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.71]

92 Acts, ch 1162, §37; 2000 Acts, ch 1023, §29, 60; 2018 Acts, ch 1041, §127

515.72 Insolvency of company — procedure.

In the event of insolvency or receivership of any such alien insurer the title to the cash or securities so deposited shall vest in the commissioner of insurance for the use and benefit of the policies issued by said insurer and outstanding in this state, and in such event the commissioner shall be appointed receiver of said insurer by the district court, in and for Polk county, with the right, subject to the court's approval, to reinsure said policies in some insurance company or association authorized to do business in this state, or to liquidate said deposit for the sole benefit of the policies for which said deposit was made.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.72]

515.73 Additional statements — impaired capital.

Any company desiring to transact the business of insurance under this chapter shall also file with the commissioner a certified copy of its charter or deed of settlement, together with a statement under oath of the president or vice president or other chief officer and the secretary of the company for which they may act, stating the name of the company, the place where located, the amount of its capital, with a detailed statement of the facts and items required from companies organized under the laws of this state, and a copy of the last annual report, if any, made under any law of the state by which such company was incorporated; and no agent shall be allowed to transact business for any company whose capital is impaired by liabilities as specified in this chapter to the extent of twenty percent thereof, while such deficiency shall continue.

[C73, §1144; C97, §1722; C24, 27, 31, 35, 39, §**8954;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.75]

2007 Acts, ch 152, §6

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CS2007, §515.73
2008 Acts, ch 1074, §5

515.74 Foreign mutual companies — surplus.

1. Any mutual insurance company organized outside of this state and authorized to transact the business of insurance on the mutual plan in any other state of the United States or in the District of Columbia, may be admitted to this state and authorized to transact herein any of the kinds of insurance authorized by its charter or articles of incorporation, when so permitted by the provisions of this chapter, with the powers and privileges and subject to the conditions and limitations specified in said chapter; provided, however, such company has complied with all the statutory provisions which require stock companies to file papers and to furnish information and to submit to examination, and is also solvent according to the requirements of this chapter and is possessed of a surplus safely invested as follows:

a. In case of a mutual company issuing policies for a cash premium without an additional contingent liability equal to or greater than the cash premium, the surplus shall be at least two million dollars.

b. In case of any other such mutual company issuing policies for a cash premium or payment with an additional contingent liability equal to or greater than the cash premium or payment, the surplus shall be such an amount as the commissioner of insurance of Iowa may require, but in no case less than three hundred thousand dollars, provided that the provisions of this section fixing a minimum surplus of three hundred thousand dollars shall not apply to companies now admitted to do business in Iowa; provided, further, that no such mutual company shall be authorized to transact compensation insurance without a surplus of at least three hundred thousand dollars unless all liability for each adjusted claim in this state, the payment of any part of which is deferred for more than one year, shall be provided for by a special deposit, in a trust company or a bank having fiduciary powers, located in this state, which shall be a trust fund applicable solely and exclusively to the payment of the compensation benefits for which such deposit is made, or shall be reinsured in an authorized stock company, or in an authorized mutual company with a surplus of at least three hundred thousand dollars.

2. Notwithstanding subsection 1, a mutual insurance company authorized to transact business under this section shall comply with the minimum surplus requirements of this section or chapter 521E, whichever is greater.

[C73, §1144; C97, §1723; C24, 27, 31, 35, 39, §**8955;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.76]

96 Acts, ch 1046, §6; 2007 Acts, ch 152, §7
CS2007, §515.74

515.75 Certificate to foreign company.

When a foreign company has fully complied with the requirements of law and become entitled to do business, the commissioner of insurance shall issue to the company a certificate of that fact, which certificate shall be renewed annually on the first day of June, if the commissioner is satisfied that the capital, securities, and investments of the company remain unimpaired, and the company has complied with the provisions of law applicable to the company. However, the commissioner shall not grant or continue authority to transact insurance in this state to an insurer the management of which is found by the commissioner, after a hearing is provided, in which the commissioner shall establish and consider any prior criminal records or any other matters, to be untrustworthy or so lacking in insurance experience as to make the proposed operation hazardous to the insurance-buying public; or which, after a hearing is provided, the commissioner has good reason to believe is affiliated directly or indirectly through ownership, control, reinsurance transactions, or other insurance or business relations, with a person whose business operations are or have been marked, to the detriment of policyholders or stockholders or investors or creditors or

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of the public, by manipulation or dissipation of assets, or manipulation of accounts, or of reinsurance, or by similar injurious actions.

[C73, §1146; C97, §1724; C24, 27, 31, 35, 39, §**8956;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.77]

91 Acts, ch 213, §27; 2007 Acts, ch 152, §8

CS2007, §515.75

515.76 Commissioner as process agent.

Any company desiring to transact the business of insurance under this chapter shall file with the commissioner of insurance a power of attorney and a signed written instrument authorizing the commissioner to accept service of notice or process on behalf of such company that shall be as valid as if served upon the company according to the laws of this or any other state, and waiving all claim or right of error due to the filing of the power of attorney and the agreement regarding service of notice or process.

[C73, §1144; C97, §1722; C24, 27, 31, 35, 39, §**8952;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.73]

2003 Acts, ch 91, §36; 2007 Acts, ch 152, §4

CS2007, §515.76

515.77 Service of process.

Any notice or service of process made on the commissioner as agent for service of process shall be made as provided in section 505.30.

[C97, §1722; C24, 27, 31, 35, 39, §**8953;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.74]

92 Acts, ch 1162, §38; 99 Acts, ch 165, §14; 2007 Acts, ch 152, §5

CS2007, §515.77

2018 Acts, ch 1018, §8

515.78 Foreign companies may become domestic.

1. An insurer which is organized under the laws of any state and has created or will create jobs in this state or which is an affiliate or subsidiary of a domestic insurer, and is admitted to do business in this state for the purpose of writing insurance authorized by this chapter may become a domestic insurer by complying with section 490.905 or 491.33 and with all of the requirements of law relative to the organization and licensing of a domestic insurer of the same type and by designating its principal place of business in this state may become a domestic corporation and be entitled to like certificates of its corporate existence and license to transact business in this state, and be subject in all respects to the authority and jurisdiction thereof.

2. The certificates of authority, agent's appointments and licenses, rates, and other items which are in existence at the time any insurer 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 insurer is deemed the same entity as it was prior to the transfer of its domicile. All outstanding policies of any transferring insurer shall remain in full force and effect and need not be endorsed as to any new name of the company or its new location unless so ordered by the commissioner of insurance.

[81 Acts, ch 161, §2]

C83, §515.99

89 Acts, ch 288, §193; 2007 Acts, ch 152, §25

CS2007, §515.78

2011 Acts, ch 66, §2; 2021 Acts, ch 165, §227, 230

515.79 Notes taken for insurance. Repealed by 2007 Acts, ch 152, §84.

515.80 through 515.90 Reserved.

515.91 through 515.93 Repealed by 2007 Acts, ch 152, §84.

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515.94 through 515.99 Reserved.

SUBCHAPTER V

POLICY PROVISIONS AND RATES

515.100 Nature of organization entered on policy.

Every domestic and foreign insurance company organized and doing business under this chapter shall indicate upon the first page of every policy and renewal receipt that the policy is issued by a mutual company in case of a mutual company, and by a stock company in case of a stock company.

[C73, §1140; C97, §1689; S13, §1689; C24, 27, 31, 35, 39, §**8901;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.6]

2007 Acts, ch 152, §1

CS2007, §515.100

515.101 Conditions and stipulations invalidating policy — avoidance — pleadings — applicability.

1. Any condition or stipulation in an application, policy, or contract of insurance making the policy void before the loss occurs shall not prevent recovery on the policy by the insured, if the plaintiff shows that the failure to observe such provision or the violation thereof did not contribute to the loss.

2. Any such condition or stipulation in an application, policy, or contract of insurance that refers to any of the following shall not be changed or affected by the provisions of subsection 1:

a. Any other insurance, valid or invalid.

b. Vacancy of the insured premises.

c. The title or ownership of the property insured.

d. Liens or encumbrances on the property insured created by the voluntary act of the insured and within the insured's control.

e. Suspension or forfeiture of the policy during default or failure to pay any written obligation given to the insurance company for the premium.

f. The assignment or transfer of such policy of insurance before the loss occurs without the consent of the insurance company.

g. The removal of the property insured.

h. A change in the occupancy or use of the property insured, if such change or use makes the risk more hazardous.

i. Fraud, concealment, or misrepresentation of an insured.

3. Subsections 1 and 2 shall not be construed to change limitations or restrictions related to the pleading or proving of any defense by any insurance company to which the company is subject by law.

4. The provisions of subsections 1, 2, and 3 apply to all contracts of insurance on real and personal property.

[C97, §1743; S13, §1743; C24, 27, 31, 35, 39, §**8980;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.101]

2007 Acts, ch 152, §64; 2009 Acts, ch 145, §23

515.102 Forms of policies and endorsements — approval.

1. The form of all policies, and of applications, and of agreements or endorsements modifying the provisions of policies, and of all permits and riders used generally throughout the state, that are issued or proposed to be issued by any insurance company doing business in this state under the provisions of this chapter, shall first be examined and approved by the commissioner of insurance.

2. The commissioner, upon a determination that the examination required under

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subsection 1 is unnecessary to achieve the purpose of this section, may exempt either of the following:

a. Any specified person by order, or any class of persons by rule.

b. Any specified risk by order, or any line or kind of insurance, or subdivision of insurance, or any class of risk or combination of classes of risks by rule.

3. Forms of policies issued or proposed to be issued shall provide for the cancellation of the policy at the request of the insured upon equitable terms, and the return to the insured of any premium paid in excess of the customary short rates for the insurance up to the time of cancellation, or the release of the insured from any liability beyond such short rates, or for losses after the cancellation of the policy if the insurance is issued or proposed to be issued by a mutual company.

2007 Acts, ch 152, §65
Referred to in §515.109

515.103 Use of credit information — personal insurance.

1. *Definitions.* As used in this section unless the context otherwise requires:

a. "Adverse action" means a denial of issuance, cancellation, or refusal to renew, an increase in any charge for, or a reduction or other unfavorable change in the terms of coverage or amount of any personal insurance existing or applied for, or in connection with the underwriting of personal insurance.

b. "Affiliate" means any company that controls, is controlled by, or is under common control with another company.

c. "Applicant" means an individual who has applied to be covered by a personal insurance policy with an insurer.

d. "Consumer" means an insured whose credit information is used or whose insurance score is calculated in the underwriting or rating of a personal insurance policy or an applicant for such a personal insurance policy.

e. "Consumer reporting agency" means any person that, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information concerning consumers for the purpose of furnishing consumer credit reports to third parties.

f. "Credit information" means any information related to credit that is contained in or derived from a credit report, or provided in an application for personal insurance. Information that is not related to credit shall not be considered "credit information" regardless of whether the information is contained in or derived from a credit report or an application for credit or is used to calculate an insurance score.

g. "Credit report" means any written, oral, or other communication of information by a consumer reporting agency that relates to a consumer's creditworthiness, credit standing, or credit capacity and that is used or expected to be used or is collected, in whole or in part, for the purpose of serving as a factor in determining personal insurance premiums, eligibility for personal insurance coverage, or tier placement.

h. "Insurance score" means a number or rating that is derived from an algorithm, computer application, model, or other process that is based in whole or in part on credit information for the purposes of predicting the future insurance loss exposure of a consumer.

i. "Insured" means an individual who is covered by a personal insurance policy.

j. "Personal insurance" means personal insurance and not commercial insurance and is limited to private passenger automobile, homeowners, farm owners, personal farm liability, motorcycle, mobile home owners, noncommercial dwelling fire, boat, personal watercraft, snowmobile, and recreational vehicle insurance policies, that are individually underwritten for personal, family, farm, or household use. No other type of insurance is included as personal insurance for the purposes of this section.

2. *Use of credit information.* An insurer authorized to do business in Iowa that uses credit information to underwrite or rate risks for a policy of personal insurance shall not do any of the following:

a. Use an insurance score that is calculated using income, gender, address, zip code, ethnic group, religion, marital status, race, or nationality of a consumer as a factor.

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b. Deny issuance, cancel, or refuse to renew a policy of personal insurance solely on the basis of credit information, without consideration of any other applicable underwriting factors independent of credit information that are not otherwise prohibited under paragraph "*a*".

c. Base a consumer's renewal rates for personal insurance solely on the basis of credit information, without consideration of any other applicable underwriting factors independent of credit information that are not otherwise prohibited under paragraph "*a*".

d. Take adverse action against a consumer solely because the consumer does not have a credit card account, without consideration of any other applicable underwriting factors independent of credit information that are not otherwise prohibited under paragraph "*a*".

e. Consider an absence of credit information or an inability to calculate an insurance score in underwriting or rating personal insurance unless the insurer does one of the following:

(1) Treats the consumer as if the consumer has neutral credit information, as defined by the insurer.

(2) Excludes the use of credit information as an underwriting factor and only uses other underwriting criteria.

f. Take adverse action against a consumer based on credit information, unless the insurer obtains and uses a credit report issued or an insurance score calculated within ninety days before the date a personal insurance policy is first written or a renewal is issued.

g. Use credit information unless not later than every thirty-six months following the last time that the insurer obtained current credit information for the insured, the insurer recalculates the insurance score or obtains an updated credit report for the insured. Regardless of the requirements of this paragraph:

(1) At annual renewal, upon the request of the consumer or the consumer's agent, the insurer shall re-underwrite and re-rate the personal insurance policy based upon a current credit report or insurance score. An insurer is not required to recalculate an insurance score or obtain a current credit report more than once in a twelve-month period.

(2) The insurer shall have the discretion to obtain current credit information for a consumer more frequently than every thirty-six months, if consistent with the insurer's underwriting guidelines.

(3) Notwithstanding subparagraph (1), an insurer is not required to obtain current credit information for a consumer if any of the following applies:

(a) The insurer is treating the consumer as otherwise approved by the commissioner of insurance.

(b) The consumer is in the most favorably priced tier of the insurer, within a group of affiliated insurers. However, the insurer shall have the discretion to obtain current credit information, if consistent with the insurer's underwriting guidelines.

(c) Credit information was not used for underwriting or rating the insured when the personal insurance policy was initially written. However, the insurer shall have the discretion to use current credit information for underwriting or rating the insured upon renewal of the policy, if consistent with the insurer's underwriting guidelines.

(d) The insurer reevaluates the insured beginning no later than thirty-six months after the personal insurance policy was initially written and thereafter, based on other underwriting or rating factors, excluding credit information.

h. Use any of the following as a negative factor in any insurance scoring methodology or in reviewing credit information for the purpose of underwriting or rating a personal insurance policy:

(1) Credit inquiries not initiated by the consumer or inquiries requested by the consumer for the consumer's own credit information.

(2) Inquiries relating to insurance coverage, if so identified on a consumer's credit report.

(3) Collection accounts with a medical industry code, if so identified on a consumer's credit report.

(4) Multiple lender inquiries, if coded by a consumer reporting agency on the consumer's credit report as being from the home mortgage industry and made within thirty days of one another, unless only one inquiry is considered.

(5) Multiple lender inquiries, if coded by a consumer reporting agency on the consumer's

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credit report as being from the automobile lending industry and made within thirty days of one another, unless only one inquiry is considered.

3. *Dispute resolution and error correction.* If it is determined through the dispute resolution process set forth under the federal Fair Credit Reporting Act, 15 U.S.C. §1681i(a)(5), that the credit information of a current insured is incorrect or incomplete and the insurer receives notice of such determination from either the consumer reporting agency or from the insured, the insurer shall re-underwrite and re-rate the insured within thirty days of receiving the notice. After re-underwriting or re-rating the insured, the insurer shall make any adjustments necessary, consistent with the insurer's underwriting and rating guidelines. If an insurer determines that an insured has overpaid the premium on a personal insurance policy, the insurer shall refund the amount of the overpayment to the insured, calculated for either the last twelve months of coverage or the actual policy period, whichever is shorter.

4. *Initial notification.*

a. If an insurer writing personal insurance uses credit information in underwriting or rating a consumer, the insurer or the insurer's agent shall disclose, either on the insurance application or at the time that the insurance application is taken, that the insurer may obtain credit information of the consumer in connection with the application. Such disclosure to a consumer shall either be written or provided in the same medium as the application for insurance. An insurer is not required to provide the disclosure statement required under this subsection to a consumer in connection with the renewal of a personal insurance policy if the consumer has previously been provided with such a disclosure statement.

b. An insurer that uses the following statement of disclosure shall be deemed to be in compliance with this subsection:

> In connection with this application for insurance, we may review your credit report or obtain or use a credit-based insurance score based on the information contained in that credit report. We may use a third party in connection with the development of your insurance score.

5. *Notification of adverse action.* If an insurer takes adverse action against a consumer based on credit information, the insurer shall do all of the following:

a. Provide notification to the consumer that adverse action has been taken, in accordance with the requirements of the federal Fair Credit Reporting Act, 15 U.S.C. §1681m(a).

b. Provide notification to the consumer explaining the reasons for the adverse action taken. Such notice shall give reasons for the adverse action taken in language that is sufficiently clear and specific so that a person can identify the basis for the insurer's decision to take adverse action. Such notification shall include a description of up to four factors that were the primary influences for the adverse action taken. The use of generalized terms such as "poor credit history", "poor credit rating", or "poor insurance score" does not meet the explanation requirements of this paragraph. Standardized credit explanations that are provided by consumer reporting agencies or other third-party vendors are deemed to comply with this paragraph.

6. *Extraordinary life circumstances.*

a. An insurer authorized to do business in Iowa that uses credit information to underwrite or rate risks for a policy of personal insurance shall, on written request from a consumer, provide reasonable exceptions to the insurer's rates, rating classifications, company or tier placement, or underwriting rules or guidelines for a consumer who has experienced and whose credit information has been directly influenced by any of the following events:

(1) Catastrophic event, as declared by the federal or a state government.
(2) Serious illness or injury, or serious illness or injury to an immediate family member.
(3) Death of a spouse, child, or parent.
(4) Divorce or involuntary interruption of legally owed alimony or support payments.
(5) Identity theft.
(6) Temporary loss of employment for a period of three months or more, if such loss results from involuntary termination of employment.
(7) Military deployment overseas.

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(8) Other events, as determined by the insurer.

b. If a consumer submits a request for an exception as set forth in paragraph "*a*", an insurer may, in its sole discretion, but is not required to, do any of the following:

(1) Require the consumer to provide reasonable written and independently verifiable documentation of the event.

(2) Require the consumer to demonstrate that the event had direct and meaningful impact on the consumer's credit information.

(3) Require such request to be made no more than sixty days from the date of the application for insurance or the policy renewal.

(4) Grant an exception despite the fact that the consumer did not provide the initial request for an exception in writing.

(5) Grant an exception where the consumer asks for consideration of repeated events or the insurer has considered this event previously.

c. An insurer is not out of compliance with any law or rules relating to underwriting, rating, or rate-filing as a result of granting an exception under this subsection. Nothing in this subsection shall be construed to provide a consumer or other insured with a cause of action that does not exist in the absence of this subsection.

d. An insurer shall provide notice to consumers that reasonable exceptions are available pursuant to this subsection and information about how the consumer may inquire further about such exceptions.

e. Within thirty days of the insurer's receipt of sufficient documentation of an event described in paragraph "*a*" from a consumer, the insurer shall inform the consumer of the outcome of the consumer's request for a reasonable exception. Such communication shall be in writing or provided to a consumer using the same medium as the request.

7. *Information filed with the commissioner of insurance.*

a. An insurer that uses insurance scores to underwrite and rate risks for personal insurance shall file the insurer's scoring models or other scoring processes with the commissioner of insurance. A third party may file scoring models on behalf of an insurer. Information filed with the commissioner that includes insurance scoring models may include information including loss experience that justifies the insurer's use of credit information.

b. Information filed with the commissioner of insurance pursuant to this subsection shall be considered a confidential record and be recognized and protected as a trade secret pursuant to section 22.7, subsection 3.

8. *Indemnification.* An insurer shall indemnify, defend, and hold harmless agents or producers of the insurer from and against all liability, fees, and costs, arising out of or relating to the actions, errors, or omissions of an agent or producer who obtains or uses credit information or insurance scores on behalf of an insurer, provided that the agent or producer follows the instructions or procedures established by the insurer and complies with any applicable law or regulation. This subsection shall not be construed to provide a consumer or other insured with a cause of action that does not exist in the absence of this subsection.

9. *Consumer reporting agency — sale of credit information.*

a. A consumer reporting agency shall not provide or sell data or lists that include any information that was submitted, in whole or in part, in conjunction with an insurance inquiry about a consumer's credit information or a request for a credit report or insurance score. Such information includes, but is not limited to, the expiration dates of an insurance policy or any other information that can be used to identify the expiration date of a consumer's insurance policy or the terms and conditions of the consumer's insurance coverage.

b. This subsection does not apply to the provision of information, including data or lists, by a consumer reporting agency to the agent or producer from whom the information was received, to the insurer on whose behalf the agent or producer acted, or to the insurer's affiliates or holding companies.

c. This subsection shall not be construed to restrict an insurer from obtaining a claims history report or a motor vehicle report of a consumer.

10. *Severability.* If any subsection, paragraph, sentence, clause, phrase, or any other part of this section is declared invalid due to an interpretation of or a future change in the

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federal Fair Credit Reporting Act, the remaining subsections, paragraphs, sentences, clauses, phrases, or parts thereof shall be in no manner affected thereby but shall remain in full force and effect.

2004 Acts, ch 1039, §1; 2004 Acts, ch 1175, §341
C2005, §515.109A
2005 Acts, ch 3, §83, 84; 2007 Acts, ch 152, §28
CS2007, §515.103
2010 Acts, ch 1056, §1, 2; 2015 Acts, ch 30, §165

515.104 Coinsurance or contribution clause.

Contracts of insurance against loss or damage by fire or other perils may contain a coinsurance or contribution clause or clause having similar effect, provided the form setting up the terms of the same has been approved by the commissioner of insurance.

[C97, §1746; S13, §1746; C24, 27, 31, 35, 39, §**8990 – 8995, 8997;** C46, 50, 54, §515.111 – 515.116, 515.118; C58, 62, 66, 71, 73, 75, 77, 79, 81, §515.111]

2007 Acts, ch 152, §29
CS2007, §515.104

515.105 Agency relationship.

Any officer, insurance producer, or representative of an insurance company doing business in this state who may solicit insurance, procure applications, issue policies, adjust losses, or transact the business generally of such companies, shall be held to be the agent of such insurance company with authority to transact all business within the scope of the agency relationship, anything in the application, policy, contract, bylaws, or articles of incorporation of such company to the contrary notwithstanding.

[C97, §1750; C24, 27, 31, 35, 39, §**9004;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.125]

2001 Acts, ch 16, §9, 37; 2007 Acts, ch 152, §33
CS2007, §515.105
Referred to in §511.4
Applicable to life insurance companies and associations, §511.4

515.106 Limitation on termination of independent producers.

An insurance company organized under this chapter or 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 company premiums that are due and not in dispute by the producer, or the withdrawal of operations in the state by the insurance company. This section does not apply to insurance producers or a business entity whose contract with an insurer authorized to do business in this state contains a written provision expressly reserving to the insurer all right, title, and interest to the ownership or the use of insurance business written by such an insurance producer or business entity.

2002 Acts, ch 1111, §19
C2003, §515.125A
2007 Acts, ch 152, §34
CS2007, §515.106

515.107 Applicability to organizations and individuals. Repealed by 2008 Acts, ch 1074, §19. See §515.1.

515.108 Insurance in unauthorized companies.

No action shall be maintained in any court in the state upon any policy or contract of fire insurance issued upon any property situated in the state by any company, association, partnership, individual, or individuals that have not been authorized by the commissioner of insurance to transact such insurance business, unless it shall be shown that the insurer or insured, within six months after the issuing of such policy or contract of insurance, has paid

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into the state treasury two percent of the gross premium paid or agreed to be paid for such policy or contract of insurance.

[C97, §1758; C24, 27, 31, 35, 39, §**9016;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.137]

2007 Acts, ch 152, §43

CS2007, §515.108

515.109 Fire insurance contract — standard policy provisions — permissible variations.

1. The printed form of a policy of fire insurance as set forth in subsection 6 shall be known and designated as the "standard policy" to be used in the state of Iowa.

2. *Standard policy, additions, riders, and clauses.*

a. It shall be unlawful for any insurance company to issue any policy of fire insurance upon any property in this state except upon automobiles, airplanes, seaplanes, dirigibles, or other aircraft, farm crops until stored, marine and inland marine risks other or different from the standard form of fire insurance policy herein set forth.

b. There shall be printed at the head of said policy the name of the insurer or insurers issuing the policy; the location of the home office thereof; a statement whether said insurer or insurers are stock or mutual corporations or are reciprocal insurers; and subject to the approval of the commissioner of insurance, there may be added thereto such device or devices as the insurer or insurers issuing said policy shall desire. Provided, however, that any company organized under special charter provisions may so indicate upon its policy, and may add a statement of the plan under which it operates in this state.

c. The standard policy provided for in this section need not be used for effecting reinsurance between insurers.

d. If the policy is issued by a mutual, cooperative, or reciprocal insurer having special regulations with respect to the payment by the policyholder of assessments, such regulations shall be printed upon the policy, and any such insurer may print upon the policy such regulations as may be required by its home state or appropriate to its form of organization.

3. Binders or other contracts for temporary insurance may be made and shall be deemed to include all the terms of such standard policy and all such applicable endorsements as may be designated in such contract of temporary insurance; except that the cancellation clause of such standard policy, and the clause thereof specifying the hour of the day at which the insurance shall commence, may be superseded by the express terms of such contract of temporary insurance.

4. Two or more insurers authorized to do in this state the business of fire insurance, may, with the approval of the commissioner of insurance, issue a combination standard form of policy which shall contain the following:

a. A provision substantially to the effect that the insurers executing such policy shall be severally liable for the full amount of any loss or damage, according to the terms of the policy, or for specified percentages or amounts thereof, aggregating the full amount of such insurance under such policy.

b. A provision substantially to the effect that service of process, or of any notice or proof of loss required by such policy, upon any of the insurers executing such policy, shall be deemed to be service upon all such insurers.

5. Appropriate forms of other contracts or endorsements, insuring against one or more of the perils incident to the ownership, use or occupancy of said property, other than fire and lightning, which the insurer is empowered to assume, may be used in connection with the standard policy. Such forms of other contracts or endorsements attached or printed thereon may contain provisions and stipulations inconsistent with the standard policy if applicable only to such other perils. The pages of the standard policy may be renumbered and rearranged to provide space for the listing of rates and premiums for coverages insured thereunder or under endorsements attached or printed thereon, and such other data as may be included for duplication on daily reports for office records. An insurer may issue a policy, either on an unspecified basis as to coverage or for an indivisible premium, which contains coverage against the peril of fire and substantial coverage against other perils, if such policy includes provisions with respect to the peril of fire which are the substantial equivalent of

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the minimum provisions of such standard policy, provided further the policy is complete as to all its terms of coverage without reference to any other document and is approved in accordance with section 515.102, subsections 1 and 2.

6. *a.* The form of the standard policy (with permission to substitute for the word "company" a more accurate descriptive term for the type of insurer) shall be as follows:

FIRST PAGE OF STANDARD FIRE POLICY

No. .....

(Space for insertion of name of company or companies issuing the policy and other matter permitted to be stated at the head of the policy.)

(Space for listing amounts of insurance, rates and premiums for the basic coverages insured under the standard form of policy and for additional coverages or perils insured under endorsements attached.)

IN CONSIDERATION OF THE PROVISIONS AND STIPULATIONS HEREIN OR ADDED HERETO AND OF ..... DOLLARS PREMIUM this company, for the term of ..... from the ..... day of ..... (month), ... (year), to the ..... day of ..... (month), ... (year), at noon, Standard Time, at location of property involved, to an amount not exceeding ..... Dollars, does insure ..... and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair, and without compensation for loss resulting from interruption of business or manufacture, nor in any event for more than the interest of the insured, against all DIRECT LOSS BY FIRE, LIGHTNING AND BY REMOVAL FROM PREMISES ENDANGERED BY THE PERILS INSURED AGAINST IN THIS POLICY, EXCEPT AS HEREINAFTER PROVIDED, to the property described hereinafter while located or contained as described in this policy, or pro rata for five days at each proper place to which any of the property shall necessarily be removed for preservation from the perils insured against in this policy, but not elsewhere.

Assignment of this policy shall not be valid except with the written consent of this company. This policy is made and accepted subject to the foregoing provisions and stipulations and those hereinafter stated, which are hereby made a part of this policy, together with such other provisions, stipulations and agreements as may be added hereto, as provided in this policy.

IN WITNESS WHEREOF, this company has executed and attested these presents.

....

Secretary President

SECOND PAGE OF STANDARD FIRE POLICY

Concealment — fraud. This entire policy shall be void if, whether before or after a loss, an insured has willfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of an insured therein, or in case of any fraud or false swearing by an insured relating thereto.

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Uninsurable and excepted property. This policy shall not cover accounts, bills, currency, deeds, evidences of debt, money or securities; nor, unless specifically named hereon in writing, bullion or manuscripts.

Perils not included. This company shall not be liable for loss by fire or other perils insured against in this policy caused, directly or indirectly, by: (a) Enemy attack by armed forces, including action taken by military, naval or air forces in resisting an actual or an immediately impending enemy attack; (b) invasion; (c) insurrection; (d) rebellion; (e) revolution; (f) civil war; (g) usurped power; (h) order of any civil authority except acts of destruction at the time of and for the purpose of preventing the spread of fire, provided that such fire did not originate from any of the perils excluded by this policy; (i) neglect of an insured to use all reasonable means to save and preserve the property at and after a loss, or when the property is endangered by fire in neighboring premises; (j) nor shall this company be liable for loss by theft.

Other insurance. Other insurance may be prohibited or the amount of insurance may be limited by endorsement attached hereto.

Conditions suspending or restricting insurance. Unless otherwise provided in writing added hereto this company shall not be liable for loss occurring under any of the following circumstances:

[a] While the hazard is created or increased by any means within the control or knowledge of an insured.

[b] While a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of sixty consecutive days.

[c] As a result of explosion or riot, unless fire ensue, and in that event for loss by fire only.

Other perils or subjects. Any other peril to be insured against or subject of insurance to be covered in this policy shall be by endorsement in writing hereon or added hereto.

Added provisions. The extent of the application of insurance under this policy and of the contribution to be made by this company in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

Waiver provisions. No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of this company relating to appraisal or to any examination provided for herein.

Cancellation of policy. This policy shall be canceled at any time at the request of the insured, in which case this company shall, upon demand and surrender of this policy, refund the excess of paid premium above the customary short rates for the expired time. This policy may be canceled at any time by this company by giving to the insured a five days' written notice of cancellation with or without tender of the excess of paid premium above the pro rata premium for the expired time, which excess, if not tendered, shall be refunded on demand. Notice of cancellation shall state that said excess premium (if not tendered) will be refunded on demand.

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Mortgagee interests and obligations. If loss hereunder is made payable, in whole or in part, to a designated mortgagee not named herein as the insured, such interest in this policy may be canceled by giving to such mortgagee a ten days' written notice of cancellation.

If the insured fails to render proof of loss such mortgagee, upon notice, shall render proof of loss in the form herein specified within sixty days thereafter and shall be subject to the provisions hereof relating to appraisal and time of payment and of bringing suit. If this company shall claim that no liability existed as to the mortgagor or owner, it shall, to the extent of payment of loss to the mortgagee, be subrogated to all the mortgagee's rights of recovery, but without impairing mortgagee's right to sue; or it may pay off the mortgage debt and require an assignment thereof and of the mortgage. Other provisions relating to the interests and obligations of such mortgagee may be added hereto by agreement in writing.

Pro rata liability. This company shall not be liable for a greater proportion of any loss than the amount hereby insured shall bear to the whole insurance covering the property against the peril involved, whether collectible or not.

Requirements in case loss occurs. The insured shall give immediate written notice to this company of any loss, protect the property from further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, furnish a complete inventory of the destroyed, damaged and undamaged property, showing in detail quantities, costs, actual cash value and amounts of loss claimed; AND WITHIN SIXTY DAYS AFTER THE LOSS, UNLESS SUCH TIME IS EXTENDED IN WRITING BY THIS COMPANY, THE INSURED SHALL RENDER TO THIS COMPANY A PROOF OF LOSS, signed and sworn to by the insured, stating the knowledge and belief of the insured as to the following: The time and origin of the loss, the interest of the insured and of all others in the property, the actual cash value of each item thereof and the amount of loss thereto, all encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this policy, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss and whether or not it then stood on leased ground, and shall furnish a copy of all the descriptions and schedules in all policies and, if required, verified plans and specifications of any building, fixtures or machinery destroyed or damaged. The insured, as often as may be reasonably required, shall exhibit to any person designated by this company all that remains of any property herein described, and submit to examinations under oath by any person named by this company, and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by this company or its representative, and shall permit extracts and copies thereof to be made.

Appraisal. In case the insured and this company shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser

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selected within twenty days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for fifteen days to agree upon such umpire, then, on request of the insured or this company, such umpire shall be selected by a judge of a court of record in the state in which the property covered is located. The appraisers shall then appraise the loss, stating separately actual cash value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this company shall determine the amount of actual cash value and loss. Each appraiser shall be paid by the party selecting the appraiser and the expenses of appraisal and umpire shall be paid by the parties equally.

Company's options. It shall be optional with this company to take all, or any part, of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within thirty days after the receipt of the proof of loss herein required.

Abandonment. There can be no abandonment to this company of any property.

When loss payable. The amount of loss for which this company may be liable shall be payable sixty days after proof of loss, as herein provided, is received by this company and ascertainment of the loss is made either by agreement between the insured and this company expressed in writing or by the filing with this company of an award as herein provided.

Suit. No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within twelve months next after inception of the loss.

Subrogation. This company may require from the insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this company.

THIRD PAGE OF STANDARD FIRE POLICY
ATTACH FORM BELOW THIS LINE
FOURTH PAGE OF STANDARD FIRE POLICY
STANDARD FIRE INSURANCE POLICY

Expires . . . . . .
Property . . . . . .
Amount $ . .. . Total Premium $ . .. .
Insured . . . . . .

SEE INSIDE OF POLICY FOR PERILS COVERED
NO.

(Space of approximately two (2) inches for use of Agent or Insurer.)
(Space of approximately two (2) inches for use of Agent or Insurer.)

b. It is important that the written portions of all policies covering the same property read exactly alike. If they do not, they should be made uniform at once.

[C97, §1743, 1744, 1746; S13, §1742-a, 1743, 1744, 1746, 1758-a, 1758-b; C24, §8979, 8982, 8983, 8986, 8996, 9017, 9018; C27, 31, 35, §8979, 8982, 8983, 8986, 8996, 9017, 9018, 9021-a1; C39, §**8979, 8982, 8983, 8986, 8996, 9017, 9018, 9021.1;** C46, §515.99, 515.103,

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515.104, 515.107, 515.117, 515.138, 515.139, 515.143; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.138]

2000 Acts, ch 1058, §56; 2005 Acts, ch 3, §85; 2005 Acts, ch 70, §19 – 21; 2007 Acts, ch 152, §44, 73

CS2007, §515.109

2012 Acts, ch 1023, §157; 2015 Acts, ch 29, §75, 76; 2019 Acts, ch 59, §188; 2021 Acts, ch 80, §328

Referred to in §515.110, 515.111, 515.112, 515.113

515.110 More favorable conditions.

Nothing contained in section 515.109 shall be so construed as to prohibit any insurance company not required by the statutes of Iowa to issue a standard form of policy, from embodying, with the approval of the commissioner of insurance, in any insurance contract issued by it, provisions or conditions which are more favorable to the insured than those authorized in said statutes.

[C24, 27, 31, 35, 39, §**8987;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.108]

2007 Acts, ch 152, §27, 66

CS2007, §515.110

515.111 Nuclear loss or damage excluded.

Insurers issuing the standard policy pursuant to section 515.109 are authorized to affix to or include within a policy a written statement that the policy does not cover loss or damage caused by nuclear reaction or nuclear radiation or radioactive contamination, all whether directly or indirectly resulting from an insured peril under the policy. However, nothing contained in this section shall be construed to prohibit the attachment to any such policy of an endorsement or endorsements specifically assuming coverage for loss or damage caused by nuclear reaction or nuclear radiation or radioactive contamination.

[C62, 66, 71, 73, 75, 77, 79, 81, §515.139]

2007 Acts, ch 152, §45, 74

CS2007, §515.111

2020 Acts, ch 1063, §290; 2021 Acts, ch 80, §329

515.112 Violations — status of policy.

It shall be unlawful for any insurance company, its officers or agents, or either of them, to violate any of the provisions of section 515.109 by issuing, delivering, or offering to issue or deliver any policy of fire insurance on property in this state other than the standard form as provided in statute, but any policy so issued or delivered shall, nevertheless, be binding upon the company issuing or delivering the policy. The company shall, until the payment of a penalty assessed by order after hearing, be disqualified from doing any insurance business in this state.

[S13, §1758-c; C24, 27, 31, 35, 39, §**9019;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.140]

2004 Acts, ch 1110, §57; 2007 Acts, ch 152, §46, 75

CS2007, §515.112

Referred to in §515.113

515.113 Existing statutes — waiver.

Nothing contained in sections 515.109 and 515.112, nor any provisions or conditions in the standard form of policy provided for in section 515.109, shall be deemed to repeal or in any way modify any existing statutes or to prevent any insurance company issuing such policy, from waiving any of the provisions or conditions contained therein, if the waiver of such provisions or conditions shall be in the interest of the insured.

[S13, §1758-d; C24, 27, 31, 35, 39, §**9020;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.141]

2007 Acts, ch 152, §47, 76

CS2007, §515.113

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515.114 Policy — formal execution.

1. Every fire insurance company and association authorized to transact business in this state shall conduct its business in the name under which it is incorporated, and the policies issued by it shall be headed or entitled only by such name. There shall not appear on the face of the policy or on its filing back anything that would indicate that it is the obligation of any other than the company responsible for the payment of losses under the policy, though it is permissible to stamp or print on the bottom of the filing back the name or names of the department or general agency issuing the same, and the group of companies with which the company is financially affiliated.

2. Nothing contained in subsection 1 shall be construed to prevent any representative of an insurance company from advertising the representative's own individual business without specific mention of the name of the company or companies which the person may represent.

2007 Acts, ch 152, §67

515.115 Certificates of insurance — penalty.

1. As used in this section, unless the context otherwise requires:

a. "Certificate of insurance" means a document or instrument, regardless of how the document or instrument is titled or described, that is prepared or issued by an insurer or insurance producer as evidence of property and casualty insurance coverage. *"Certificate of insurance"* does not include a policy of insurance, insurance binder, policy endorsement, or automobile insurance identification or information card.

b. "Commercial real estate transaction" means a non-recourse commercial lending transaction in which the underlying property serves as the primary collateral securing the borrower's repayment of the loan and the borrower or any of the borrower's members, partners, or shareholders, or any person related to the borrower or the borrower's members, partners, or shareholders, does not bear the economic risk of loss in the event of a payment default under the terms of the commercial lending transaction.

c. "Insurance producer" means a person required to be licensed pursuant to chapter 522B to sell, solicit, or negotiate property and casualty insurance.

d. "Insurer" means a property and casualty insurance company regulated under this chapter.

e. "Person" means the same as defined in section 4.1.

2. *a.* The commissioner of insurance shall prohibit the use of a certificate of insurance form if the form is either of the following:

(1) Unfair, misleading, or deceptive, or violates public policy.

(2) Violates any law, including any rule adopted by the commissioner of insurance pursuant to chapter 17A.

b. A certificate of insurance is not a policy of insurance and does not affirmatively or negatively amend, extend, or alter the coverage afforded by the policy to which the certificate of insurance makes reference. A certificate of insurance shall not confer on any person new or additional rights beyond what the referenced policy of insurance expressly provides.

c. Notwithstanding any provision of this chapter to the contrary, or any language on a certificate of insurance that states that the form is for "information only", a binder delivered together with a certificate of insurance in connection with a commercial real estate transaction shall be valid and may be relied upon by the borrower or by the borrower's lender as evidence of insurance, including in a private civil action or an administrative proceeding, until the delivery of the insurance policy to the borrower or the cancellation of the binder pursuant to section 515.125, 515.126, or 515.127.

3. *a.* A person shall not do any of the following:

(1) Prepare, issue, request, or require the issuance of a certificate of insurance that contains any false or misleading information concerning the policy of insurance to which the certificate of insurance makes reference.

(2) Prepare, issue, request, or require the issuance of a certificate of insurance that purports to affirmatively or negatively amend, extend, or alter the coverage provided by the policy of insurance to which the certificate of insurance makes reference.

b. A certificate of insurance shall not warrant that the policy of insurance referenced in

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the certificate of insurance complies with the insurance or indemnification requirements of a contract and the inclusion of a contract number or description within a certificate of insurance shall not be interpreted as warranting compliance with such requirements.

4. A person is entitled to notice of cancellation, nonrenewal, or material change concerning a policy of insurance or to any similar notice concerning a policy of insurance only if the person has such rights to notice under the terms of the policy of insurance or any endorsement to the policy of insurance. The terms and conditions of a person's right to notice are governed by the policy of insurance or the endorsement and shall not be altered by a certificate of insurance.

5. *a.* The provisions of this section are applicable to all certificates of insurance issued in connection with property, operations, or risks located in this state, regardless of where the policyholder, insurer, insurance producer, or person requesting or requiring the issuance of a certificate of insurance is located.

b. A certificate of insurance or any other document or correspondence prepared, issued, requested, or required in violation of this section is null and void.

6. The commissioner of insurance may do all of the following:

a. Examine and investigate the activities of any person that the commissioner reasonably believes has been or is engaged in an act or practice prohibited under this section.

b. Enforce the provisions of this section, including the authority to issue orders to cease and desist, and to impose a penalty in an amount of five hundred dollars per violation to be collected in the name of the state for deposit as provided in section 505.7.

c. Adopt rules pursuant to chapter 17A to administer this section.

2017 Acts, ch 51, §1 – 3

515.116 through 515.119 Reserved.

515.120 through 515.122 Repealed by 2012 Acts, ch 1025, §21, 22. See chapter 515I.

515.123 and 515.124 Repealed by 2001 Acts, ch 16, §36, 37.

SUBCHAPTER VI

DUTIES OF INSURERS

515.125 Forfeiture of policies — notice.

1. Unless otherwise provided in section 515.127, 515.128, 515.129, 515.129A, 515.129B, or 515.129C, a policy or contract of insurance provided for in this chapter shall not be forfeited, suspended, or canceled except by notice to the insured as provided in this chapter. A notice of cancellation is not effective unless mailed or delivered by the insurer to the named insured at least thirty days before the effective date of cancellation or, where cancellation is for nonpayment of a premium, assessment, or installment provided for in the policy, or in a note or contract for the payment thereof, at least ten days prior to the date of cancellation. The notice may be made in person, or by sending by mail a letter addressed to the insured at the insured's address as given in or upon the policy, anything in the policy, application, or a separate agreement to the contrary notwithstanding.

2. An insurer shall not fail to renew a policy except by notice to the insured as provided in this chapter. 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. A notice of intention not to renew is not required if the insured is transferred from an insurer to an insurance company admitted in Iowa which is an affiliate of, as defined in section 521A.1, the transferring insurer and all of the following conditions are met:

a. The transfer does not result in an interruption in coverage.

b. The rating of the affiliate from the A.M. Best company or a substitute rating service acceptable to the commissioner is the same or better than the rating of the transferring insurer.

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c. The transfer results in the same or broader coverage.

d. Notice of the transfer is delivered to the insured or sent by first class mail to the insured's last known address not less than thirty days prior to the transfer. The notice required by this paragraph is not required in the event that the insured requests or consents to the transfer.

e. The notice of transfer provides the name and telephone number of the insured's insurance producer, agent, or agency, if any.

3. If the reason does not accompany the notice of cancellation or nonrenewal, the insurer shall, upon receipt of a timely request by the named insured, state in writing the reason for cancellation or nonrenewal.

[C97, §1727; C24, 27, 31, 35, 39, §**8959;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.80]

87 Acts, ch 132, §3; 88 Acts, ch 1112, §404; 90 Acts, ch 1234, §38; 2002 Acts, ch 1111, §17; 2007 Acts, ch 152, §9, 58

CS2007, §515.125

2008 Acts, ch 1074, §9; 2010 Acts, ch 1121, §18; 2011 Acts, ch 70, §29; 2015 Acts, ch 128, §23, 50, 51

Referred to in §509B.5, 515.115, 515.126, 515D.7, 515F.39

Continuation rights and notice under group accident and health insurance, see §509B.5

Certain notices relating to automobile insurance, see §515D.5, 515D.7

515.126 Cancellation of policy — notice to insured or mortgagee.

1. Unless otherwise provided in section 515.127, 515.128, 515.129, 515.129A, 515.129B, or 515.129C, at any time after the maturity of a premium, assessment, or installment provided for in the policy, or a note or contract for the payment thereof, or after the suspension, forfeiture, or cancellation of a policy or contract of insurance, the insured may pay to the company the customary short rates and costs of action, if one has been commenced or judgment rendered thereon, and may, if the insured so elects, have the policy and all contracts or obligations connected with the policy, whether in judgment or otherwise, canceled, and all such policy and contracts shall be void; and in case of suspension, forfeiture, or cancellation of a policy or contract of insurance, the insured is not liable for a greater amount than the short rates earned at the date of the suspension, forfeiture, or cancellation and the costs of action provided for in this section.

2. If the policy is canceled by the insurance company, the insurer may retain only the pro rata premium, and if the initial cash premium, or any part of the premium, has not been paid, the policy may be canceled by the insurance company by giving notice to the insured as provided in section 515.125 and ten days' notice to the mortgagee, or other person to whom the policy is made payable, if any, without tendering any part of the premium, anything to the contrary in the policy notwithstanding.

[C97, §1728; S13, §1728; C24, 27, 31, 35, 39, §**8960;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.81]

87 Acts, ch 132, §4; 88 Acts, ch 1112, §405; 90 Acts, ch 1234, §39; 2007 Acts, ch 152, §10, 59

CS2007, §515.126

2011 Acts, ch 70, §30

Referred to in §515.115, 515F.39

Certain notices relating to automobile insurance, see §515D.5, 515D.7

515.127 Cancellation of commercial lines policies or contracts.

1. A commercial line policy or contract of insurance, except a policy or contract for crop hail or multiperil crop insurance, which has not been previously renewed may be canceled by the insurer if it has been in effect for less than sixty days at the time notice of cancellation is mailed or delivered.

2. A commercial line policy or contract of insurance, except a policy or contract for crop hail or multiperil crop insurance, which has been renewed or which has been in effect for more than sixty days shall not be canceled unless at least one of the following conditions occurs:

a. Nonpayment of premium.

b. Misrepresentation or fraud made by or with the knowledge of the insured in obtaining

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the policy or contract, when renewing the policy or contract, or in presenting a claim under the policy or contract.

c. Actions by the insured which substantially change or increase the risk insured.

d. Determination by the commissioner that the continuation of the policy will jeopardize the insurer's solvency or will constitute a violation of the law of this or any other state.

e. The insured has acted in a manner which the insured knew or should have known was in violation or breach of a policy or contract term or condition.

3. A commercial line policy or contract of insurance, except a policy or contract for crop hail or multiperil crop insurance, may be canceled at any time if the insurer loses reinsurance coverage which provides coverage to the insurer for a significant portion of the underlying risk insured and if the commissioner determines that cancellation because of loss of reinsurance coverage is justified. In determining whether a cancellation because of loss of reinsurance coverage is justified, the commissioner shall consider all of the following factors:

a. The volatility of the premiums charged for reinsurance in the market.

b. The number of reinsurers in the market.

c. The variance in the premiums for reinsurance offered by the reinsurers in the market.

d. The attempt by the insurer to obtain alternate reinsurance.

e. Any other factors deemed necessary by the commissioner.

4. A commercial line policy or contract of insurance, except a policy or contract for crop hail or multiperil crop insurance, shall not be canceled except by notice to the insured as provided in this subsection. A notice of cancellation shall include the reason for cancellation of the policy or contract. A notice of cancellation is not effective unless mailed or delivered to the named insured and a loss payee at least ten days prior to the effective date of cancellation, or if the cancellation is because of loss of reinsurance, at least thirty days prior to the effective date of cancellation. A post office department certificate of mailing to the named insured at the address shown in the policy or contract is proof of receipt of the mailing; however, such a certificate of mailing is not required if cancellation is for nonpayment of premium.

88 Acts, ch 1112, §406
C89, §515.81A
93 Acts, ch 88, §17; 2007 Acts, ch 152, §11
CS2007, §515.127
Referred to in §515.115, 515.125, 515.126, 515.129, 515F.39
Certain notices relating to automobile insurance, see §515D.5, 515D.7

515.128 Nonrenewal of commercial lines policies or contracts.

1. An insurer shall not fail to renew a commercial line policy or contract of insurance except by notice to the named insured as provided in this section.

2. A notice of nonrenewal is not effective unless mailed or delivered by the insurer to the named insured and any loss payee at least forty-five days prior to the expiration date of the policy. If the insurer fails to meet the notice requirements of this section, the insured has the option of continuing the policy for the remainder of the notice period plus an additional thirty days at the premium rate of the existing policy or contract. A post office department certificate of mailing to the named insured at the address shown in the policy or contract is proof of receipt of the mailing.

3. This section applies to all forms of commercial property and casualty insurance written pursuant to this chapter. It does not apply if the insurer has offered to renew or if the insured fails to pay a premium due or any advance premium required by the insurer for renewal. A notice of nonrenewal is not required if the insured is transferred from an insurer to an insurance company admitted in Iowa which is an affiliate of, as defined in section 521A.1, the transferring insurer and all of the following conditions are met:

a. The transfer does not result in an interruption in coverage.

b. The rating of the affiliate from the A.M. Best company or a substitute rating service acceptable to the commissioner is the same or better than the rating of the transferring insurer.

c. The transfer results in the same or broader coverage.

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d. Notice of the transfer is delivered to the insured or sent by first class mail to the insured's last known address not less than forty-five days prior to the transfer. The notice required by this paragraph is not required in the event that the insured requests or consents to the transfer.

e. The notice of transfer provides the name and telephone number of the insured's insurance producer, agent, or agency, if any.

88 Acts, ch 1112, §407
C89, §515.81B
2002 Acts, ch 1111, §18; 2007 Acts, ch 152, §12
CS2007, §515.128
2013 Acts, ch 124, §19; 2015 Acts, ch 128, §24, 50, 51
Referred to in §515.125, 515.126, 515.129, 515D.7, 515F.39
Notice of intent not to renew automobile insurance policy, see §515D.7

515.128A Material changes in commercial lines policies or contracts — notice required.

1. If an insurer has an increase in the premium rates of twenty-five percent or more, an increase in the deductible of twenty-five percent or more, or a material reduction in the limits or coverage of the policy or contract, the insurer shall notify the named insured by a letter of explanation of the changes by mail at least forty-five days prior to the expiration date of the policy or contract. However, a premium charge that is assessed after the beginning date of the policy or contract period for which the premium is due shall not be deemed a premium increase for the purposes of this section.

2. If the insurer fails to meet the notice requirements of this section, the named insured has the option of continuing the policy or contract for the remainder of the notice period plus an additional thirty days at the premium rate of the existing policy or contract. A post office department certificate of mailing to the named insured at the address shown in the policy or contract is proof of receipt of the mailing.

2013 Acts, ch 124, §20

515.129 Cancellation or nonrenewal of commercial umbrella or excess policies or contracts.

1. As used in this section, "*umbrella or excess insurance policy*" means a commercial line policy or contract of insurance providing liability or property coverage over one or more underlying policies or over a specified amount of self-insured retention. Umbrella or excess insurance policy includes policies or contracts written over an umbrella or excess insurance policy or policies.

2. An umbrella or excess insurance policy which has not previously been renewed may be canceled by the insurer if it has been in effect for less than sixty days at the time notice of cancellation is mailed or delivered.

3. An umbrella or excess insurance policy which has been renewed or which has been in effect for sixty or more days shall not be canceled by the insurer, except as provided in section 515.127, subsections 2 and 3, unless notice has been mailed or delivered to the insured as required by this section or unless at least one of the following conditions occurs:

a. A material change in the limits, scope of coverage, or exclusions in one or more of the underlying policies.

b. Cancellation or nonrenewal of one or more of the underlying policies where the policies are not replaced without lapse.

c. A reduction in the financial rating or grade of one or more of the insurers insuring one or more of the underlying policies based on an evaluation by a recognized financial rating organization.

4. A notice of cancellation is not effective unless mailed by certified mail or delivered to the named insured and any loss payee at least ten days prior to the effective date of cancellation. A notice of cancellation shall include the reason for cancellation of the umbrella or excess insurance policy. A post office department certificate of mailing to the named insured at the address shown in the umbrella or excess policy is proof of receipt of the mailing; however, such a certificate of mailing is not required if cancellation is for nonpayment of premium.

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5. An insurer shall not fail to renew an umbrella or excess insurance policy except by notice to the insured as provided in this section; however, an insurer may condition renewal of an umbrella or excess insurance policy upon requirements relating to the underlying policy or policies. If the requirements are not satisfied as of the expiration date of the umbrella or excess insurance policy, or thirty days after mailing or delivery of the notice, whichever is later, the conditional renewal notice shall be deemed to be an effective notice of nonrenewal. This subsection does not apply if the insurer has offered to renew or if the insured fails to pay a premium due or any advance premium required by the insurer for renewal.

6. A notice of nonrenewal is not effective unless mailed by certified mail or delivered to the named insured and any loss payee at least forty-five days prior to the expiration date of the umbrella or excess insurance policy. If the insurer fails to meet the notice requirements of this subsection the insured has the option of continuing the policy for the remainder of the notice period plus an additional thirty days at the premium rate of the existing umbrella or excess policy.

7. Sections 515.127 and 515.128 are not applicable to umbrella or excess insurance policies except as provided in subsection 3.

90 Acts, ch 1234, §40
C91, §515.81C
2007 Acts, ch 152, §13, 60
CS2007, §515.129
2008 Acts, ch 1074, §10
Referred to in §515.125, 515.126

515.129A Cancellation of personal lines policies or contracts.

1. After a personal lines policy or contract of insurance has been in effect for sixty days or more, the policy or contract shall not be canceled except by notice to the insured as provided in this chapter.

2. Notice of cancellation of a personal lines policy or contract of insurance is not effective unless the cancellation is based on one or more of the following reasons:

a. Nonpayment of premium.

b. Failure to pay dues or fees where payment of dues or fees is a prerequisite to obtaining or continuing insurance coverage in force.

c. Discovery of fraud or material misrepresentation made by or with the knowledge of the named insured in obtaining, continuing, or presenting a claim under the policy.

d. Actions by the insured which substantially change or increase the risk insured.

e. The insured has acted in a manner which the insured knew or should have known was in violation or breach of a term or condition of the insurance policy or contract.

f. The occurrence of a change in the risk that substantially increases a hazard insured against after insurance coverage has been issued or renewed.

2010 Acts, ch 1121, §19; 2011 Acts, ch 70, §31
Referred to in §515.125, 515.126, 515D.5, 515J.9
Delivery of automobile insurance cancellation notices, see §515D.5

515.129B Nonrenewal of personal lines policies or contracts.

1. An insurer shall not refuse to renew a personal lines policy or contract of insurance unless at least sixty days before the end of the policy or contract period the insurer delivers, mails, or electronically transmits to the first named insured, at the last known address of the first named insured, written notice of the insurer's intention not to renew the policy or contract upon expiration of the current policy or contract period as provided in section 515.129C. Proof of such mailing, electronic transmission, or delivery to the first named insured's last known address shall be maintained by the insurer.

2. The notice of intention not to renew shall include or be accompanied by a written explanation of the insurer's specific reason or reasons for the nonrenewal.

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3. The transfer of a policy between affiliates of an insurance company shall not be considered a nonrenewal.

2010 Acts, ch 1121, §20; 2024 Acts, ch 1032, §1, 3
Referred to in §515.125, 515.126, 515D.7, 515J.9
Notice of intent not to renew automobile insurance policy, see §515D.7

515.129C Notice of renewal or nonrenewal of personal lines policies or contracts.

1. At least sixty days before the end of the policy or contract term, an insurer shall mail or deliver to the last known address of the first named insured a renewal policy or contract, an offer to renew the current policy or contract, or a notice of nonrenewal of the policy or contract. Information concerning the renewal policy or contract, the offer to renew the policy or contract, or the notice of nonrenewal of the policy or contract shall also be mailed, delivered, or transmitted electronically to the last known address of the producer of record of the policy or contract.

a. An offer to renew the policy or contract shall state the renewal premium and the date that the premium is due. The renewal premium shall be based on the known exposure as of the date of the offer to renew.

b. If the renewal premium is not received by the due date or the policy or contract expiration date, whichever is later, the policy or contract lapses.

2. If an insurer fails to comply with the notice requirements of this section, the policy or contract shall be extended on the same terms and conditions for another policy or contract term or until the effective date of similar insurance procured by the insured, whichever is earlier. The insurer may make continued coverage contingent upon the payment of premium.

3. Renewal of a policy or contract does not constitute a waiver or estoppel with respect to grounds for cancellation that existed before the effective date of the renewal.

2010 Acts, ch 1121, §21; 2024 Acts, ch 1032, §2, 3
Referred to in §515.125, 515.126, 515.129B, 515D.7, 515J.9
Notice of intent not to renew automobile insurance policy, see §515D.7

515.130 Short rates.

The commissioner of insurance shall prepare and promulgate tables of the short rates provided for in section 515.132, for the various kinds and classes of insurance governed by the provisions of this chapter, which, when promulgated, shall be for the guidance of all companies covered in this chapter and shall be the rate to be given in any notice therein required. No company shall discriminate unfairly between like assureds in the rate or rates so provided.

[C97, §1729; C24, 27, 31, 35, 39, §**8961;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.82]
2007 Acts, ch 152, §14, 61; 2007 Acts, ch 215, §256
CS2007, §515.130
2008 Acts, ch 1074, §11

515.131 Policy restored.

At any time before cancellation of the policy for nonpayment of any premium, assessment, or installment provided for therein, or in any note or contract for the payment thereof, or after action commenced or judgment rendered thereon, the insured may pay to the insurer the full amount due, including court costs if any, and from the date of such payment, or the collection of the judgment, the policy shall revive and be in full force and effect, provided such payment is made during the term of the policy and before a loss occurs.

[C97, §1730; C24, 27, 31, 35, 39, §**8962;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.83]
2007 Acts, ch 152, §15
CS2007, §515.131

515.132 Right of insured to cancel.

No provision, stipulation, or agreement to the contrary in or independent of the policy or contract of insurance shall avoid or defeat the right of any insured to pay short rates and

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costs of action, if any, and have the policy and all contracts connected therewith, including judgments rendered thereon, canceled.

[C97, §1730; C24, 27, 31, 35, 39, §**8963;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.84]
2007 Acts, ch 152, §16
CS2007, §515.132
Referred to in §515.130

515.133 Copy of application — duty to provide.

All insurance companies or associations shall, upon the issue or renewal of any policy, provide to the insured, a true copy of any application or representation of the insured which, by the terms of such policy, is made a part of the policy, or of the contract of insurance, or referred to in the contract of insurance, or which may in any manner affect the validity of such policy.

[C97, §1741; C24, 27, 31, 35, 39, §**8974;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.94]
95 Acts, ch 185, §22; 2007 Acts, ch 152, §20
CS2007, §515.133
Referred to in §515.134
Similar provision, §511.33

515.134 Failure to attach — effect.

If any company or association neglects to comply with the requirements of section 515.133, the omission shall not render the policy invalid, but the company or association shall forever be precluded from pleading, alleging, proving, or establishing the falsity of the application or representations, or any part of the application or representations, in any action upon the policy. The plaintiff in any such action shall not be required, in order to recover against the company or association, either to plead or prove the application or representation, but may do so at the plaintiff's option.

[C97, §1741; C24, 27, 31, 35, 39, §**8975;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.95]
2007 Acts, ch 152, §21, 62
CS2007, §515.134
2016 Acts, ch 1011, §98; 2023 Acts, ch 66, §123
Similar provision, §511.34

515.135 Presumption as to value. Repealed by 2011 Acts, ch 70, §48.

515.136 Value of building — liability.

An insurance company or association shall be liable for the actual cash value of the property insured at the date of the loss, unless such value exceeds the amount stated in the policy.

[C97, §1742; C24, 27, 31, 35, 39, §**8977;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.97]
2007 Acts, ch 152, §23
CS2007, §515.136
2013 Acts, ch 124, §21

515.137 Prima facie right of recovery.

In an action on such policy it shall only be necessary for the insured to prove the loss of the building insured, and that the insured has given the company or association notice in writing of such loss, accompanied by an affidavit stating the facts as to how the loss occurred, so far as they are within the insured's knowledge, and the extent of the loss.

[C97, §1742; C24, 27, 31, 35, 39, §**8978;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.98]
2007 Acts, ch 152, §24, 63
CS2007, §515.137
Similar provisions, §511.35, 514A.3, 518A.19

515.137A Post-loss assignment of rights or benefits to a residential contractor.

1. This section may be cited as the *"Insured Homeowner's Protection Act"*.
2. As used in this section, unless the context otherwise requires:

a. "Catastrophe" means the same as defined in section 103A.71.

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b. "Catastrophic disaster" includes a major disaster declaration by the president of the United States or a state of disaster emergency proclamation by the governor.

c. "Consumer advocate" means a consumer advocate appointed pursuant to section 505.8, subsection 6, paragraph *"b"*, subparagraph (1).

d. "Post-loss assignment" means any instrument by which post-loss benefits, rights, or duties of a named insured under a residential property and casualty insurance policy are assigned or transferred to a residential contractor. The post-loss assignment must only assign the insurance proceeds a named insured is entitled to receive from the named insured's insurer for the repair, replacement construction, or reconstruction of the named insured's property.

e. "Residential contractor" means the same as defined in section 103A.71.

f. "Residential real estate" means the same as defined in section 103A.71.

g. "Roof system" means the same as defined in section 103A.71.

3. A residential contractor shall be prohibited from all of the following under a post-loss assignment by a named insured to the residential contractor:

a. Rebating or offering to rebate any portion of the named insured's insurance deductible as an inducement for the named insured to purchase a good or service.

b. Imposing an administrative fee on the named insured for canceling the post-loss assignment, or imposing a fee to process the insurance check or to interact with the named insured's mortgage company.

c. Acting as a public adjuster without being licensed under chapter 522C.

d. Receiving payments from the named insured's insurer that are unrelated to the repair, replacement construction, or reconstruction work on the covered insured's property, including but not limited to all of the following:

(1) Additional living expenses.

(2) Loss of use.

(3) Loss of business income.

4. *a.* A post-loss assignment must include all of the following:

(1) An itemized description of the work to be performed.

(2) An itemized description of the materials, labor, and fees for the work to be performed.

(3) A total itemized amount to be paid for the work to be performed.

(4) A statement that the residential contractor has made no assurances that the claimed loss will be fully covered by the named insured's insurance contract and shall include the following notice in capitalized fourteen point type:

> YOU ARE AGREEING TO GIVE UP CERTAIN RIGHTS YOU HAVE UNDER YOUR INSURANCE POLICY. PLEASE READ AND UNDERSTAND THIS DOCUMENT BEFORE SIGNING.
>
> THE ITEMIZED DESCRIPTION OF THE WORK TO BE DONE SHOWN IN THIS ASSIGNMENT FORM HAS NOT BEEN AGREED TO BY THE INSURER. THE INSURER HAS THE RIGHT TO PAY ONLY FOR THE COST TO REPAIR OR REPLACE DAMAGED PROPERTY CAUSED BY A COVERED PERIL. POST-LOSS ASSIGNMENTS ARE SUBJECT TO THE AUTHORITY OF THE IOWA INSURANCE DIVISION. YOU MAY FILE A COMPLAINT WITH THE DIVISION ON THE DIVISION'S INTERNET SITE AT IID.IOWA.GOV OR CALL THE DIVISION AT (877) 955-1212.

(5) In capitalized fourteen point type and located in the immediate proximity of the space reserved in the assignment for the signature of the named insured, the following notice:

> YOU MAY CANCEL THIS POST-LOSS ASSIGNMENT FOR ANY REASON WITHOUT PENALTY WITHIN FIVE (5) BUSINESS DAYS FROM THE LATER OF THE DATE THE POST-LOSS ASSIGNMENT IS FULLY EXECUTED OR THE DATE ON WHICH YOU RECEIVE A COPY OF THE FULLY EXECUTED POST-LOSS ASSIGNMENT. IF MAILED, THE CANCELLATION MUST

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BE POSTMARKED BEFORE THE FIVE (5) BUSINESS DAY DEADLINE.

YOU MUST CANCEL THE POST-LOSS ASSIGNMENT IN WRITING AND THE CANCELLATION MUST BE DELIVERED TO (name and address of residential contractor as provided by the residential contractor). IF THE ASSIGNEE HAS NOT BEGUN SUBSTANTIALLY PERFORMING WORK ON THE PROPERTY, YOU MAY CANCEL THIS POST-LOSS ASSIGNMENT WITHOUT PENALTY AFTER AT LEAST THIRTY (30) CALENDAR DAYS AFTER THE DATE WORK ON THE PROPERTY IS SCHEDULED TO COMMENCE, OR AFTER AT LEAST THIRTY (30) CALENDAR DAYS AFTER THE POST-LOSS ASSIGNMENT IS FULLY EXECUTED IF THE POST-LOSS ASSIGNMENT DOES NOT CONTAIN A COMMENCEMENT DATE.

IF YOU CANCEL THIS POST-LOSS ASSIGNMENT, THE RESIDENTIAL CONTRACTOR HAS UP TO TEN (10) BUSINESS DAYS TO RETURN TO YOU ALL PAYMENTS OR DEPOSITS YOU HAVE MADE.

(6) A provision that requires the assignee to indemnify and hold harmless the assignor from liabilities, damages, losses, and costs, including but not limited to attorney fees related to the loss claim.

b. A post-loss assignment shall not impair the interest of a mortgagee listed on the declarations page of the property and casualty insurance policy that is the subject of the post-loss assignment. All mortgagees shall be named as a co-payee for the payment of benefits under a property and casualty insurance policy covering residential real estate.

c. A post-loss assignment shall only authorize a residential contractor to be named as a co-payee, along with the named insured and all mortgagees, for the payment of benefits under a property and casualty insurance policy covering residential real estate.

d. A post-loss assignment shall not prevent or inhibit an insurer from communicating with the named insured or a mortgagee listed on the declarations page of the property and casualty insurance policy that is the subject of the post-loss assignment.

e. An electronic copy of the fully executed post-loss assignment shall be provided to the insurer of the residential real estate, the named insured, and all mortgagees of the damaged residential real estate within five business days after execution of the post-loss assignment. A paper copy shall be provided to the insurer, a named insured, and any mortgagee of the damaged residential real estate within five business days of a request by the insurer, the named insured, or a mortgagee.

f. A residential contractor named in a post-loss assignment must cooperate with the insurer of the damaged residential real estate in a claim investigation by providing documents and records requested by the insurer and complying with each post-loss duty included in the named insured's insurance policy.

5. *a.* A named insured shall have the right to cancel a post-loss assignment without penalty or fee under all of the following circumstances:

(1) For any reason within five business days from the date on which the named insured receives a copy of the fully executed post-loss agreement.

(2) The assignee has not substantially performed work on the property that is the subject of the post-loss assignment at least thirty calendar days after the date work on the property was scheduled to commence.

(3) The assignee has not begun substantial work on the property that is the subject of the post-loss assignment at least thirty calendar days after the date the insured received a fully executed copy of the executed post-loss assignment and the post-loss assignment does not contain a commencement date.

b. The cancellation shall be made in writing. Within ten business days of the date of the written cancellation, the residential contractor shall tender to the named insured, the

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landowner, or the possessor of the real estate, all payments, partial payments, or deposits that have been made by such person.

6. Any written contract, repair estimate, or work order prepared by a residential contractor to provide goods or services to be paid from the proceeds of a property and casualty insurance policy pursuant to a post-loss assignment shall include, in capitalized fourteen point type, the notice as provided in section 103A.71, subsection 4, paragraph "*a*", which shall be signed by the named insured, and sent to the named insured's insurer prior to payment to the residential contractor of proceeds under the applicable insurance policy.

7. For a minimum of seventy-two hours following a catastrophic disaster, a residential contractor shall not enter into a contract with an insured that includes a post-loss assignment. If the commissioner deems the severity of the catastrophic disaster to have placed people under duress, the commissioner shall immediately dispatch the consumer advocate and other personnel to the disaster area to provide consumer guidance. If, after a public hearing, the commissioner determines that, due to the scope and severity of the catastrophic disaster, additional time is necessary to safely deploy additional consumer protection resources, the commissioner may extend the time period that a residential contractor shall not enter into a contract with an insured that includes a post-loss assignment for an additional seventy-two hours.

8. A post-loss assignment entered into with a residential contractor shall be void if the residential contractor violates this section.

9. A violation of this section by a residential contractor shall be an unfair practice pursuant to chapter 507B.

10. If any provision of this section or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

2019 Acts, ch 49, §1; 2025 Acts, ch 28, §28, 29; 2025 Acts, ch 159, §19
Referred to in §507B.4

515.138 Notice of loss of or damage to personal property by hail.

In case of loss or damage to growing crops by hail, notice of such loss or damage must be given to the company by the insured by mailing a certified mail letter within ten days from the time such loss or damage occurs.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.100]
2007 Acts, ch 152, §26
CS2007, §515.138
2008 Acts, ch 1074, §12

515.139 Demolition reserve on fire and casualty claims on property.

1. An insurer shall reserve ten thousand dollars or ten percent, whichever amount is greater, of the payment for damages to the property excluding personal property on which the insurer has issued a fire and casualty insurance policy as demolition cost reserve if the following are applicable:

a. The property is located within the corporate limits of a city.

b. The damage to the property renders it uninhabitable or unfit for the purpose for which it was intended, without repair.

c. Proof of loss has been submitted by the policyholder for a sum in excess of seventy-five percent of the face value of the policy covering the building or other insured structure.

2. An insurer which has received a proof of loss in excess of seventy-five percent of the face value of the policy covering a building or other insured structure, shall notify the city council of the city within which the property is located. The notice shall be made by certified mail within five working days after receipt of the proof of loss.

3. The city shall release all interest in the demolition cost reserve within one hundred eighty days after receiving notice of the existence of the demolition cost reserve unless the city has instituted legal proceedings for the demolition of the building or other insured structure, and has notified the insurer in writing of the institution of the legal proceedings. Failure of the

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city to notify the insurer of the legal proceedings terminates the city's claim to any proceeds from the reserve.

4. A reserve for demolition costs is no longer required if either of the following is true:

a. The insurer has received notice from both the insured and the city council that the insured has completed repairs to the property or has completed demolition of the property in compliance with all applicable statutes and local ordinances.

b. The city has failed to notify the insurer as provided under subsection 3.

5. If the city has instituted legal proceedings, undertaken emergency action, or is required to demolish the damaged property at city expense, the city shall present to the insurer costs incurred, since the date of the fire or other occurrence, including but not limited to legal costs, engineering costs, and demolition costs related directly to the enforcement of any local ordinance, and the insurer shall compensate the city for the incurred costs up to the amount in the demolition cost reserve. Any amount left from the demolition cost reserve after the cost of demolition of the property is paid to the city shall be paid to the insured if the insured is entitled to the remaining proceeds under the policy.

6. The insurer is not liable for any amount in excess of the limits of liability set out by the policy.

7. Insurers complying with this section or attempting in good faith to comply with this section shall be immune from civil and criminal liability.

88 Acts, ch 1176, §1
C89, §515.150
89 Acts, ch 16, §1; 91 Acts, ch 59, §1; 92 Acts, ch 1163, §100; 2007 Acts, ch 152, §50
CS2007, §515.139

SUBCHAPTER VII

VIOLATIONS — INVESTIGATIONS — FEES — PENALTIES

515.140 Unlawful combinations — exceptions.

It shall be unlawful for two or more insurance companies doing business in this state, or for the officers, agents, or employees of such companies, to make or enter into any combination or agreement relating to the rates to be charged for insurance, the amount of commissions to be allowed agents for procuring the same, or the manner of transacting the insurance business within this state, but any number of insurance companies may appoint the same person or persons, who shall be residents of the state of Iowa, as their common agent or agents for the purpose of filing, in the manner prescribed by the insurance commissioner of Iowa, the forms of policies and of all permits and riders used generally throughout the state, as required by the laws of this state to be examined and approved by the said commissioner.

[C97, §1754; C24, 27, 31, 35, 39, §**9010;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.131]

2007 Acts, ch 152, §38
CS2007, §515.140
Referred to in §515.141, 515.145, 515A.19

515.141 Examination of officers and employees.

1. The commissioner of insurance is authorized to issue a subpoena for examination under oath, to any officer, agent, or employee of any company suspected of violating any of the provisions of section 515.140.

2. Upon the filing of a written, verified complaint with the commissioner by two or more residents of this state alleging that a company has violated section 515.140, the commissioner shall issue a subpoena for examination under oath to any officer, agent, or employee of the company.

[C97, §1755; C24, 27, 31, 35, 39, §**9012;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.133]

2003 Acts, ch 91, §38; 2007 Acts, ch 152, §39, 69

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CS2007, §515.141
2008 Acts, ch 1074, §13
Referred to in §515.153

515.142 Transfers pending investigation.

Any transfer of the stock of any company organized under this chapter, made pending any investigation, shall not release the party making the transfer from any liability for losses which may have accrued previous to such transfer.

[C73, §1151; C97, §1734; C24, 27, 31, 35, 39, §**8967;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.88]

2007 Acts, ch 152, §17
CS2007, §515.142
2008 Acts, ch 1074, §14

515.143 Revocation of certificate of foreign company.

The commissioner of insurance may examine the condition and affairs of any insurance company, as provided for in this chapter, doing business in this state, not organized under its laws, or cause such examination to be made by a person appointed by the commissioner having no interest in any insurance company; and if it appears to the commissioner's satisfaction that the affairs of a company are in an unsound condition or that a company has failed to maintain the capital and surplus required by section 515.69, the commissioner shall revoke or suspend the certificates granted in its behalf.

[C73, §1152; C97, §1735; C24, 27, 31, 35, 39, §**8968;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.89]

91 Acts, ch 213, §28; 2007 Acts, ch 152, §18
CS2007, §515.143

515.144 Suspension and summary suspension.

The commissioner may do one or more of the following:

1. For a violation of Title XIII, subtitle 1, after a hearing provided pursuant to chapter 17A, order the suspension of the license or authority to transact the business of insurance within the state.

2. Upon three days' notice, if the commissioner has reason to believe that there is imminent substantial risk to an insurer's solvency, order the insurer to appear before the commissioner and show cause why its license or authority to do insurance business within the state should not be suspended. At the hearing to show cause, the commissioner may summarily suspend the license or authority of the insurer to do business within the state.

3. Summarily order an insurer to cease and desist from a violation, anticipated violation, or suspected violation of chapter 507B, 510, or 513A, if a hearing is provided pursuant to chapter 17A within thirty days of the summary cease and desist order.

91 Acts, ch 213, §29
CS91, §515.90
2007 Acts, ch 152, §19
CS2007, §515.144

515.145 Revocation of authority.

If upon any examination, or upon information obtained from any witness produced or examined, the commissioner determines that a company has violated section 515.140, or if any officer, agent, or employee fails to appear or submit to examination after receiving a subpoena, the commissioner shall promptly issue an order revoking the authority of the company to transact business within this state, and the company shall not be permitted to do the business of insurance in this state for one year.

[C97, §1755; C24, 27, 31, 35, 39, §**9013;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.134]

2003 Acts, ch 91, §39; 2007 Acts, ch 152, §40, 70

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CS2007, §515.145
2008 Acts, ch 1074, §15
Referred to in §515.152, 515.153

515.146 Certificate refused — administrative penalty.

The commissioner of insurance shall withhold the commissioner's certificate or permission of authority to do business from a company neglecting or failing to comply with this chapter. In addition, a company organized or authorized under this chapter which fails to file the annual statement referred to in section 515.63 in the time required shall pay and forfeit an administrative penalty in an amount of five hundred dollars to be collected in the name of the state for deposit as provided in section 505.7. The company's right to transact further new business in this state shall immediately cease until the company has fully complied with this chapter. The commissioner may give notice to a company which has failed to file within the time required that the company is in violation of this section and, if the company fails to file the evidence of investment and statement within ten days of the date of the notice, the company shall forfeit and pay the additional sum of one hundred dollars for each day the failure continues, to be paid to the treasurer of state for deposit as provided in section 505.7.

[C97, §1715; C24, 27, 31, 35, 39, §**8947;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.65]
85 Acts, ch 228, §6; 91 Acts, ch 213, §26; 2007 Acts, ch 152, §3
CS2007, §515.146
2008 Acts, ch 1074, §16; 2009 Acts, ch 181, §78

515.147 Fees.

Fees shall be paid to the commissioner of insurance for deposit as provided in section 505.7 as follows:

1. For filing an application to do business, including all documents submitted in connection with the application, by a foreign or domestic company, or for filing an application for renewed authority, fifty dollars.
2. For issuing to a foreign or domestic company a certificate of authority to do business or a renewed certificate of authority, fifty dollars.
3. For filing amended articles of incorporation, fifty dollars.
4. For issuing an amended certificate of authority, twenty-five dollars.
5. For affixing the official seal to any paper filed with the division, ten dollars.

[C73, §1153; C97, §1752; S13, §1752; C24, 27, 31, 35, 39, §**9007;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.128; 82 Acts, ch 1003, §7]
88 Acts, ch 1112, §304; 2007 Acts, ch 152, §36
CS2007, §515.147
2009 Acts, ch 181, §79
Deposit of fees, §12.10

515.148 Expenses of examination.

The necessary expenses of any examination of any insurance company made or ordered to be made by the commissioner of insurance under this chapter shall be certified to by the commissioner, and paid on the commissioner's requisition by the company so examined; and in case of failure of the company to make such payment, the commissioner shall suspend such company from doing business in this state until such expenses are paid. If such expenses are not paid by the company, they shall be audited by the director of the department of administrative services and paid out of the state treasury.

[C73, §1156; C97, §1753; C24, 27, 31, 35, 39, §**9008;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.129]
2003 Acts, ch 145, §286; 2007 Acts, ch 152, §37
CS2007, §515.148

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515.149 Compliance with law.

An insurance company organized under this chapter, or doing business in this state, or any foreign or alien company doing business in this state, shall conform to the provisions of this chapter and all other laws of this state applicable to the insurance company.

[C73, §1147; C97, §1747; C24, 27, 31, 35, 39, §**8998;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.119]

91 Acts, ch 26, §42; 91 Acts, ch 258, §59; 2007 Acts, ch 152, §30

CS2007, §515.149

515.150 Violations.

It shall be unlawful for any officer, manager, or agent of any insurance company or association who, with knowledge that it is doing business in an unlawful manner, or is insolvent, to solicit or receive applications for insurance with the company or association, or to do any other act or thing toward procuring or receiving any new business for such company or association.

[C73, §1147; C97, §1747; C24, 27, 31, 35, 39, §**8999;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.120]

2004 Acts, ch 1110, §55; 2007 Acts, ch 152, §31

CS2007, §515.150

515.151 Officers punished.

It shall be unlawful for any of the following to fail to comply with or to violate any of the requirements of this chapter:

1. The president, secretary, or other officer of any company organized under the laws of this state.

2. Any officer or person doing or attempting to do business in this state for any insurance company organized either within or without this state.

[C73, §1147; C97, §1748; C24, 27, 31, 35, 39, §**9000;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.121]

2004 Acts, ch 1110, §56; 2007 Acts, ch 152, §32

CS2007, §515.151

515.152 Judicial review.

Judicial review of the actions of the commissioner of insurance may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A, upon filing with the clerk of court a good and sufficient bond for the payment of all costs adjudged against the petitioner. Notwithstanding the terms of chapter 17A, petitions for judicial review may be filed in the district court of the county where the decision of the commissioner, pursuant to section 515.145, was made.

[C97, §1756; C24, 27, 31, 35, 39, §**9014;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.135]

2003 Acts, ch 44, §114; 2007 Acts, ch 152, §41, 71

CS2007, §515.152

Referred to in §515.153

Presumption of approval of bonds, §636.10

515.153 Incrimination.

The statements and declarations made or testimony given by any officer, agent, or employee in the investigation before the commissioner of insurance, or upon the hearing on the petition for judicial review, as provided in sections 515.141, 515.145, and 515.152, shall not be used against the person making the same in any criminal prosecution against the person.

[C97, §1757; C24, 27, 31, 35, 39, §**9015;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515.136]

2007 Acts, ch 152, §42, 72

CS2007, §515.153

2008 Acts, ch 1074, §17

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CHAPTER 515A

WORKERS' COMPENSATION LIABILITY INSURANCE RATES

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 518B.7, 669.14, 670.7

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515A.1 Purpose of chapter.

The purpose of this chapter is to promote the public welfare by regulating insurance rates to the end that they shall not be excessive, inadequate or unfairly discriminatory, and to authorize and regulate cooperative action among insurers in rate making and in other matters within the scope of this chapter. Nothing in this chapter is intended to prohibit or discourage reasonable competition, or to prohibit, or encourage except to the extent necessary to accomplish the aforementioned purpose, uniformity in insurance rates, rating systems, rating plans or practices. This chapter shall be liberally interpreted to carry into effect the provisions of this section.

[C50, 54, 58, 62, §515A.1, 515B.1; C66, 71, 73, 75, 77, 79, 81, §515A.1]

515A.2 Definitions — scope of chapter.

1. As used in this chapter:

a. *"Commissioner"* means the commissioner of insurance.

b. *"Insurance"* means workers' compensation liability insurance.

c. *"Insurer"* means an insurer which issues a policy of workers' compensation liability insurance.

d. *"Policy"* means a policy of workers' compensation liability insurance.

e. *"Rate"* means a rate for workers' compensation liability insurance.

f. *"Rate filing"* means a rate filing by a rating organization or an insurer.

g. *"Rating organization"* means a workers' compensation rating organization licensed pursuant to this chapter.

h. *"Schedule rating plan"* means a rating plan by which an insurer increases or decreases workers' compensation rates to reflect the individual risk characteristics of the subject of the insurance.

2. This chapter applies only to workers' compensation liability insurance.

[C50, 54, 58, 62, §515A.2, 515B.2; C66, 71, 73, 75, 77, 79, 81, §515A.2]

90 Acts, ch 1234, §43; 2008 Acts, ch 1123, §29; 2021 Acts, ch 181, §15

Referred to in §515A.15

515A.3 Making of rates.

1. Rates shall be made in accordance with the following provisions:

a. Rates shall not be excessive, inadequate, or unfairly discriminatory.

b. Due consideration shall be given to past and prospective loss experience within and outside this state; to catastrophe hazards; to a reasonable margin for underwriting profit and contingencies; to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers; to past and prospective expenses

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both countrywide and those specially applicable to this state; and to all other relevant factors within and outside this state.

c. The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or group of insurers to reflect the requirements of the operating methods of any such insurer or group of insurers with respect to any kind of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable.

d. Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses.

2. Except to the extent necessary to meet the provisions of paragraph "*a*" of subsection 1 of this section, uniformity among insurers in any matters within the scope of this section is neither required nor prohibited.

[C50, 54, 58, 62, §515A.3, 515B.3; C66, 71, 73, 75, 77, 79, 81, §515A.3]
2008 Acts, ch 1123, §30
Referred to in §515A.4, 515A.7, 515A.8, 515A.13

515A.4 Rate filings.

1. *a.* Every insurer shall file with the commissioner every manual, minimum, class rate, rating schedule or rating plan and every other rating rule, and every modification of any of the foregoing which it proposes to use. Every such filing shall state the proposed effective date thereof, and shall indicate the character and extent of the coverage contemplated.

b. When a filing is not accompanied by the information upon which the insurer supports such filing, and the commissioner does not have sufficient information to determine whether such filing meets the requirements of this chapter, the commissioner shall require such insurer to furnish the information upon which it supports such filing and in such event the waiting period shall commence as of the date such information is furnished. Until the required information is furnished, the filing shall not be deemed complete or available for use by the insurer.

c. The information furnished in support of a filing may include the experience or judgment of the insurer or rating organization making the filing, its interpretation of any statistical data it relies upon, the experience of other insurers or rating organizations, or any other relevant factors. When a filing is deemed complete, the filing and any supporting information shall be open to public inspection.

2. An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the commissioner to accept such filings on its behalf; provided that nothing contained in this chapter shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization.

3. The commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of this chapter.

4. Each complete filing shall be on file for a waiting period of thirty days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed fifteen days if the commissioner gives written notice within the waiting period to the insurer or rating organization which made the filing that the commissioner needs additional time for the consideration of the filing. Upon written application by the insurer or rating organization, the commissioner may authorize a filing which the commissioner has reviewed to become effective before the expiration of the waiting period or any extension of the period. A filing shall be deemed to meet the requirements of this chapter unless disapproved by the commissioner before the expiration of the waiting period or an extension of the waiting period.

5. Under such rules and regulations as the commissioner shall adopt the commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision, or combination thereof, or as to classes of risks, the rates for which cannot

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practicably be filed before they are used. Such order, rules, and regulations shall be made known to insurers and rating organizations affected thereby. The commissioner may make such examination as the commissioner may deem advisable to ascertain whether any rates affected by such order meet the standards set forth in section 515A.3, subsection 1, paragraph *"b"*.

6. Upon the written application of the insured, stating the insured's reasons therefor, filed with and approved by the commissioner a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

7. No insurer shall make or issue a contract or policy except in accordance with the filings which are in effect for the insurer as provided in this chapter or in accordance with subsection 5 or 6.

8. If a hearing is requested pursuant to section 515A.6, subsection 7, a filing shall not take effect until thirty days after formal approval is given by the commissioner.

[C50, 54, 58, 62, §515A.4, 515B.4; C66, 71, 73, 75, 77, 79, 81, §515A.4]

87 Acts, ch 132, §5; 92 Acts, ch 1162, §39; 93 Acts, ch 88, §20; 2008 Acts, ch 1123, §31; 2015 Acts, ch 29, §77

Referred to in §515A.5

515A.5 Disapproval of filings.

1. If within the waiting period or any extension thereof as provided in section 515A.4, subsection 4, the commissioner finds that a filing does not meet the requirements of this chapter, the commissioner shall send to the insurer or rating organization which made such filing, written notice in a printed or electronic format of disapproval of such filing specifying therein in what respects the commissioner finds such filing fails to meet the requirements of this chapter and stating that such filing shall not become effective.

2. At any time subsequent to the applicable review period provided for in subsection 1, the commissioner may hold a hearing to determine whether a filing meets the requirements of this chapter. The commissioner shall provide notice of a hearing not less than ten days prior to the hearing to every insurer and rating organization which made the filing, specifying the matters to be considered at the hearing. If the commissioner finds that a filing does not meet the requirements of this chapter, the commissioner shall issue an order specifying in what respects the commissioner finds that the filing fails to meet the requirements of this chapter, and stating when, within a reasonable period thereafter, the filing shall be deemed no longer effective. Copies of the order shall be sent to every insurer and rating organization which made the filing. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

3. *a.* Any person or organization aggrieved with respect to any filing which is in effect may make written application to the commissioner for a hearing thereon, provided, however, that the insurer or rating organization that made or uses the filing shall not be authorized to proceed under this subsection. Such application shall specify the grounds to be relied upon by the applicant and such application must show that the person or organization making such application has a specific economic interest affected by the filing. If the commissioner finds that the application is made in good faith, that the applicant has a specific economic interest, that the applicant would be so aggrieved if the applicant's grounds are established, and that such grounds otherwise justify holding such a hearing, the commissioner shall within thirty days after receipt of such application hold a hearing, upon not less than ten days' written notice to the applicant and to every insurer and rating organization which made the filing. No rating or advisory organization shall have any status under this chapter to make application for a hearing on any filing made by an insurer with the commissioner.

b. If, after such hearing, the commissioner finds that the filing does not meet the requirements of this chapter, the commissioner shall issue an order specifying in what respects the commissioner finds that such filing fails to meet the requirements of this chapter, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of the order shall be sent to the applicant and to every such insurer and rating organization. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

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4. No filing shall be disapproved if the rates thereby produced meet the requirements of this chapter.

[C50, 54, 58, 62, §515A.5, 515B.5; C66, 71, 73, 75, 77, 79, 81, §515A.5]

2008 Acts, ch 1123, §32

515A.6 Rating organizations.

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 a 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 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.

(2) A list of its members and subscribers.

(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.

(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 the license shall be one hundred 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 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.

(2) Its list of members and subscribers.

(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.

2. Subject to rules and regulations which have been approved by the commissioner as reasonable, each rating organization shall permit any insurer, not a member, to be a subscriber to its rating services for any kind of insurance, subdivision, or class of risk or a part or combination thereof for which it is authorized to act as a rating organization. Notice of proposed changes in such rules and regulations shall be given to subscribers. Each rating organization shall furnish its rating services without discrimination to its members and subscribers. The reasonableness of any rule or regulation in its application to subscribers, or the refusal of any rating organization to admit an insurer as a subscriber, shall, at the request of any subscriber or any such insurer, be reviewed by the commissioner at a hearing held upon at least ten days' written notice to such rating organization and to such subscriber or insurer. If the commissioner finds that such rule or regulation is unreasonable in its application to subscribers, the commissioner shall order that such rule or regulation shall not be applicable to subscribers. If the rating organization fails to grant or reject an insurer's application for subscribership within thirty days after it was made, the insurer may request a review by the commissioner as if the application had been rejected. If the commissioner finds that the insurer has been refused admittance to the rating organization as a subscriber without justification, the commissioner shall order the rating organization to admit the

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insurer as a subscriber. If the commissioner finds that the action of the rating organization was justified the commissioner shall make an order affirming its action.

3. No rating organization shall adopt any rule the effect of which would be to prohibit or regulate the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers.

4. Cooperation among rating organizations or among rating organizations and insurers in rate making or in other matters within the scope of this chapter is hereby authorized, provided the filings resulting from such cooperation are subject to all the provisions of this chapter which are applicable to filings generally. The commissioner may review such cooperative activities and practices and if, after a hearing, the commissioner finds that any such activity or practices is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, the commissioner may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, and requiring the discontinuance of such activity or practice.

5. Any rating organization may provide for the examination of policies, daily reports, binders, renewal certificates, endorsements or other evidences of insurance, or the cancellation thereof, and may make reasonable rules governing their submission. Such rules shall contain a provision that in the event any insurer does not within sixty days furnish satisfactory evidence to the rating organization of the correction of any error or omission previously called to its attention by the rating organization, it shall be the duty of the rating organization to notify the commissioner thereof. All information so submitted for examination shall be confidential.

6. Any rating organization may subscribe for or purchase actuarial, technical or other services, and such services shall be available to all members and subscribers without discrimination.

7. Notwithstanding any law to the contrary, the commissioner shall provide for a hearing in a proceeding involving a workers' compensation insurance rate filing by a licensed rating organization in accordance with the provisions of this subsection and rules promulgated by the commissioner pursuant to chapter 17A. Except as otherwise provided in this subsection, the provisions of this subsection shall not be subject to the requirements of chapter 17A. The procedures for such hearing shall be as follows:

a. The commissioner shall provide notice of the filing of the proposed rates at least thirty days before the effective date of the proposed rates by publishing a notice on the internet site of the insurance division of the department of insurance and financial services.

b. A public hearing shall be held on the proposed rates by the commissioner if within fifteen days of the date of publication a workers' compensation policyholder or an established organization with one or more workers' compensation policyholders among its members files a written demand with the commissioner for a hearing on the proposed rates.

c. The commissioner shall hold the hearing within twenty days after receipt of the written demand for a hearing and shall give not less than ten days written notice of the time and place of the hearing to the person or association filing the demand, to the rating organization, and to any other person requesting such notice.

d. At any such hearing, the rating organization shall bear the burden of proof to support the proposed rates by a preponderance of the evidence. The person or association requesting the hearing, and any other person admitted as a party to the proceeding, shall be given the opportunity to respond and introduce evidence and arguments on all the issues involved.

e. Within fifteen days after the start of the hearing, the commissioner shall approve or disapprove the proposed rates and specify the reasons therefor. The commissioner may suspend or postpone the effective date of the proposed rates pending the hearing and written decision thereon.

f. Judicial review of the decision of the commissioner on such rates may be sought in accordance with the provisions of chapter 17A.

g. Absent a request for a hearing as provided in paragraph "*b*", the commissioner shall issue an order approving or disapproving the proposed rates.

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h. The waiting period for a workers' compensation insurance rate filing shall commence no earlier than the date that notice of the insurance rate filing is published.

[C50, 54, 58, 62, §515A.6, 515B.6; C66, 71, 73, 75, 77, 79, 81, §515A.6]

2006 Acts, ch 1117, §69; 2007 Acts, ch 22, §89; 2008 Acts, ch 1123, §33 – 35; 2013 Acts, ch 90, §257; 2021 Acts, ch 181, §16; 2022 Acts, ch 1021, §149; 2023 Acts, ch 19, §2735

Referred to in §515A.4, 515A.12

515A.7 Uniform rating plans and deviations.

1. *a.* Every insurer shall adhere to the filings made on its behalf by a rating organization except that any such insurer may file a deviation from the class rates, schedules, rating plans, or rules, or a combination thereof for approval by the commissioner. The deviation filed shall specify the basis for the modification and a copy shall also be sent simultaneously to such rating organization. In considering the deviation filed, the commissioner shall give consideration to the available statistics and the principles for rate making as provided in section 515A.3. The commissioner shall approve the deviation filed for such insurer if the commissioner finds it to be justified and it shall thereupon become effective. The commissioner shall disapprove the deviation filed if the commissioner finds that the deviation does not meet the requirements of this chapter.

b. A deviation may be filed for approval by the commissioner as follows:

(1) An insurer may file for approval by the commissioner of a uniform percentage rate deviation to be applied to the class rates of the rating organization's filing subject to limitations as set forth by the commissioner by rule. A rate deviation from the approved class rates of a rating organization shall not cause the rate charged a policyholder to exceed the approved assigned risk rates.

(2) A rating organization or insurer may offer retrospective plans in policies which generate at least one hundred thousand dollars in annual countrywide premiums on workers' compensation liability insurance.

(3) An insurer may offer large deductible programs on policies which generate at least one hundred thousand dollars in annual countrywide premiums on workers' compensation liability insurance. The minimum large deductible which may be offered is twenty-five thousand dollars, which may be applied to indemnity and medical losses.

(4) An insurer may offer small deductible programs with deductibles in a range of up to ten thousand dollars and which apply only to medical losses. Losses shall be reported on a net basis in accordance with the statistical plan filed by a rating organization.

(5) An insurer may adopt a schedule rating plan providing for credits or debits in an amount not exceeding the maximum modification allowed as set forth by the commissioner by rule. This amount shall be in addition to the permitted deviations set forth in subparagraphs (1) through (4).

(6) The commissioner may authorize other types of deviations by rule when there is no approved rate, schedule, rating plan, or rule applicable to the deviation filed, on file with the insurance division for a rating organization.

2. The commissioner may adopt rules pursuant to chapter 17A to limit deviations and maximum schedule or rating plan modifications.

3. All dividends shall be paid based upon loss sensitivity. Dividends are deemed a return of profit to insureds. Accordingly, dividends shall not be guaranteed by an insurer without regard to profits. Dividends may be offered in conjunction with deviated rates or with scheduled rates or in combination therewith. For the purposes of this subsection, "*loss sensitivity*" means the profitability of the policyholder individually or as a member of a homogenous group.

[C50, 54, 58, 62, §515A.7, 515B.7; C66, 71, 73, 75, 77, 79, 81, §515A.7]

2008 Acts, ch 1123, §36, 57; 2013 Acts, ch 124, §22

515A.8 Appeal by member or subscriber.

1. Any member or subscriber to a rating organization may appeal to the commissioner from the action or decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization and the commissioner shall,

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after a hearing held upon not less than ten days' written notice to the appellant, and to such rating organization, issue an order approving the action or decision of such rating organization or directing it to give further consideration to such proposal, or, if such appeal is from the action or decision of the rating organization in rejecting a proposed addition to its filings, the commissioner may, in the event the commissioner finds that such action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filings, on behalf of its members and subscribers, in a manner consistent with the findings, within a reasonable time after the issuance of such order.

2. If such appeal is based upon the failure of the rating organization to make a filing on behalf of such member or subscriber, which is based on a system of expense provisions which differs, in accordance with the right granted in section 515A.3, subsection 1, paragraph *"c"*, from the system of expense provisions included in a filing made by the rating organization, the commissioner shall, if the commissioner grants the appeal, order the rating organization to make the requested filing for use by the appellant. In deciding such appeal the commissioner shall apply the standards set forth in section 515A.3.

[C50, 54, 58, 62, §515A.8, 515B.8; C66, 71, 73, 75, 77, 79, 81, §515A.8]
2008 Acts, ch 1123, §37; 2015 Acts, ch 29, §78

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, the 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.

[C50, 54, 58, 62, §515A.9, 515B.9; C66, 71, 73, 75, 77, 79, 81, §515A.9]
2006 Acts, ch 1117, §70; 2007 Acts, ch 22, §90

515A.10 Advisory organizations.

1. Every group, association or other organization of insurers, whether located within or outside of this state, which assists insurers that make their own filings or rating organizations in rate making, by the collection and furnishing of loss or expense statistics, or by the submission of recommendations, but which does not make filings under this chapter, shall be known as an advisory organization.

2. An advisory organization shall not provide a service relating to this chapter, and an insurer shall not utilize the services of an advisory organization for such purposes, unless the advisory organization has obtained a license under subsection 3.

3. An advisory organization applying for a license shall include with its application to the commissioner 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 list of its members.

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.

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

e. A fee of one hundred dollars.

4. If, after hearing, the commissioner finds that an advisory organization has engaged in any act or practice which is unfair, unreasonable, or in violation of this chapter, the commissioner may issue an order requiring the advisory organization to cease and desist such act or practice. The commissioner may, at any time after hearing, revoke or suspend the license of an advisory organization which does not comply with this chapter.

5. No insurer which makes its own filings nor any rating organization shall support its filings by statistics or adopt rate making recommendations, furnished to it by an advisory organization which has not complied with this section or with an order of the commissioner involving such statistics or recommendations issued under subsection 4 of this section. If the commissioner finds such insurer or rating organization to be in violation of this subsection the commissioner may issue an order requiring the discontinuance of such violation.

6. A license issued under this section shall remain in effect for three years unless sooner suspended or revoked by the commissioner.

[C50, 54, 58, 62, §515A.10, 515B.10; C66, 71, 73, 75, 77, 79, 81, §515A.10]
2006 Acts, ch 1117, §71; 2021 Acts, ch 181, §17; 2022 Acts, ch 1021, §150
Referred to in §515A.12

515A.11 Joint underwriting or joint reinsurance.

1. Every group, association or other organization of insurers which engages in joint underwriting or joint reinsurance, shall be subject to regulation with respect thereto as provided in this section, subject, however, with respect to joint underwriting, to all other provisions of this chapter and, with respect to joint reinsurance, to sections 515A.12 and 515A.16 through 515A.19.

2. If, after a hearing, the commissioner finds that any activity or practice of any such group, association or other organization is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, the commissioner may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, and requiring the discontinuance of such activity or practice.

[C50, 54, 58, 62, §515A.11, 515B.11; C66, 71, 73, 75, 77, 79, 81, §515A.11]
2021 Acts, ch 80, §330; 2022 Acts, ch 1021, §151
Referred to in §515A.12

515A.12 Examinations.

The commissioner shall, at least once in five years, make or cause to be made an examination of each rating organization licensed in this state as provided in section 515A.6 and the commissioner may, as often as the commissioner may deem it expedient, make or cause to be made an examination of each advisory organization referred to in section 515A.10 and of each group, association or other organization referred to in section 515A.11. The reasonable costs of any such examination shall be paid by the rating organization, advisory organization or group, association or other organization examined upon presentation to it of a detailed account of such costs. The officers, manager, agents and employees of such rating organization, advisory organization, or group, association or other organization may be examined at any time under oath and shall exhibit all books, records, accounts, documents, or agreements governing its method of operation. In lieu of any such examination the commissioner may accept the report of an examination made by the insurance supervisory official of another state, pursuant to the laws of such state.

[C50, 54, 58, 62, §515A.12, 515B.12; C66, 71, 73, 75, 77, 79, 81, §515A.12]
Referred to in §515A.10, 515A.11

515A.13 Rate administration.

1. The commissioner shall promulgate reasonable rules and statistical plans, reasonably adapted to each of the rating systems on file with the commissioner, which may be modified from time to time and which shall be used thereafter by each insurer in the recording and

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reporting of its loss and countrywide expense experience, in order that the experience of all insurers may be made available at least annually in such form and detail as may be necessary to aid the commissioner in determining whether rating systems comply with the standards set forth in section 515A.3. Such rules and plans may also provide for the recording and reporting of expense experience items which are specially applicable to this state and are not susceptible of determination by a prorating of countywide expense experience. In promulgating such rules and plans, the commissioner shall give due consideration to the rating systems on file and, in order that such rules and plans may be as uniform as is practicable among the several states, to the rules and to the form of the plans used for such rating systems in other states. No insurer shall be required to record or report its loss experience on a classification basis that is inconsistent with the rating system filed by it. The commissioner may designate one or more rating organizations or other agencies to assist in gathering such experience and making compilations thereof, and such compilations shall be made available, subject to reasonable rules promulgated by the commissioner, to insurers and rating organizations.

2. Reasonable rules and plans may be promulgated by the commissioner for the interchange of data necessary for the application of rating plans.

3. In order to further uniform administration of rate regulatory laws, the commissioner and every insurer and rating organization may exchange information and experience data with insurance supervisory officials, insurers, and rating organizations in other states and may consult with them with respect to rate making and the application of rating systems.

4. The commissioner may make reasonable rules necessary to effect the purposes of this chapter.

5. A person other than the commissioner or the commissioner's designee shall not release to another person, other than to the servicing insurer of the policy or to the commissioner or the commissioner's designee, experience, payroll, loss data, expiration date of a policy, or classification information without the prior written approval of the policyholder. A violation of this section shall be considered an unfair trade practice pursuant to chapter 507B.

[C50, 54, 58, 62, §515A.13, 515B.13; C66, 71, 73, 75, 77, 79, 81, §515A.13]

94 Acts, ch 1176, §13; 2008 Acts, ch 1123, §38

515A.14 False or misleading information.

No person or organization shall willfully withhold information from, or knowingly give false or misleading information to, the commissioner, any statistical agency designated by the commissioner, any rating organization, or any insurer, which will affect the rates or premiums chargeable under this chapter. A violation of this section shall subject the one guilty of such violation to the penalties provided in section 515A.17.

[C50, 54, 58, 62, §515A.14, 515B.14; C66, 71, 73, 75, 77, 79, 81, §515A.14]

515A.15 Assigned risks.

1. Agreements shall be made among insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods and such insurers may agree among themselves on the use of reasonable rate modifications for such insurance, the agreements and rate modifications to be subject to the approval of the commissioner.

2. For purposes of this section, *"insurer"* includes, in addition to insurers defined pursuant to section 515A.2, a self-insurance association formed on or after July 1, 1995, pursuant to section 87.4 except for an association comprised of cities or counties, or both, or an association comprised of community colleges as defined in section 260C.2, which have entered into an agreement pursuant to chapter 28E for the purpose of establishing a self-insured program for the payment of workers' compensation benefits.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §515A.15]

95 Acts, ch 185, §24; 2021 Acts, ch 76, §150

Referred to in §87.4

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515A.15A Deductible policies in workers' compensation.

The commissioner may enter an order under section 515A.18 to assure availability within this state of a policy under this chapter which provides as part of the policy, or as an endorsement to the policy, an option for a deductible related to benefits payable under a policy issued pursuant to this chapter. The order may make provisions for changes in experience ratings, premium surcharges, or any other modification, as a result of issuance of a policy, or of an endorsement to the policy, pursuant to the order. Under an order entered pursuant to this section, the commissioner shall provide that if the policyholder selects a deductible option, the insured employer is liable for all of the amount of the deductible for benefits paid for each compensable claim of an employee under the policy.

92 Acts, ch 1053, §1

515A.15B Applicants unable to procure insurance through ordinary methods.

An agreement among licensed insurers to offer workers' compensation insurance for applicants unable to procure workers' compensation insurance through ordinary methods shall be administered by a rating organization licensed under this chapter.

98 Acts, ch 1057, §10

515A.16 Premiums.

An agent shall not knowingly charge, demand, or receive a premium for any policy of insurance except in accordance with the provisions of this chapter.

[C50, 54, 58, 62, §515A.16, 515B.15; C66, 71, 73, 75, 77, 79, 81, §515A.16]

93 Acts, ch 88, §21

Referred to in §515A.11

515A.17 Penalties.

1. The commissioner may, if the commissioner finds that any person or organization has violated any provision of this chapter, impose a penalty of not more than one thousand dollars for each such violation, but if the commissioner finds such violation to be willful the commissioner may impose a penalty of not more than five thousand dollars for each such violation. Such penalties may be in addition to any other penalty provided by law. A penalty collected under this subsection shall be deposited as provided in section 505.7.

2. The commissioner may suspend the license of any rating organization or insurer which fails to comply with an order of the commissioner within the time limited by such order, or any extension thereof which the commissioner may grant. The commissioner shall not suspend the license of any rating organization or insurer for failure to comply with an order until the time prescribed for an appeal therefrom has expired or if an appeal has been taken, until such order has been affirmed. The commissioner may determine when a suspension of license shall become effective and it shall remain in effect for the period fixed by the commissioner, unless the commissioner modifies or rescinds such suspension, or until the order upon which such suspension is based is modified, rescinded, or reversed.

3. A penalty shall not be imposed and a license shall not be suspended or revoked except upon a written order of the commissioner, stating the commissioner's findings, made after a hearing held upon not less than ten days' written notice to such person or organization specifying the alleged violation.

[C50, 54, 58, 62, §515A.17, 515B.16; C66, 71, 73, 75, 77, 79, 81, §515A.17]

2008 Acts, ch 1123, §39; 2009 Acts, ch 181, §80

Referred to in §515A.11, 515A.14

515A.18 Hearing procedure and judicial review.

1. Any person, insurer, or rating organization to which the commissioner has directed an order made without a hearing may, within thirty days after receipt of the notice of the order, make written request to the commissioner for a hearing on the order. The commissioner shall conduct a hearing within twenty days after receipt of the request and shall give not less than ten days' written notice of the time and place of the hearing. Within fifteen days after the hearing the commissioner shall affirm, reverse, or modify the previous action, specifying the

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commissioner's reasons therefor. The commissioner may suspend or postpone the effective date of the commissioner's previous action until after the hearing and decision.

2. Nothing contained in this chapter shall require the observance at any hearing of formal rules of pleading or evidence.

3. *a.* Judicial review of the actions of the commissioner may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

b. The court shall determine whether the filing of the petition for such writ shall operate as a stay of any such order or decision of the commissioner. The court may, in disposing of the issue before it, modify, affirm or reverse the order or decision of the commissioner in whole or in part.

[C50, 54, 58, 62, §515A.18, 515B.17; C66, 71, 73, 75, 77, 79, 81, §515A.18]
2003 Acts, ch 44, §114; 2012 Acts, ch 1023, §157; 2023 Acts, ch 66, §124
Referred to in §515A.11, 515A.15A

515A.19 Laws affected.

Compliance with this chapter shall not be deemed to be a violation of section 515.140.

[C50, 54, 58, 62, §515A.19, 515B.18; C66, 71, 73, 75, 77, 79, 81, §515A.19]
2007 Acts, ch 152, §78
Referred to in §515A.11

515A.19A Rules.

The commissioner may adopt rules pursuant to chapter 17A as necessary and convenient to administer this chapter.

2008 Acts, ch 1123, §40

CHAPTER 515B

INSURANCE GUARANTY ASSOCIATION

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 507C.2, 515I.4A, 669.14, 670.7

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515B.1 Scope.

This chapter shall apply to all kinds of direct insurance authorized to be written by an insurer licensed to operate in this state under chapter 515 or chapter 520, but shall not be applicable to the following:

1. Life, annuity, health, or disability insurance.

2. Mortgage guaranty, financial guaranty, residual value, or other forms of insurance offering protection against investment risks.

3. Fidelity or surety bonds, or any other bonding obligations.

4. Credit insurance, vendors' single interest insurance, or collateral protection insurance or any similar insurance protecting the interests of a creditor arising out of a creditor-debtor transaction.

5. Insurance warranties or service contracts, including insurance that provides for

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the repair, replacement, or service of goods or property, or indemnification for repair, replacement, or service, for the operational or structural failure of the goods or property due to a defect in materials, workmanship, or normal wear and tear, or provides reimbursement for the liability incurred by the issuer of agreements or service contracts that provide such benefits.

6. Title insurance.

7. Ocean marine insurance.

8. A transaction or combination of transactions between a person, including affiliates of such person, and an insurer, including affiliates of such insurer, which involves the transfer of investment or credit risk unaccompanied by transfer of insurance risk.

9. Insurance provided by, guaranteed by, or reinsured by government.

[C71, 73, 75, 77, 79, 81, §515B.1]

86 Acts, ch 1184, §2; 88 Acts, ch 1112, §504; 97 Acts, ch 186, §13; 2001 Acts, ch 69, §31; 2009 Acts, ch 145, §24

515B.2 Definitions.

As used in this chapter unless the context otherwise requires:

1. *"Association"* means the Iowa insurance guaranty association created pursuant to section 515B.3.

2. *"Claimant"* means an insured making a first party claim or any person instituting a liability claim against the insured of an insolvent insurer. *"Claimant"* does not include a person who is an affiliate of an insolvent insurer.

3. *"Commissioner"* means the commissioner of insurance of this state.

4. *a. "Covered claim"* means an unpaid claim, including one for unearned premiums, which arises out of and is within the coverage and is subject to the applicable limits of an insurance policy to which this chapter applies issued by an insurer, if such insurer becomes an insolvent insurer after July 1, 1970, and one of the following conditions exists:

(1) The claimant or insured is a resident of this state at the time of the insured event. Other than an individual, the residence of the claimant or insured is the state in which its principal place of business is located.

(2) The claim is a first party claim by an insured for damage to property permanently located in this state.

b. (1) *"Covered claim"* does not include any amount as follows:

(a) That is due any reinsurer, insurer, insurance pool, underwriting association, or other group assuming insurance risks, as subrogation, contribution, or indemnity recoveries, or otherwise.

(b) That constitutes the portion of a claim that is within an insured's deductible or self-insured retention.

(c) That is a claim for unearned premium calculated on a retrospective basis, experience-rated plan, or premium subject to adjustment after termination of the policy.

(d) That is a fee or other amount relating to goods or services sought by or on behalf of an attorney, adjuster, witness, or other provider of goods or services retained by the insolvent insurer or by an insured prior to the date the insurer was declared insolvent.

(e) That is a fine, penalty, interest, or punitive or exemplary damages.

(f) That is a fee or other amount sought by or on behalf of any attorney, adjuster, witness, or other provider of goods or services retained by the insured or claimant in connection with the assertion of any claim, covered or otherwise, against the association.

(g) That is a claim filed with the association or a liquidator for protection afforded under the insured's policy or contract for incurred but not reported losses or expenses.

(h) That constitutes a claim under a policy issued by an insolvent insurer with a deductible or self-insured retention of two hundred thousand dollars or more. However, such a claim shall be considered a covered claim, if as of the deadline set for the filing of claims against the insolvent insurer of its liquidator, the insured is a debtor under 11 U.S.C. §701 et seq.

(i) That would otherwise be a covered claim, but is an obligation to or on behalf of a person who has a net worth greater than that allowed by the guarantee fund law of the state of residence of the person, and which state has denied coverage to that person on that basis.

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(j) That is an obligation owed to or on behalf of an affiliate of, as defined in section 521A.1, an insolvent insurer.

(2) Notwithstanding the subparagraph divisions of subparagraph (1), a person is not prevented from presenting a noncovered claim to the insolvent insurer or its liquidator, but the noncovered claim shall not be asserted against any other person, including the person to whom benefits were paid or the insured of the insolvent insurer, except to the extent that the claim is outside the coverage of the policy issued by the insolvent insurer.

5. *"Insurer"* means an insurer licensed to transact insurance business in this state under either chapter 515 or chapter 520, either at the time the policy was issued or when the insured event occurred. It does not include county or state mutual insurance associations licensed under chapter 518 or chapter 518A, or fraternal benefit societies, orders, or associations licensed under chapter 512B, or corporations operating nonprofit service plans under chapter 514, or life insurance companies or life, accident, or health associations licensed under chapter 508, or those professions under chapter 519.

6. *"Insolvent insurer"* means an insurer against which a final order of liquidation with a finding of insolvency has been entered on or after July 1, 1980, by a court of competent jurisdiction of this state or of the state of the insurer's domicile.

7. *"Liquidator"* means a receiver as defined in section 507C.2, or a comparable person appointed by the courts of the domiciliary state of a foreign insurer.

8. *"Net direct written premiums"* means direct gross premiums written in this state on insurance policies to which this chapter applies, less return premiums and dividends paid or credited to policyholders on such direct business. Such term does not include premiums on contracts between insurers or reinsurers.

9. *"Person"* means any individual, corporation, partnership, association, or voluntary organization.

[C71, 73, 75, 77, 79, 81, §515B.2; 82 Acts, ch 1137, §2]

86 Acts, ch 1184, §3 – 5; 88 Acts, ch 1112, §505, 506; 89 Acts, ch 83, §74; 91 Acts, ch 26, §43; 93 Acts, ch 88, §22; 97 Acts, ch 186, §14; 2000 Acts, ch 1023, §30; 2001 Acts, ch 24, §55; 2003 Acts, ch 91, §40; 2005 Acts, ch 70, §22; 2009 Acts, ch 145, §25; 2010 Acts, ch 1063, §23 – 25

Referred to in §515B.3

515B.3 Creation of the association.

There is created a nonprofit unincorporated legal entity to be known as the Iowa insurance guaranty association. All insurers as defined in section 515B.2, subsection 5 shall be and remain members of the association as a condition of their authority to transact insurance in this state. The association shall perform its functions under a plan of operation established and approved pursuant to section 515B.6 and shall exercise its powers through a board of directors established under section 515B.4. Except as otherwise provided in such plan of operation, annual or special meetings of members of the association may be held on call as directed by the association's board of directors or by the commissioner of insurance, upon not less than ten days' written notice by ordinary mail to each member at the member's principal office as shown by the records in the commissioner's office, specifying the time and place, and in the case of a special meeting, the purpose of the meeting. Members may vote in person or by proxy and ten members present in person or by proxy shall constitute a quorum for the transaction of any business.

[C71, 73, 75, 77, 79, 81, §515B.3]

Referred to in §515B.2

515B.4 Board of directors.

1. The board of directors of the association shall consist of not less than five nor more than nine persons serving terms as established in the plan of operation. The members of the board shall be selected by member insurers subject to the approval of the commissioner. Vacancies on the board shall be filled for the remaining period of the term by majority vote of the remaining directors, subject to the approval of the commissioner.

2. In approving selections to the board the commissioner shall consider among other things whether all member insurers are fairly represented.

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3. Members of the board may be reimbursed from the assets of the association for expenses incurred by them as members of the board of directors.

[C71, 73, 75, 77, 79, 81, §515B.4]

2018 Acts, ch 1041, §127

Referred to in §515B.3, 515B.6

515B.5 Duties and powers of the association.

1. The association shall:

a. Be obligated to pay covered claims existing prior to the final order of liquidation and arising within thirty days after the final order of liquidation, or before the policy expiration date if less than thirty days after the final order of liquidation, or before the insured replaces the policy or causes its cancellation, if the insured does so within thirty days of the final order of liquidation. Such obligation shall be satisfied by paying to the claimant an amount as follows:

(1) The full amount of a covered claim for benefits under a workers' compensation insurance coverage.

(2) An amount in excess of one hundred dollars but not exceeding ten thousand dollars per policy for a covered claim for the return of unearned premium.

(3) An amount not exceeding the lesser of the policy limits or five hundred thousand dollars per claim for all covered claims for all damages arising out of any one or series of accidents, occurrences, or incidents, regardless of the number of persons making claims or the number of applicable policies.

b. Be obligated to pay covered claims subject to a limitation as established by the rights, duties, and obligations under the policy of the insolvent insurer. However, the association is not obligated to pay a claimant an amount in excess of the obligation under the policy of the insolvent insurer, regardless of whether such claim is based on contract or tort.

c. (1) Assess member insurers amounts necessary to pay the obligations of the association under paragraph *"a"* of this subsection subsequent to an insolvency, the expenses of handling covered claims subsequent to an insolvency, the cost of examinations under section 515B.10, and other expenses authorized by this chapter. The assessment of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the preceding calendar year bear to the net direct written premiums of all member insurers for the preceding calendar year. Each member insurer shall be notified of the assessment not later than thirty days before it is due. No member insurer may be assessed in any year an amount greater than two percent of that member insurer's net direct written premiums for the preceding calendar year. If the maximum assessment, together with the other assets of the association, does not provide in any one year an amount sufficient to make all necessary payments, the funds available shall be prorated and the unpaid portion shall be paid as soon as funds become available. The association may exempt or defer, in whole or in part, the assessment of any member insurer if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance. Each member insurer serving as a servicing facility pursuant to this section may set off against any assessment, authorized payments made on covered claims and expenses incurred in the payment of such claims by the member insurer. In addition, the association shall have the authority to levy an administrative assessment of not more than fifty dollars per year per member insurer on a non pro rata basis, which assessment shall be credited against any future insolvency assessment. Such assessment shall be used to pay authorized expenses not directly attributable to any particular insolvency or insolvent insurer. All overdue and unpaid assessments shall draw interest at the rate of seven percent per annum.

(2) The association shall also have the right to pursue and retain for its own account salvage and subrogation recoverable on paid covered claim obligations. An obligation of the association to defend an insured shall cease upon the association's payment or tender to an excess insurer of an amount equal to the lesser of the association's covered claim obligation or the applicable policy limits.

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d. Investigate claims brought against the association and adjust, compromise, settle, and pay covered claims to the extent of the association's obligations on covered claims and deny all other claims. The association may review settlements, releases, and judgments to which the insolvent insurer or its insureds were parties to determine the extent to which settlements, releases, and judgments may properly be contested, and, to that end, any uncontested or default judgment against the insolvent insurer or its insured shall not be binding on the association. The association shall have the right to appoint or substitute legal counsel retained to defend insureds on covered claims.

e. Notify such persons as the commissioner directs under section 515B.7, subsection 2, paragraph *"a"*.

f. Process claims through its employees or through one or more member insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the commissioner, but such designation may be declined by a member insurer.

g. Reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association, and pay the other expenses of the association authorized by this chapter.

2. The association may:

a. Appear in, defend, and appeal any action on a claim brought against the association.

b. Employ or retain persons necessary to handle claims and perform other duties of the association.

c. Borrow funds necessary to effect the purposes of this chapter in accord with the plan of operation.

d. Sue or be sued.

e. Negotiate and become a party to contracts necessary to carry out the purpose of this chapter.

f. Perform such other acts necessary or proper to effectuate the purposes of this chapter.

g. The board of directors, in its discretion, may from time to time refund excess amounts to member insurers that are not needed for current or projected liabilities of a particular insolvency. The amount of each refund is equal to the net direct written premiums of the member insurer for the preceding calendar year divided by the net written premiums of all member insurers for the preceding calendar year, multiplied by the total amount to be refunded to all members. Any assessments or refunds of any member insurer in amounts not to exceed twenty-five dollars may, at the discretion of the board of directors, be waived.

h. Request that all future payments of workers' compensation weekly benefits, medical expenses, or other payments under chapter 10A, subchapter III, chapter 85, 85A, 85B, or 87 be commuted to a present lump sum and upon the payment of which, either to the claimant or to a licensed insurer for purchase of an annuity or other periodic payment plan for the benefit of the claimant, the employer and the association shall be discharged from all further liability for the workers' compensation claim. Notwithstanding the provisions of section 85.45, any future payment of medical expenses, weekly compensation benefits, or other payment by the association under this chapter pursuant to chapter 10A, subchapter III, chapter 85, 85A, 85B, or 87, is deemed an undue expense, hardship, or inconvenience upon the employer for purposes of a full commutation pursuant to section 85.45, subsection 1, paragraph *"b"*, and the workers' compensation commissioner shall fix the lump sum of the probable future medical expenses and weekly compensation benefits capitalized at their present value upon the basis of interest at the rate provided in section 535.3 for court judgments and decrees.

[C71, 73, 75, 77, 79, 81, §515B.5; 82 Acts, ch 1051, §2]

86 Acts, ch 1184, §6; 88 Acts, ch 1112, §507; 91 Acts, ch 26, §44; 92 Acts, ch 1162, §40, 41; 97 Acts, ch 186, §15, 16; 98 Acts, ch 1061, §11; 2001 Acts, ch 69, §32; 2002 Acts, ch 1111, §20, 21; 2008 Acts, ch 1032, §200; 2010 Acts, ch 1063, §26; 2012 Acts, ch 1023, §157; 2023 Acts, ch 19, §2024

Referred to in §515B.6, 515B.9

515B.6 Plan of operation.

1. *a.* The association shall submit a plan of operation to the commissioner, together with any amendments necessary or suitable to assure the fair, reasonable, and equitable

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administration of the association. The plan of operation and any amendments shall become effective upon approval in writing by the commissioner.

b. If the association fails to submit a suitable plan of operation within ninety days following the effective date of this chapter or if at any time thereafter the association fails to submit suitable amendments to the plan, the commissioner shall, after notice and opportunity for hearing, adopt and promulgate reasonable rules necessary or advisable to effectuate the provisions of this chapter. Such rules shall continue in force until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner.

2. All member insurers shall comply with the plan of operation.

3. The plan of operation shall:

a. Establish the procedures for performance of all the duties and powers of the association under section 515B.5.

b. Establish procedures for managing assets of the association.

c. Establish the amount and method of reimbursing members of the board of directors under section 515B.4.

d. Establish procedures by which claims may be filed with the association and establish acceptable forms of proof of covered claims. Notice of claims to the receiver or liquidator of the insolvent insurer shall be deemed notice to the association or its agent and a list of such claims shall be periodically submitted to the association or similar organization in another state by the receiver or liquidator.

e. Establish regular places and times for meetings of the board of directors.

f. Establish procedures for keeping records of all financial transactions of the association, its agents, and the board of directors.

g. Provide that any member insurer aggrieved by any final action or decision of the association may appeal to the commissioner within thirty days after the action or decision.

h. Establish procedures for submission to the commissioner of selections for the board of directors.

i. Contain additional provisions necessary or proper for the execution of the duties and powers of the association.

4. The plan of operation may provide that any or all duties and powers of the association, except those under section 515B.5, subsection 1, paragraph "*c*", and section 515B.5, subsection 2, paragraph "*c*", are delegated to a person which performs or will perform functions similar to those of this association in two or more states. Such person shall be reimbursed as a servicing facility and shall be paid for performance of any other functions of the association. A delegation under this subsection shall take effect only with the approval of both the board of directors and the commissioner, and may be made only to a person which extends protection not substantially less favorable and effective than that provided by this chapter.

[C71, 73, 75, 77, 79, 81, §515B.6]

2012 Acts, ch 1023, §157

Referred to in §515B.3

515B.7 Duties and powers of the commissioner.

1. The commissioner shall:

a. Notify the association of the existence of an insolvent insurer not later than three days after the commissioner receives notice of the determination of the insolvency.

b. Upon request of the board of directors, provide the association with a statement of the net direct written premiums of each member insurer.

2. The commissioner may:

a. Require that the association notify the insureds of the insolvent insurer and any other interested parties of the determination of insolvency and of their rights under this chapter. Such notification shall be by mail at their last known address, but if sufficient information for notification by mail is not available, notice by publication in a newspaper of general circulation is sufficient.

b. Suspend or revoke, after notice and opportunity for hearing, the certificate of authority

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to transact insurance in this state of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the commissioner may levy a fine on any member insurer which fails to pay an assessment when due. Such fine shall not exceed five percent of the unpaid assessment per month, except that no fine shall be less than one hundred dollars per month.

c. Revoke the designation of any servicing facility if the commissioner finds claims are being processed unsatisfactorily.

3. Judicial review of actions of the commissioner may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

[C71, 73, 75, 77, 79, 81, §515B.7]
2003 Acts, ch 44, §114
Referred to in §515B.5

515B.8 Effect of paid claims.

1. Any person recovering under this chapter shall be deemed to have assigned the person's rights under the policy to the association to the extent of the person's recovery from the association. Every insured or claimant seeking the protection of this chapter shall cooperate with the association to the same extent as such person would have been required to cooperate with the insolvent insurer. The association shall have no cause of action against the insured of the insolvent insurer for any sums it has paid out except causes of action the insolvent insurer would have had if the sums had been paid by the insolvent insurer.

2. The association and any similar entity in another state shall be recognized as claimants in the liquidation of an insolvent insurer for any amounts paid by them on covered claim obligations as determined under this chapter or under similar law in another state, and shall receive dividends and any other distributions at the priority set forth under the applicable liquidation law. The receiver, liquidator, or statutory successor of an insolvent insurer shall be bound by determinations of covered claim eligibility under this chapter and by settlements of covered claims made by the association or a similar organization in another state. The court having jurisdiction shall grant such claims priority equal to that which the claimant would have been entitled in the absence of this chapter against the assets of the insolvent insurer. The expenses of the association or similar organization in handling claims shall be accorded the same priority as the liquidator's expenses.

3. The association shall periodically file with the receiver or liquidator of the insolvent insurer statements of the covered claims paid by the association and estimates of anticipated claims on the association, which statements shall preserve the rights of the association against the assets of the insolvent insurer.

[C71, 73, 75, 77, 79, 81, §515B.8]
97 Acts, ch 186, §17; 2003 Acts, ch 91, §41

515B.9 Nonduplication of recovery.

1. *a.* Any person having a claim under an insurance policy, and the claim under such other policy alleges the same damages or arises from the same facts, injury, or loss that gives rise to a covered claim against the association, shall be required to first exhaust all coverage provided by that policy, whether such coverage is on a primary, excess, or pro rata basis and any obligation of the association shall not be considered other insurance.

(1) Any amount payable on a covered claim shall be reduced by the full applicable limits of such other insurance policy and the association shall receive full credit for such limits or where there are no applicable limits, the claim shall be reduced by the total recovery.

(2) A policy providing liability coverage to a person who may be jointly and severally liable with, or a joint tortfeasor with, the person covered under the policy of the insolvent insurer shall be first exhausted before any claim is made against the association and the association shall receive credit for the same as provided above.

b. For purposes of this section, an insurance policy means a policy issued by an insurance company, whether or not a member insurer, which policy insures any of the types of risks insured by an insurance company authorized to write insurance under chapter 515, 516A, or

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520, or comparable statutes of another state, except those types of risks set forth in chapters 508 and 514.

2. A person having a claim which may be recovered under more than one insurance guaranty association or its equivalent shall seek recovery first from the association of the place of residence of the insured. However, if the claim is a first party claim for damage to property with a permanent location, recovery shall be first sought from the association of the location of the property. If the claim is a workers' compensation claim, recovery shall be first sought from the association of the residence of the claimant. Any sums recovered from any other guaranty association or equivalent organization shall be subtracted from the maximum liability of the association under section 515B.5, subsection 1, paragraph *"a"*.

[C71, 73, 75, 77, 79, 81, §515B.9]

86 Acts, ch 1184, §7; 88 Acts, ch 1112, §508; 91 Acts, ch 26, §45; 2003 Acts, ch 91, §42; 2012 Acts, ch 1023, §123

515B.10 Prevention of insolvencies.

1. *a.* To aid in the detection and prevention of insurer insolvencies the board of directors, upon majority vote, may do either of the following:

(1) Make recommendations to the commissioner for the detection and prevention of insurer insolvencies.

(2) Respond to a request by the commissioner to discuss and make recommendations regarding the status of member insurers whose financial condition may be hazardous to policyholders or the public.

b. At the conclusion of a domestic insurer insolvency, the board of directors may prepare a report based on the information available to the association on the history and causes of the insolvency. The report may be submitted to the commissioner.

2. Recommendations and reports made pursuant to subsection 1, paragraph *"a"*, subparagraph (2), are not public records under chapter 22.

[C71, 73, 75, 77, 79, 81, §515B.10]

86 Acts, ch 1184, §8

Referred to in §22.7(22), 515B.5

515B.11 Examination of the association.

The association is subject to examination and regulation by the commissioner. The board of directors shall submit, not later than March 30 of each year, a financial report for the preceding calendar year in a form approved by the commissioner.

[C71, 73, 75, 77, 79, 81, §515B.11]

515B.12 Tax exemption.

The association is exempt from payment of all fees and all taxes levied by this state or any of its subdivisions, except taxes levied on property.

[C71, 73, 75, 77, 79, 81, §515B.12]

89 Acts, ch 296, §73

515B.13 Recognition of assessments in rates.

The rates and premiums charged for insurance policies to which this chapter applies shall include amounts sufficient to recoup a sum equal to the amounts paid to the association by the member insurer less any amounts returned to the member insurer by the association, and such rates shall not be deemed excessive as a result of containing such recoupment allowances.

[C71, 73, 75, 77, 79, 81, §515B.13]

515B.14 Immunity.

There shall be no liability on the part of, and no cause of action of any nature shall arise against a member insurer, the association or its agents or employees, the board of directors or any person serving as an alternate or substitute representative of any director, or the

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commissioner or the commissioner's representatives, for any action taken or any failure to act by them in the performance of their duties and powers under this chapter.

[C71, 73, 75, 77, 79, 81, §515B.14]

2010 Acts, ch 1063, §27

515B.15 Stay of proceedings.

1. All proceedings to which the insolvent insurer is a party or in which it is obligated to defend a party shall be stayed from the date of the insolvency to and including the date set as the deadline for the filing of claims against the insolvent insurer or its receiver. However, upon application, the court having jurisdiction of the receivership, may lengthen or shorten the period, either as to all claims or as to any particular claim. The association may, at the option of the association, waive such stay as to specific cases involving covered claims.

2. As to any covered claims based on the default of an insurer who is or who becomes insolvent, or based on the failure of an insurer to defend an insured, the association, on its own behalf or on behalf of the insured, is entitled to set the default aside and defend such claim on its merits.

[C71, 73, 75, 77, 79, 81, §515B.15]

92 Acts, ch 1162, §42; 97 Acts, ch 186, §18; 2019 Acts, ch 24, §104

515B.16 Actions against the association.

Any action against the association shall be brought against the association in the association's own name. The Polk county district court shall have exclusive jurisdiction and venue of such actions. Service of the original notice in actions against the association may be made on any officer of the association or upon the commissioner of insurance on behalf of the association. The commissioner shall promptly transmit any notice so served upon the commissioner to the association. Any action against the association shall be commenced within three years after the date of the order of liquidation.

[C73, 75, 77, 79, 81, §515B.16]

97 Acts, ch 186, §19; 2001 Acts, ch 69, §33; 2003 Acts, ch 91, §43

515B.17 Timely filing of claims.

Notwithstanding any other provision of this chapter, a covered claim shall not include any claim filed with the association after twenty-four months from the date of the order of liquidation or after the final date set by the court for the filing of claims against the insolvent insurer or its receiver, whichever occurs first.

[C77, 79, 81, §515B.17]

93 Acts, ch 88, §23; 2005 Acts, ch 70, §23

515B.18 Prohibited advertising.

A person shall not advertise or publish, in connection with the sale of an insurance policy, that claims under the insurance policy are subject to this chapter or will be paid by the Iowa insurance guaranty association.

88 Acts, ch 1112, §509

515B.19 Coordination among guaranty associations.

1. The association may join one or more organizations of other state associations of similar purpose, to further the purposes and administer the powers and duties of the association. The association may designate one or more of these organizations to act as a liaison for the association and, to the extent the association authorizes, to bind the association in agreements or settlements with receivers of insolvent insurance companies or their designated representatives.

2. The association, in cooperation with other obligated or potentially obligated guaranty associations or their designated representatives, shall make all reasonable efforts to coordinate and cooperate with receivers or their designated representatives, in the most

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efficient and uniform manner, including the use of uniform data standards as promulgated or approved by the national association of insurance commissioners.

2010 Acts, ch 1063, §28

515B.20 through 515B.24 Reserved.

515B.25 Early access to assets. Repealed by 97 Acts, ch 186, §27.

515B.26 Title.

This chapter shall be known and may be cited as the *"Iowa Insurance Guaranty Association Act"*.

[C71, §515B.16; C73, 75, §515B.17; C77, 79, 81, §515B.18]

CHAPTER 515C

MORTGAGE GUARANTY INSURANCE

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 507.1, 669.14, 670.7

515C.1 Definition.
515C.2 Eligibility for insurance.
515C.3 Bases for computations.
515C.4 Contingency reserve.
515C.5 Limit of outstanding liability.
515C.6 Determination of loss reserves.
515C.7 Rate-making provisions.
515C.8 Policy forms approved.
515C.9 Restrictions on advertising.
515C.10 Law applicable.
515C.11 Mortgages secured by first lien on real estate.

515C.1 Definition.

"Mortgage guaranty insurance" means insurance against financial loss by reason of nonpayment of principal, interest and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a lien or charge on real estate or on an owner-occupied manufactured or mobile home.

[C66, 71, 73, 75, 77, 79, 81, §515C.1]

95 Acts, ch 67, §37; 2001 Acts, ch 153, §15; 2001 Acts, ch 176, §80

515C.2 Eligibility for insurance.

Eligibility for mortgage guaranty insurers shall be as follows:

1. An insurer, in order to qualify for writing mortgage guaranty insurance, must have the same surplus to policyholders as that required of a multiple line company by section 515.8.

2. An insurer transacting any class of insurance other than mortgage guaranty insurance is not eligible for the issuance of a certificate of authority to transact mortgage guaranty insurance in this state, nor the renewal thereof.

3. A foreign or alien insurer writing mortgage guaranty insurance shall not be eligible for the issuance of a certificate of authority in Iowa unless it has demonstrated a satisfactory operating experience in its state of domicile.

[C66, 71, 73, 75, 77, 79, 81, §515C.2]

2012 Acts, ch 1021, §100

515C.3 Bases for computations.

The unearned premium reserve shall be computed pursuant to rules adopted by the commissioner of insurance.

[C66, 71, 73, 75, 77, 79, 81, §515C.3]

2000 Acts, ch 1023, §31, 60

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515C.4 Contingency reserve.

For the protection of the people of this state and for the purpose of protecting against the effect of adverse economic cycles, the company shall establish a contingency reserve. The company shall annually contribute fifty percent of the earned premiums to this reserve. The earned premiums so reserved may be released annually after the period of time required by the commissioner, provided that said time shall not be less than one hundred twenty months. However, subject to the approval of the commissioner, this reserve may be available only for loss payments, when the loss ratio (incurred losses to premiums earned) exceeds twenty percent. This amount so used shall reduce the next subsequent annual release to surplus from the established contingency reserve.

[C66, 71, 73, 75, 77, 79, 81, §515C.4]

515C.5 Limit of outstanding liability.

1. Unless a request to suspend the requirements of this section is granted by the commissioner as set forth in subsection 2, a mortgage guaranty insurer shall not at any time have outstanding a total liability, net of reinsurance, in excess of twenty-five times its capital, unassigned funds, and contingency reserve. A mortgage guaranty insurer shall not insure loans secured by properties in a single housing tract or in a contiguous tract which is not separated by more than one-half mile in excess of ten percent of its capital, unassigned funds, and contingency reserve. Coverage may be provided only if the properties in such tract are residential buildings, buildings designed for occupancy by not more than four families, or owner-occupied mobile homes.

2. Upon request of a mortgage guaranty insurer, the commissioner may suspend the requirements contained in subsection 1 for such time and under such conditions as the commissioner may order. The commissioner may adopt rules as necessary relating to the consideration of such requests for suspension of those requirements.

[C66, 71, 73, 75, 77, 79, 81, §515C.5]
2010 Acts, ch 1121, §22
Referred to in §515C.11

515C.6 Determination of loss reserves.

The case basis method shall be used to determine the loss reserves, which shall include a reserve for claims reported and unpaid and a reserve for claims incurred but not reported.

[C66, 71, 73, 75, 77, 79, 81, §515C.6]

515C.7 Rate-making provisions.

Mortgage guaranty insurance shall be subject to the provisions of chapter 515F, for the purposes of rate making.

[C66, 71, 73, 75, 77, 79, 81, §515C.7]
93 Acts, ch 88, §24

515C.8 Policy forms approved.

All policy forms and endorsements shall be filed with and be subject to the approval of the commissioner of insurance. With respect to owner-occupied single family dwellings and owner-occupied mobile homes, the mortgage insurance policy shall provide that the borrower shall not be liable to the insurance company for any deficiency arising from a foreclosure sale.

[C66, 71, 73, 75, 77, 79, 81, §515C.8]

515C.9 Restrictions on advertising.

No bank, savings association, insurance company, or other lending institution, any of whose authorized real estate securities are insured by mortgage guaranty insurance companies, may state in any brochure, pamphlet, report, or any form of advertising that the real estate loans of the bank, savings association, insurance company, or other lending institution are "insured loans" unless the brochure, pamphlet, report, or advertising also clearly states that the loans are insured by private insurers and the names of the private insurers are given and shall not

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make any such statement at all unless such insurance is by an insurer authorized to write this coverage in this state.

[C66, 71, 73, 75, 77, 79, 81, §515C.9]

2012 Acts, ch 1017, §99

515C.10 Law applicable.

All companies writing insurance as authorized by this chapter shall, in addition to the provisions herein, comply with and be subject to all of the provisions of chapter 515 not inconsistent herewith.

[C66, 71, 73, 75, 77, 79, 81, §515C.10]

515C.11 Mortgages secured by first lien on real estate.

A mortgage guaranty insurer in addition to coverage provided under section 515C.5 may insure mortgages secured by first lien upon improved real estate which is used for commercial purposes, except for those types of commercial properties specifically excluded by the commissioner of insurance.

[C71, 73, 75, 77, 79, 81, §515C.11]

CHAPTER 515D

AUTOMOBILE INSURANCE CANCELLATION CONTROL

Referred to in §87.4, 296.7, 331.301, 364.4, 505.8, 505.28, 505.29, 669.14, 670.7

515D.1 Title.
515D.2 Definitions.
515D.3 When not applicable.
515D.4 Notice of cancellation — reasons.
515D.5 Delivery of notice.
515D.6 Prohibited reasons for nonrenewal.
515D.7 Notice of intent.
515D.8 Duplicate coverage.
515D.9 Renewal not a waiver or estoppel.
515D.10 Hearing before commissioner.
515D.11 Insured told of alternate coverage.
515D.12 Immunity of liability.

515D.1 Title.

This chapter shall be known as the "*Iowa Automobile Insurance Cancellation Control Act*".

[C71, 73, 75, 77, 79, 81, §515D.1]

515D.2 Definitions.

As used in this chapter, unless otherwise required by the context:

1. "*Policy*" means an automobile insurance policy providing bodily injury liability, property damage liability, medical payments, uninsured motorist coverage, physical damage coverage, or any combination thereof, delivered or issued for delivery in this state, insuring a single individual or one or more related individuals resident in the same household, as named insured, and insuring vehicles of the following types only:

a. Motor vehicles of the private passenger or station wagon type which are not used as public conveyances nor rented to others.

b. Any other four-wheel motor vehicles with a load capacity of one thousand five hundred pounds or less which are not used in the business or profession of the insured.

2. "*Renewal*" or "*to renew*" means the issuance and delivery by an insurer of a policy replacing at the end of the previous policy term a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the coverage of the policy beyond its original term.

a. Any renewal policy, other than a replacement policy for an unfinished term, with a term of six months or less shall be considered written, for the purposes of this chapter, for a term of six months.

b. Any policy written for a term longer than one year or with no fixed expiration date shall be considered written for successive policy terms of one year.

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3. *"Nonpayment of premium"* means failure of the named insured to discharge when due any of the named insured's obligations in connection with the payment of premiums on the policy, or any installment of a premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit.

[C71, 73, 75, 77, 79, 81, §515D.2]

2012 Acts, ch 1023, §157

515D.3 When not applicable.

This chapter shall not apply to any policy:

1. Issued under an automobile assigned risk plan.

2. Covering garage, automobile sales agency, repair shop, service station, or public parking place operation hazards.

3. Insuring more than four automobiles.

4. Issued principally to cover personal or premises liability of an insured even though such insurance may also provide some incidental coverage for liability arising out of the ownership, maintenance, or use of a motor vehicle on the premises of such insured or on the ways immediately adjoining the premises.

[C71, 73, 75, 77, 79, 81, §515D.3]

515D.4 Notice of cancellation — reasons.

1. A policy shall not be canceled except by notice to the insured as provided in this chapter. Notice of cancellation of a policy is not effective unless it is based on one or more of the following reasons:

a. Nonpayment of premium.

b. Nonpayment of dues to an association or organization other than an insurance association or organization, where payment of dues is a prerequisite to obtaining or continuing insurance in force and the dues payment requirement was in effect prior to January 1, 1969.

c. Fraud or material misrepresentation affecting the policy or the presentation of a claim.

d. Violation of terms or conditions of the policy.

e. Any reason permitted in subsection 2 for exclusion of a person from the policy.

2. A person shall not be excluded from the policy unless the exclusion is based on one or more of the following reasons, or is agreed upon by both the named insured and the insurer:

a. The named insured or any operator who either resides in the same household or customarily operates an automobile insured under the policy has that person's driver's license suspended or revoked during any of the following:

(1) The term of the policy.

(2) The term of a renewal policy.

(3) Within one hundred eighty calendar days immediately preceding the effective date of a renewal of the policy.

b. The named insured or any operator who either resides in the same household or customarily operates an automobile insured under the policy has during the term of the policy engaged in a competitive speed contest while operating an automobile insured under the policy.

c. The named insured or any operator who either resides in the same household or customarily operates an automobile insured under the policy, during the thirty-six months immediately preceding the notice of cancellation or nonrenewal, has been convicted of or forfeited bail for any of the following:

(1) Criminal negligence resulting in death, homicide, or assault and arising out of the operation of a motor vehicle.

(2) Operating a motor vehicle while intoxicated or while under the influence of a drug.

(3) A violation of section 321.261.

3. This section shall not apply to any policy or coverage which has been in effect less than sixty calendar days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy. This section shall not apply to the nonrenewal of a policy.

4. During the policy period, a modification of automobile physical damage coverage, other

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than coverage for loss caused by collision, where provision is made for the application of a deductible amount not exceeding one hundred dollars, shall not be deemed a cancellation of the coverage or of the policy.

[C71, 73, 75, 77, 79, 81, §515D.4]

96 Acts, ch 1045, §6; 97 Acts, ch 186, §20; 2002 Acts, ch 1111, §22; 2021 Acts, ch 181, §18, 19

Referred to in §515D.5

515D.5 Delivery of notice.

1. *a.* Notwithstanding the provisions of section 515.129A, a notice of cancellation of a policy shall not be effective unless mailed or delivered by the insurer to the named insured at least thirty calendar days prior to the effective date of cancellation, or, where the cancellation is for nonpayment of premium notwithstanding the provisions of section 515.129A, at least ten calendar days prior to the date of cancellation. A post office department certificate of mailing to the named insured at the address shown in the policy shall be proof of receipt of such mailing. Unless the reason accompanies the notice of cancellation, the notice shall state that upon written request of the named insured, mailed or delivered to the insurer not less than fifteen calendar days prior to the date of cancellation, the insurer will state the reason for cancellation together with notification of the right to a hearing before the commissioner within fifteen calendar days as provided in this chapter.

b. When the reason does not accompany the notice of cancellation, the insurer shall, upon receipt of a timely request by the named insured, state in writing the reason for cancellation. A statement of reason shall be mailed or delivered to the named insured within five calendar days after receipt of a request.

2. A notice of exclusion of a person under a policy pursuant to section 515D.4, is not effective unless written notice is mailed or delivered to the named insured at least twenty calendar days prior to the effective date of the exclusion. The written notice shall state the reason for the exclusion, together with notification of the right to a hearing before the commissioner pursuant to section 515D.10 within fifteen calendar days of receipt or delivery of a statement of reason as provided in this section.

[C71, 73, 75, 77, 79, 81, §515D.5]

88 Acts, ch 1112, §601; 97 Acts, ch 186, §21; 2003 Acts, ch 91, §44; 2007 Acts, ch 152, §79; 2011 Acts, ch 70, §32; 2021 Acts, ch 181, §20

515D.6 Prohibited reasons for nonrenewal.

1. An insurer shall not refuse to renew a policy solely because of age, residence, sex, race, color, creed, or occupation.

2. An insurer shall not require a physical examination of a policyholder as a condition for renewal solely on the basis of age or other arbitrary reason. In the event that an insurer requires a physical examination of a policyholder, the burden of proof in establishing reasonable and sufficient grounds for the requirement shall rest with the insurer and the expenses incident to the examination shall be borne by the insurer.

[C71, 73, 75, 77, 79, 81, §515D.6]

2021 Acts, ch 76, §128; 2021 Acts, ch 181, §21

515D.7 Notice of intent.

1. Notwithstanding the provisions of sections 515.125 and 515.128, an insurer shall not fail to renew a policy except by notice to the insured as provided in this chapter. A notice of intention not to renew shall not be effective unless mailed or delivered by the insurer to the named insured at least thirty calendar days prior to the expiration date of the policy. A post office department certificate of mailing to the named insured at the address shown in the policy shall be proof of receipt of such mailing. Unless the reason accompanies the notice of intent not to renew, the notice shall state that, upon written request of the named insured, mailed or delivered to the insurer not less than thirty calendar days prior to the expiration date of the policy, the insurer will state the reason for nonrenewal.

2. Notwithstanding the provisions of sections 515.129B and 515.129C, an insurer shall not

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fail to renew a policy except by notice to the insured as provided in this chapter. A notice of intention not to renew shall not be effective unless mailed or delivered by the insurer to the named insured at least sixty calendar days prior to the expiration date of the policy. A post office department certificate of mailing to the named insured at the address shown in the policy shall be proof of receipt of such mailing. Unless the reason accompanies the notice of intent not to renew, the notice shall state that, upon written request of the named insured, mailed or delivered to the insurer not less than sixty calendar days prior to the expiration date of the policy, the insurer will state the reason for nonrenewal.

3. When the reason does not accompany the notice of intent not to renew, the insurer shall, upon receipt of a timely request by the named insured, state in writing the reason for nonrenewal, together with notification of the right to a hearing before the commissioner within fifteen calendar days as provided in section 515D.10. A statement of reason shall be mailed or delivered to the named insured within ten days after receipt of a request.

4. This section shall not apply:

a. If the insurer has manifested its willingness to renew.

b. If the insured fails to pay any premium due or any advance premium required by the insurer for renewal.

c. If the insured is transferred from an insurer to an affiliate for future coverage as a result of a merger, acquisition, or company restructuring and if the transfer results in the same or broader coverage.

[C71, 73, 75, 77, 79, 81, §515D.7]

88 Acts, ch 1112, §602; 2002 Acts, ch 1111, §23; 2007 Acts, ch 152, §80; 2011 Acts, ch 70, §33; 2021 Acts, ch 181, §22; 2022 Acts, ch 1021, §152; 2024 Acts, ch 1116, §1, 2, 7

Referred to in §515D.8

515D.8 Duplicate coverage.

If an insured obtains a second policy which provides equal or more extensive coverage for any vehicle designated in both policies, the first policy's coverage of such vehicle may be terminated by failure to renew as of the effective time and date of the second policy, whether or not the first policy insurer complies with all provisions of section 515D.7.

[C71, 73, 75, 77, 79, 81, §515D.8]

515D.9 Renewal not a waiver or estoppel.

Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of renewal.

[C71, 73, 75, 77, 79, 81, §515D.9]

515D.10 Hearing before commissioner.

Any named insured who has received a statement of reason for cancellation, or of reason for an insurer's intent not to renew a policy, may, within fifteen calendar days of the receipt or delivery of a statement of reason, request a hearing before the commissioner of insurance. The purpose of this hearing shall be limited to establishing the existence of the proof or evidence stated by the insurer as its reason for cancellation or intent not to renew. The burden of proof of the reason for cancellation or intent not to renew shall be upon the insurer. Other than the sharing of information required by this chapter and the rules adopted pursuant to the provisions of this chapter, the commissioner shall keep confidential the information obtained from the insured or in the hearing process, pursuant to section 505.8, subsection 8. The commissioner of insurance shall adopt rules pursuant to chapter 17A to implement the provisions of this section.

[C71, 73, 75, 77, 79, 81, §515D.10]

2003 Acts, ch 91, §45; 2021 Acts, ch 181, §23

Referred to in §515D.5, 515D.7

515D.11 Insured told of alternate coverage.

When automobile bodily injury and property damage liability coverage is canceled or not renewed, other than for nonpayment of premium, the insurer shall notify the named insured of the insured's possible eligibility for automobile liability insurance through the

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Iowa automobile insurance plan. Such notice shall accompany the notice of cancellation or intent not to renew.

[C71, 73, 75, 77, 79, 81, §515D.11]

515D.12 Immunity of liability.

There shall be no liability on the part of, and no cause of action of any nature shall arise against the commissioner of insurance or any employee of the division or against any insurer, its authorized representatives, its agents, its employees, or against any firm, person, or corporation furnishing to the insurer information as to reasons for cancellation or intent not to renew, for any statement made by any of them in any written notice of cancellation or notice of intent not to renew or in any other communication, oral or written, specifying the reasons for cancellation or intent not to renew, or for any information provided or evidence submitted at any hearings conducted in connection with reasons for cancellation or intent not to renew.

[C71, 73, 75, 77, 79, 81, §515D.12]

CHAPTER 515E

RISK RETENTION GROUPS AND PURCHASING GROUPS

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 510A.2, 515I.2, 521A.1, 521J.1, 521J.5, 669.14, 670.7

515E.1	Purpose — federal Act defined.	515E.7	Purchasing groups exemptions.
515E.2	Definitions.	515E.8	Purchasing groups — requirements.
515E.3	Risk retention groups organized in this state.	515E.9	Purchasing group restrictions.
515E.3A	Foreign risk retention group may become domestic.	515E.10	Commissioner's administrative and procedural authority.
515E.4	Risk retention groups not organized in this state.	515E.11	Penalties.
515E.5	Compulsory associations.	515E.12	License required for agents and brokers.
515E.6	Countersignatures not required. Repealed by 98 Acts, ch 1057, §13.	515E.13	Effect of federal district court orders.
		515E.14	Rules.

515E.1 Purpose — federal Act defined.

The purpose of this chapter is to regulate the formation and operation in this state of risk retention groups formed pursuant to the Product Liability Risk Retention Act of 1981, 15 U.S.C. §3901 et seq., or the Risk Retention Amendments of 1986, Pub. L. No. 99-563. As used in this chapter, *"federal Act"* means the Product Liability Risk Retention Act of 1981 as amended.

88 Acts, ch 1111, §2

515E.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Commissioner"* means the commissioner of insurance or the commissioner, director, superintendent of insurance, or similar public official, in any other state.

2. *a. "Completed operations liability"* means liability arising out of the installation, maintenance, or repair of any product at a site which is not owned or controlled by either of the following:

(1) A person who performs that work.

(2) A person who hires an independent contractor to perform that work.

b. However, liability for activities which are completed or abandoned before the date of the occurrence giving rise to the liability is included.

3. *"Domicile"*, for purposes of determining the state in which a purchasing group is domiciled, means either of the following:

a. For a corporation, the state in which the purchasing group is incorporated.

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b. For an unincorporated entity, the state of its principal place of business.

4. *"Hazardous financial condition"* means a risk retention group not yet financially impaired or insolvent, which, based on its present or reasonably anticipated financial condition, is unlikely to be able to do one of the following:

a. Meet obligations to policyholders with respect to known claims and reasonably anticipated claims.

b. Pay other obligations in the normal course of business.

5. *"Insurance"* means primary insurance, excess insurance, reinsurance, surplus lines insurance, and any other arrangement for shifting and distributing risk which is determined to be insurance under the laws of this state.

6. *a. "Liability"* means legal liability for damages, including costs of defense, legal costs and fees, and other claims expenses, because of injuries to other persons, damage to their property, or other damage or loss to other persons resulting from or arising out of either of the following:

(1) A business, whether profit or nonprofit, trade, product, services, including professional services, premises, or operations.

(2) An activity of a state or local government, or an agency or political subdivision of state or local government.

b. "Liability" does not include personal risk liability and an employer's liability with respect to its employees other than an employer's legal liability under the federal Employers' Liability Act, 45 U.S.C. §51 et seq.

7. *"Personal risk liability"* means liability for damages because of injury to a person, damage to property, or other loss or damage resulting from personal, familial, or household responsibilities or activities, rather than from responsibilities or activities referred to in subsection 6, paragraph *"a"*, subparagraphs (1) and (2).

8. *"Plan of operation or a feasibility study"* means an analysis which presents the expected activities and results of a risk retention group including, at a minimum, all of the following:

a. Information sufficient to verify that its members are engaged in businesses or activities similar or related with respect to the liability to which such members are exposed by virtue of any related, similar, or common business, trade, product, services, premises, or operations.

b. For each state in which it intends to operate, the coverages, deductibles, coverage limits, rates, and rating classification systems for each line of insurance the group intends to offer.

c. Historical and expected loss experience of the proposed members and national experience of similar exposures.

d. Pro forma financial statements and projections.

e. Appropriate opinions by a qualified, independent casualty actuary, including a determination of minimum premium or participation levels required to commence operations and to prevent a hazardous financial condition.

f. Identification of management, underwriting and claim procedures, marketing methods, managerial oversight methods, investment policies, and reinsurance agreements.

g. Identification of each state in which the risk retention group has obtained, or sought to obtain, a charter and license, and a description of its status in each such state.

h. Other matters prescribed by the commissioner for liability insurance companies of the state in which the risk retention group is chartered or authorized by its insurance laws.

9. *"Product liability"* means liability for damages because of personal injury, death, emotional harm, consequential economic damage, or property damage, including damages resulting from the loss of use of property, arising out of the manufacture, design, importation, distribution, packaging, labeling, lease, or sale of a product, but does not include the liability of a person for those damages if the product involved was in the possession of the person when the incident giving rise to the claim occurred.

10. *"Purchasing group"* means a group to which all of the following apply:

a. It has as one of its purposes the purchase of liability insurance on a group basis.

b. It purchases such insurance only for its group members and only to cover their similar or related liability exposure, as described in paragraph *"c"*.

c. It is composed of members whose businesses or activities are similar or related with

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respect to the liability to which members are exposed by virtue of any related, similar, or common business, trade, product, services, premises, or operations.

d. It is domiciled in any state.

11. *"Risk retention group"* means a corporation or other limited liability association formed under the laws of any state, Bermuda, or the Cayman Islands and to which all of the following apply:

a. Its primary activity consists of assuming and spreading all, or any portion, of the liability exposure of its group members.

b. It is organized for the primary purpose of conducting the activity described under paragraph *"a"*.

c. One of the following applies:

(1) It is chartered and licensed as a liability insurance company and authorized to engage in the business of insurance under the laws of any state.

(2) Before January 1, 1985, it was chartered or licensed and authorized to engage in the business of insurance under the laws of Bermuda or the Cayman Islands and, before that date, had certified to the commissioner of at least one state that it satisfied the capitalization requirements of that state, except that any such group is a risk retention group only if it has been engaged in business continuously since that date and only for the purpose of continuing to provide insurance to cover product liability or completed operations liability, as those terms were defined in the Product Liability Risk Retention Act of 1981, 15 U.S.C. §3901, before the date of the enactment of the Risk Retention Amendments of 1986, Pub. L. No. 99-563.

d. It does not exclude any person from membership in the group solely to provide for members of the group a competitive advantage over such a person.

e. One of the following applies:

(1) It has as its members only persons who have an ownership interest in the group, and as its owners only persons who are members and are provided insurance by the risk retention group.

(2) It has as its sole member and sole owner an organization which is owned by persons who are provided insurance by the risk retention group.

(3) It has as its sole owner an organization which has as its members only persons who comprise the membership of the risk retention group, and the organization members are the only persons who comprise the membership of the risk retention group and who are provided insurance by the group.

f. Its members are engaged in businesses or activities similar or related with respect to the liability to which the members are exposed by virtue of a related, similar, or common business trade, product, services, premises, or operations.

g. Its activities do not include the provision of insurance other than the following:

(1) Liability insurance for assuming and spreading all or any portion of the liability of its group members.

(2) Reinsurance with respect to the liability of any other risk retention group, or any members of another such group, which is engaged in businesses or activities so that the group or member meets the requirement described in paragraph *"f"* from membership in the risk retention group which provides the reinsurance.

h. Its name includes the phrase "risk retention group".

12. *"State"* means a state of the United States or the District of Columbia.

88 Acts, ch 1111, §3; 2012 Acts, ch 1023, §124
Referred to in §515E.4, 515E.8

515E.3 Risk retention groups organized in this state.

1. To be organized as a risk retention group in this state, the group must be organized and licensed as a liability insurance company authorized by the insurance laws of this state. Except as provided elsewhere in this chapter, a risk retention group organized in this state must comply with all of the laws, rules, and requirements applicable to a liability insurer organized in this state. Additionally, a risk retention group organized in this state must comply with section 515E.4. These requirements do not exempt a risk retention group from a duty imposed by any other law or rule of the state. Before it may offer insurance in any

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state, a risk retention group shall also submit for approval to the commissioner of insurance of this state a plan of operation or a feasibility study, and revisions of the plan or study within ten days of any change. The name under which a risk retention group may be chartered and licensed shall be a brief description of its membership followed by the phrase "risk retention group" and, unless its membership consists solely of insurers, shall not include the terms "insurance", "mutual", "reciprocal", or any similar term. A risk retention group chartered in this state shall file with the division and the national association of insurance commissioners an annual statement blank prepared in accordance with instructions prescribed by the commissioner. All financial information reflected in the annual statement shall be kept and prepared in accordance with accounting practices and procedures prescribed by the commissioner. The commissioner may adopt by reference the annual statement handbook and the accounting practices and procedures manual of the national association of insurance commissioners.

2. A risk retention group organized in this state shall file in the office of the commissioner a power of attorney and an agreement in writing that service of process in any action or proceeding against the society may be made on the commissioner and shall be of the same legal force and validity as if made upon the society, and that the authority shall continue in force so long as any liability remains outstanding in this state. Copies of the power of attorney, certified by the commissioner, shall be deemed sufficient evidence of the appointment and shall be admitted in evidence with the same force and effect as the original. Service of process made on the commissioner as the attorney for service of process shall be made as provided in section 505.30.

88 Acts, ch 1111, §4; 92 Acts, ch 1162, §43; 2003 Acts, ch 91, §46; 2018 Acts, ch 1018, §9
Referred to in §515E.4

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 490.905.

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.104, subsection 2. The beneficiary of each letter of credit being used shall be the commissioner.

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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.

2006 Acts, ch 1117, §72; 2013 Acts, ch 39, §10, 11; 2021 Acts, ch 165, §228, 230

515E.4 Risk retention groups not organized in this state.

Risk retention groups chartered in other states and seeking to do business as a risk retention group in this state must observe and abide by the laws of this state as provided in this section. However, a risk retention group failing to qualify under the definitional requirement of the federal Act, will not benefit from this exemption from state law. The commissioner, therefore, may apply any of the laws that otherwise may be preempted by the federal Act because the nonexempt group will not qualify for the preemption.

1. *Notice of operations and designation of commissioner as agent.* Before offering insurance in this state, a risk retention group shall submit to the commissioner all of the following:

a. A statement identifying the state or states in which the risk retention group is chartered and licensed as a liability insurance company, date of chartering, its principal place of business, and other information, including information on its membership, as the commissioner of this state requires to verify that the risk retention group is qualified under section 515E.2, subsection 11.

b. A copy of its plan of operations or a feasibility study and revisions of the plan or study submitted to its state of domicile. However, the provision relating to the submission of a plan of operation or a feasibility study does not apply with respect to a line or classification of liability insurance which was defined in the Product Liability Risk Retention Act of 1981 before October 27, 1986, and was offered before that date by a risk retention group which had been organized and operating for not less than three years before that date.

c. A statement of registration which designates the commissioner as its agent for the purpose of receiving service of legal documents or process for which a filing fee set by the commissioner shall be paid.

d. The risk retention group shall submit a copy of any revision to its plan of operation or feasibility study required by section 515E.3 at the same time that such revision is submitted to the commissioner of its chartering state.

2. *Financial condition.* A risk retention group doing business in this state shall submit to the commissioner all of the following:

a. A copy of the group's financial statement submitted to its state of domicile, which shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves made by a member of the American academy of actuaries or a qualified loss reserve specialist under criteria established by the national association of insurance commissioners.

b. A copy of each examination of the risk retention group as certified by the commissioner or public official conducting the examination.

c. Upon request by the commissioner, a copy of any audit performed with respect to the risk retention group.

d. Information required to verify its continuing qualification as a risk retention group under section 515E.2, subsection 11.

3. *Taxation.*

a. Premiums paid for coverages within this state to risk retention groups are subject to taxation as provided in section 432.5.

b. To the extent agents or brokers are used, they shall report and pay the taxes for the premiums for risks which they have placed with or on behalf of a risk retention group not chartered in this state.

c. To the extent agents or brokers are not used or fail to pay the tax, each risk retention group shall pay the tax for risks insured within the state. Each risk retention group shall report all premiums paid to it for risks insured within the state.

4. *Compliance with unfair claim settlement practices law.* A risk retention group, its

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agents, and representatives, shall comply with the unfair claim settlement practices law in section 507B.4, subsection 3, paragraph *"j"*.

5. *Deceptive, false, or fraudulent practices.* A risk retention group shall comply with sections 507B.3 and 507B.4 regarding deceptive, false, or fraudulent acts or practices. However, if the commissioner seeks an injunction regarding such conduct, the injunction must be obtained from a court of competent jurisdiction.

6. *Examination regarding financial condition.* A risk retention group shall submit to an examination by the commissioner to determine its financial condition if the commissioner of the jurisdiction in which the group is chartered has not initiated an examination or does not initiate an examination within sixty days after a request by the commissioner of this state. Any such examination shall be coordinated to avoid unjustified repetition and conducted in an expeditious manner and in accordance with the national association of insurance commissioners' examiner handbook.

7. *Notice to purchasers.* Every application form for insurance from a risk retention agency and every policy issued by a risk retention group shall contain in ten point type on the front page and the declaration page, the following notice:

NOTICE

This policy is issued by your risk retention group. Your risk retention group may not be subject to all of the insurance laws and regulations of your state. State insurance insolvency guaranty funds are not available for your risk retention group.

8. *Prohibited acts regarding solicitation or sale.* The following acts by a risk retention group are prohibited:

a. The solicitation or sale of insurance by a risk retention group to a person who is not eligible for membership in the group.

b. The solicitation or sale of insurance by, or operation of, a risk retention group that is in a hazardous financial condition or is financially impaired.

9. *Prohibition against ownership by an insurance company.* A risk retention group shall not be allowed to do business in this state if an insurance company is directly or indirectly a member or owner of the risk retention group, other than in the case of a risk retention group all of whose members are insurance companies.

10. *Prohibited coverage.* A risk retention group shall not offer insurance policy coverage prohibited by law or declared unlawful by the highest court of this state.

11. *Delinquency proceedings.* A risk retention group not chartered in this state and doing business in this state shall comply with a lawful order issued in a voluntary dissolution proceeding or in a delinquency proceeding commenced by a state insurance commissioner if there has been a finding of financial impairment after an examination under subsection 6.

88 Acts, ch 1111, §5; 2011 Acts, ch 25, §63; 2012 Acts, ch 1023, §125, 154
Referred to in §515E.3

515E.5 Compulsory associations.

A risk retention group shall not join or contribute financially to an insurance insolvency guaranty fund, or similar mechanism, in this state, nor shall a risk retention group, or its insureds, receive any benefit from an insurance insolvency guaranty fund, or similar mechanism, in this state, for claims arising out of the operations of the risk retention group.

88 Acts, ch 1111, §6

515E.6 Countersignatures not required. Repealed by 98 Acts, ch 1057, §13.

515E.7 Purchasing groups exemptions.

A purchasing group which meets the criteria established under the federal Act is exempt from any law of this state relating to the creation of groups for the purchase of insurance, the prohibition of group purchasing, or any law that would discriminate against a purchasing group or its members. An insurer is exempt from any law of this state which prohibits providing, or offering to provide, to a purchasing group or its members advantages based on

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their loss and expense experience not afforded to other persons with respect to rates, policy forms, coverages, or other matters. A purchasing group is subject to all other applicable laws.

88 Acts, ch 1111, §8; 98 Acts, ch 1057, §11

515E.8 Purchasing groups — requirements.

1. A purchasing group which intends to do business in this state shall, prior to doing business, furnish notice to the commissioner which notice shall include all of the following:

a. The state in which the group is domiciled and all states in which the group does or intends to do business.

b. The lines and classifications of liability insurance which the purchasing group intends to purchase.

c. The insurance company from which the group intends to purchase its insurance and the domicile of that company.

d. The principal place of business of the group.

e. The method by which, and the person or persons, if any, through whom insurance will be offered to its members whose risks are resident or located in this state.

f. Other information as required by the commissioner to verify that the purchasing group is qualified under section 515E.2, subsection 10.

g. The commissioner may require the notice to be in a form prescribed by the national association of insurance commissioners.

2. A purchasing group, within ten days of any changes in any of the items set forth in subsection 1, shall notify the commissioner of the changes.

3. The purchasing group shall register with and designate the commissioner as its agent solely for the purpose of receiving service of legal documents or process, for which a filing fee determined by the commissioner shall be paid, except that the requirements do not apply in the case of a purchasing group to which all of the following apply:

a. It was domiciled before April 2, 1986, and is domiciled on and after October 27, 1986, in any state of the United States.

b. Before and since October 27, 1986, it purchased insurance from an insurance carrier licensed in any state.

c. It was a purchasing group under the requirements of the Product Liability Risk Retention Act of 1981 before October 27, 1986.

d. It does not purchase insurance that was not authorized for purposes of an exemption under that Act, as in effect before October 27, 1986.

88 Acts, ch 1111, §9; 92 Acts, ch 1162, §44

515E.9 Purchasing group restrictions.

A purchasing group shall not purchase insurance from an insurer not admitted in this state unless the purchase is effected through a duly licensed insurance producer acting pursuant to chapter 515I.

88 Acts, ch 1111, §10; 90 Acts, ch 1234, §44; 2007 Acts, ch 152, §81; 2012 Acts, ch 1025, §19, 22

515E.10 Commissioner's administrative and procedural authority.

1. The commissioner may make use of any of the powers established under the laws of this state to enforce the laws of this state so long as those powers are not specifically preempted by the federal Act, including but not limited to, the commissioner's authority to investigate, issue subpoenas, conduct depositions and hearings, issue orders, impose penalties, and seek injunctive relief. With regard to an investigation, administrative proceeding, or litigation, the commissioner may rely on the procedural law and rules of the state.

2. A risk retention group or purchasing group operating under this chapter shall be considered a person for purposes of chapter 507B.

88 Acts, ch 1111, §11; 93 Acts, ch 88, §25

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515E.11 Penalties.

A risk retention group which violates a provision of this chapter is subject to fines and penalties applicable to licensed insurers generally, including revocation of the group's license and of the right to do business in this state.

88 Acts, ch 1111, §12

515E.12 License required for agents and brokers.

A person acting, or offering to act, as an agent or broker for a risk retention group or purchasing group, which solicits members, sells or procures insurance coverage, purchases coverage for its members located within the state, or otherwise does business in this state shall, before commencing any such activity, obtain a license from the commissioner.

88 Acts, ch 1111, §13

515E.13 Effect of federal district court orders.

An order issued by a district court of the United States enjoining a risk retention group from soliciting or selling insurance, or operating, in any state, or in all states, or in any territory or possession of the United States, upon a finding that such a group is in a hazardous or impaired financial condition, is enforceable in the courts of this state.

88 Acts, ch 1111, §14

515E.14 Rules.

The commissioner may establish and from time to time amend rules relating to risk retention groups as necessary or desirable to carry out the provisions of this chapter.

88 Acts, ch 1111, §15

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CHAPTER 515F

CASUALTY INSURANCE

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 515C.7, 669.14, 670.7

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SUBCHAPTER I

REGULATION OF RATES

515F.1 Purpose of chapter.

1. The purpose of this chapter is to promote the public welfare by regulating insurance rates so they are not excessive, inadequate, or unfairly discriminatory, and to authorize and regulate limited cooperative action among insurers in ratemaking-related activities and in other matters within the scope of this chapter. This chapter is not intended to:

a. Prohibit or discourage reasonable competition.

b. Prohibit or encourage, except to the extent necessary to accomplish its purpose, uniformity in rating systems, rating plans, or practices.

2. This chapter shall be liberally interpreted to carry into effect the provisions of this section.

90 Acts, ch 1234, §45
Referred to in §515F.23

515F.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Advisory organization"* means an entity, including its affiliates or subsidiaries, which either has two or more member insurers or is controlled either directly or indirectly by two or more insurers, and which assists insurers in ratemaking-related activities such as enumerated in sections 515F.10 and 515F.11. Two or more insurers having a common ownership or operating in this state under common management or control constitute a single insurer for purposes of this definition.

2. *"Commercial risk"* means any kind of risk which is not a personal risk.

3. *"Commissioner"* means the commissioner of insurance.

4. *"Developed losses"* means losses, including loss adjustment expenses, adjusted, using standard actuarial techniques, to eliminate the effect of differences between current payment or reserve estimates and those needed to provide actual ultimate loss, including loss adjustment expense, payments.

5. *"Expenses"* means that portion of a rate attributable to acquisition, field supervision, collection expenses, general expenses, taxes, licenses, and fees.

6. *"Joint underwriting"* means a voluntary arrangement established on an ad hoc basis to provide insurance coverage for a commercial risk pursuant to which two or more insurers jointly contract with the insured at a price and under policy terms agreed upon between the insurers.

7. *"Loss trending"* means a procedure for projecting developed losses to the average date of loss for the period during which the policies are to be effective.

8. *"Personal risk"* means insurance covering homeowners, tenants, private passenger nonfleet automobiles, and mobile homes, and other property and casualty insurance for personal, family, or household needs.

9. *"Pool"* means a voluntary arrangement, established on an ongoing basis, pursuant to which two or more insurers participate in the sharing of risks on a predetermined basis. The pool may operate through an association, syndicate, or other pooling agreement.

10. *"Prospective loss costs"* means that portion of a rate that does not include provisions for expenses (other than loss adjustment expenses) or profit, and is based on historical aggregate losses and loss adjustment expenses adjusted through development to their ultimate value and projected through trending to a future point in time.

11. *"Rate"* means the cost of insurance per exposure unit whether expressed as a single number or as a prospective loss cost with an adjustment to account for the treatment of expenses, profit, and individual insurer variation in loss experience, prior to any application

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of individual risk variations based on loss or expense considerations, and does not include minimum premium.

12. *"Residual market mechanism"* means an arrangement, either voluntary or mandated by law, involving participation by insurers in the equitable apportionment among them of insurance which may be offered to applicants who are unable to obtain insurance through ordinary methods.

13. *"Supplementary rating information"* includes a manual or plan of rates, classification, rating schedule, minimum premium, policy fee, rating rule, underwriting rule, statistical plan, and any other similar information needed to determine the applicable rate in effect or to be in effect.

14. *"Supporting information"* means the experience and judgment of the filer and the experience or data of other insurers or advisory organizations relied upon by the filer, the interpretation of any other data relied upon by the filer, descriptions of methods used in making the rates, and any other information required by the commissioner to be filed.

90 Acts, ch 1234, §46; 2018 Acts, ch 1041, §104; 2021 Acts, ch 181, §24, 25
Referred to in §515F.23

515F.3 Scope of chapter.

1. This chapter applies to all forms of casualty insurance, including fidelity, surety, and guaranty bonds, including but not limited to all forms of fire and inland marine insurance, and to any combination of any of the foregoing, on risks or operations located in this state.

2. Except as otherwise provided in specific subchapters of this chapter, this chapter does not apply to:

a. Reinsurance, other than statutorily authorized joint reinsurance mechanisms to the extent stated in section 515F.13.

b. Accident and health insurance.

c. Insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, excluding inland marine insurance, as determined by the commissioner.

d. Workers' compensation insurance.

e. Surplus lines insurance.

f. Insurance written by a county or state mutual insurance association as provided in chapter 518 or 518A.

90 Acts, ch 1234, §47; 2000 Acts, ch 1023, §32; 2002 Acts, ch 1111, §24; 2003 Acts, ch 119, §10, 11; 2012 Acts, ch 1023, §157; 2017 Acts, ch 54, §76
Referred to in §515F.21, 515F.23

515F.4 Rate standards.

Rates shall be made in accordance with the following:

1. Rates shall not be excessive, inadequate, or unfairly discriminatory.

2. Due consideration may be given to past and prospective loss experience within and outside this state; to the conflagration and catastrophe hazards; to a reasonable margin for profit and contingencies; to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers; to past and prospective expenses both within and outside this state; and to all other relevant factors within and outside this state; and in the case of fire insurance rates, consideration shall be given to the experience of the fire insurance business during a period of not less than the most recent five-year period for which experience data is available.

3. Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses. A risk classification, however, shall not be based upon race, creed, national origin, or the religion of the insured.

4. The expense provisions included in the rates to be used by an insurer shall reflect to the extent possible the operating methods of the insurer and its anticipated expenses.

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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.

90 Acts, ch 1234, §48; 2006 Acts, ch 1117, §73
Referred to in §515F.5, 515F.15, 515F.23, 515F.24, 515F.25

515F.4A Reasonableness of benefits in relation to premium charged.

Benefits provided by credit personal property insurance shall be reasonable in relation to the premium charged. This requirement is satisfied if the premium rate charged develops or may reasonably be expected to develop a loss ratio of not less than fifty percent or such lower loss ratio as designated by the commissioner to afford a reasonable allowance for actual and expected loss experience including a reasonable catastrophe provision, general and administrative expenses, reasonable acquisition expenses, reasonable creditor compensation, investment income, premium taxes, licenses, fees, assessments, and reasonable insurer profit.

2001 Acts, ch 69, §34, 39
Referred to in §515F.23

515F.5 Rate filings.

1. *a.* An insurer shall file with the commissioner, except as to inland marine risks which are not written according to manual rates or rating plans, every manual, minimum premium, class rate, rating schedule, rating plan, and every other rating rule, and every modification of any of the foregoing which it proposes to use. A filing shall state its proposed effective date, and shall indicate the character and extent of the coverage contemplated.

b. An insurer shall file or incorporate by reference to material which has been approved by the commissioner, at the same time as the filing of the rate, all supplementary rating and supporting information to be used in support of or in conjunction with a rate. The information furnished in support of a filing may include or consist of a reference to any of the following:

(1) The experience or judgment of the insurer or rating information filed by the advisory organization on behalf of the insurer as permitted by section 515F.11.

(2) An interpretation of any statistical data the insurer relies upon.

(3) The experience of other insurers or rating advisory organizations.

(4) Any other relevant factors. A filing and any supporting information shall be open to public inspection after the filing becomes effective.

c. When a filing is not accompanied by the information upon which the insurer supports the filing, the commissioner may require the insurer to furnish the supporting information and the waiting period commences on the date the information is furnished. Until the required information is furnished, the filing shall not be deemed complete or filed or available for use by the insurer. If the requested information is not furnished within a reasonable time period, the filing may be returned to the insurer as not filed and not available for use.

d. After reviewing an insurer's filing, the commissioner may require that the insurer's rates be based upon the insurer's own loss and expense information. If an insurer's loss or allocated loss adjustment expense information is not actuarially credible, as determined by the commissioner, the insurer may supplement its experience with information filed with the commissioner by an advisory organization.

e. Insurers using the services of an advisory organization shall, at the request of the commissioner, provide with a rate filing, a description of the rationale for that use, including its own information and method of using the advisory organization's information.

2. The commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of this chapter.

3. Subject to the exception in subsection 4, a filing shall be on file for a waiting period of thirty days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed fifteen days if written notice is given within the waiting period to the insurer or advisory organization which made the filing that additional time is needed for the consideration of the filing. Upon written application by the insurer, the commissioner may authorize a filing which has been reviewed to become effective before the

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expiration of the waiting period or an extension of the waiting period. A filing is deemed to meet the requirements of this chapter unless disapproved by the commissioner within the waiting period or an extension of the waiting period.

4. Under rules adopted under chapter 17A, the commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, or subdivision or combination of insurance, or as to classes of risks, which are unnecessary to achieve the purposes of this chapter and the rates for which cannot practicably be filed before they are used. The commissioner may make an examination as the commissioner deems advisable to ascertain whether rates affected by the order meet the standards set forth in section 515F.4.

5. Upon the written application of the insured stating the insured's reasons, filed with and approved by the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on a specific risk.

6. An insurer shall not make or issue a contract or policy except in accordance with the filings which have been approved and are in effect for the insurer as provided in this chapter. This subsection does not apply to contracts or policies for inland marine risks as to which filings are not required.

90 Acts, ch 1234, §49; 92 Acts, ch 1162, §45; 95 Acts, ch 185, §25; 2012 Acts, ch 1023, §157
Referred to in §515F.6, 515F.12, 515F.23, 515F.24, 515F.25

515F.5A Collateral insurance and forced placement.

1. The commissioner shall review all collateral insurance forms and rates to assure that the rates are not excessive in comparison to the benefits provided to consumers.

2. The commissioner may adopt by rule procedures and restrictions to protect consumers from abusive practices in forced placement or collateral insurance. Rules may include, but are not limited to, the following:

a. Notice requirements, to assure that consumers have an opportunity to exercise reasonable choice in the placement, of a collateral insurance policy.

b. A prohibition or limitation on the receipt of a sales commission or other fee by the person making a forced placement, or the person's employer.

3. For purposes of this section, unless the context otherwise requires:

a. "Collateral insurance" means an insurance policy solely or primarily intended to provide security for a loan or to insure collateral for a loan.

b. "Forced placement" means the purchase of an insurance policy by a third person when the law or a contract obligates another person to pay the insurance premium.

92 Acts, ch 1162, §13
Referred to in §515F.23

515F.6 Disapproval of filings.

1. If, within the waiting period or any extension of it as provided in section 515F.5, subsection 3, the commissioner finds that a filing does not meet the requirements of this chapter, written notice of disapproval shall be sent to the insurer or advisory organization which made the filing, specifying in what respects the filing fails to meet the requirements of this chapter and stating that the filing shall not become effective. If a filing is disapproved by the commissioner, the insurer or advisory organization, may request a hearing on the disapproval within thirty days. The insurer bears the burden of proving compliance with the standards established by this chapter.

2. If, at any time after a rate has been approved, the commissioner finds that the rate no longer meets the requirements of this chapter, the commissioner may order the discontinuance of use of the rate. The order of discontinuance may be issued only after a hearing with at least ten days' prior notice for all insurers affected by the order. The order must be in writing and state the grounds for the order. The order shall state when, within a reasonable period after the order is issued, the order of discontinuance shall be effective. The order shall not affect a contract or policy made or issued prior to the expiration of the period set forth in the order.

3. An insured which is aggrieved with respect to a filing which is in effect may make written application to the commissioner for a hearing on that filing. The application shall

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specify the grounds to be relied upon by the applicant. If the commissioner finds that the application is made in good faith, that the applicant would be so aggrieved if the applicant's grounds are established, and that the grounds otherwise justify holding a hearing, a hearing shall be held within thirty days after receipt of the application, upon not less than ten days' written notice to the applicant and to every insurer and advisory organization which made that filing.

4. If, after hearing, the commissioner finds that the filing does not meet the requirements of this chapter, the commissioner shall issue an order specifying in what respects the filing fails to meet the requirements of this chapter, and stating when, within a reasonable period after the order is issued, the filing shall no longer be in effect. Copies of the order shall be sent to the applicant and to every insurer and advisory organization which made that filing. The order shall not affect a contract or policy made or issued prior to the expiration of the period set forth in the order.

90 Acts, ch 1234, §50; 2012 Acts, ch 1023, §126
Referred to in §515F.12, 515F.23

515F.7 Information to be furnished insureds — hearings and appeals of insureds.

An insurer shall, within a reasonable time after receiving written request and upon payment of reasonable charges set by the commissioner, furnish to an insured affected by a rate made by the insurer, or to the authorized representative of the insured, all pertinent information as to the rate. An insurer shall provide within this state reasonable means for the insured aggrieved by the application of its rating system to be heard, in person or by the insured's authorized representative, on written request to review the manner in which the rating system has been applied in connection with the insurance afforded the insured. If the insurer fails to grant or reject a request for hearing and review within thirty days after it is made, the applicant may proceed in the same manner as if the application had been rejected. The insured affected by the action of the insurer on a request may, within thirty days after written notice of the action, appeal to the commissioner, who, after a hearing held upon not less than ten days' written notice to the appellant and to the insurer, may affirm or reverse the action.

90 Acts, ch 1234, §51
Referred to in §515F.23

515F.8 Licensing advisory organizations.

1. *License required.* An advisory organization shall not provide a service relating to the rates of insurance subject to this chapter, and an insurer shall not utilize the services of an advisory organization for such purposes unless the advisory organization has obtained a license under subsection 3.

2. *Availability of services.* An advisory organization shall not refuse to supply any services for which it is licensed in this state to an insurer authorized to do business in this state and offering to pay the fair and usual compensation for the services.

3. *Licensing.*

a. Application. An advisory organization applying for a license shall include with its application all of the following:

(1) A copy of its constitution, charter, articles of organization, agreement, association, or incorporation, and a copy of its bylaws, plan of operation, and any other rules or regulations governing the conduct of its business.

(2) A list of its members and subscribers.

(3) The name and address of one or more residents of this state upon whom notices, process affecting it, or orders of the commissioner may be served.

(4) A statement showing its technical qualifications for acting in the capacity for which it seeks a license.

(5) A biography of the ownership and management of the organization.

(6) Any other relevant information and documents that the commissioner may require.

(7) A license fee of one hundred dollars.

b. Change of circumstances. An advisory organization which has applied for a license shall notify the commissioner of every material change in the facts or in the documents on

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which its application was based. An amendment to a document filed under this section shall be filed at least thirty days before it becomes effective.

c. Granting of license. If the commissioner finds that the applicant and the natural persons through whom it acts are competent, trustworthy, and technically qualified to provide the services proposed, and that all requirements of the law are met, the commissioner shall issue a license specifying the authorized activity of the applicant. The commissioner shall not issue a license if the proposed activity would tend to create a monopoly or to substantially lessen the competition in any market.

d. Duration. A license issued under this section shall remain in effect for three years unless the license is suspended or revoked. The commissioner may, at any time after hearing, revoke or suspend the license of an advisory organization which does not comply with this chapter.

90 Acts, ch 1234, §52; 2021 Acts, ch 181, §26, 27
Referred to in §515F.14, 515F.23

515F.9 Insurers and advisory organizations — prohibited activity.

1. An insurer or advisory organization shall not:

a. Attempt to monopolize, or combine or conspire with any other person to monopolize, an insurance market.

b. Engage in a boycott, on a concerted basis, of an insurance market.

2. *a.* An insurer shall not agree with any other insurer or with an advisory organization to mandate adherence to or to mandate use of a rate, rating plan, rating schedule, rating rule, policy or bond form, rate classification, rate territory, underwriting rule, survey, inspection, or similar material, except as needed to develop statistical plans permitted by section 515F.11, subsection 1. The fact that two or more insurers, whether or not members or subscribers of an advisory organization, use consistently or intermittently, the same rates, rating plans, rating schedules, rating rules, policy or bond forms, rate classifications, rate territories, underwriting rules, surveys or inspections or similar materials is not sufficient in itself to support a finding that an agreement exists.

b. Two or more insurers having a common ownership or operating in this state under common management or control may act in concert between or among themselves with respect to any matters pertaining to those activities authorized in this chapter as if they constituted a single insurer.

3. An insurer or advisory organization shall not make an arrangement with any other insurer, advisory organization, or other person which has the purpose or effect of restraining trade unreasonably or of substantially lessening competition in the business of insurance.

90 Acts, ch 1234, §53
Referred to in §515F.13, 515F.23

515F.10 Advisory organizations — prohibited activity.

In addition to the other prohibitions contained in this chapter, except as specifically permitted under section 515F.11, an advisory organization shall not compile or distribute recommendations relating to rates that include profit or expenses, other than loss adjustment expenses.

90 Acts, ch 1234, §54
Referred to in §515F.2, 515F.23

515F.11 Advisory organizations — permitted activity.

An advisory organization, in addition to other activities not prohibited, may, on behalf of its members and subscribers, do any or all of the following:

1. Develop statistical plans including territorial and class definitions.
2. Collect statistical data from members, subscribers, or any other source.
3. Prepare and distribute prospective loss costs.
4. Prepare and distribute factors, calculations, or formulas pertaining to classifications, territories, increased limits, and other variables.
5. Prepare and distribute manuals of rating rules and rating schedules that do not include final rates, expense provisions, profit provisions, or minimum premiums.

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6. Distribute information that is required or directed to be filed with the commissioner.

7. Conduct research and on-site inspections in order to prepare classifications of public fire defenses.

8. Consult with public officials regarding public fire protection as it would affect members, subscribers, and others.

9. Conduct research and collect statistics in order to discover, identify, and classify information relating to causes or prevention of losses.

10. Prepare policy forms and endorsements and consult with members, subscribers, and others relative to their use and application.

11. Conduct research and on-site inspections for the purpose of providing risk information relating to individual structures.

12. Collect, compile, and distribute past and current prices of individual insurers and publish such information.

13. File final rates, at the direction of the commissioner, for residual market mechanisms.

14. Collect, compile, and distribute historical expense information.

15. Furnish any other services, as approved or directed by the commissioner, related to those enumerated in this section.

90 Acts, ch 1234, §55
Referred to in §515F.2, 515F.5, 515F.9, 515F.10, 515F.23

515F.12 Advisory organizations — filing requirements.

An advisory organization shall file with the commissioner for approval all prospective loss costs and all supplementary rating information and every change or amendment or modification of any of the foregoing proposed for use in this state. The filings are subject to sections 515F.5 and 515F.6 and other provisions of this chapter relating to filings made by insurers.

90 Acts, ch 1234, §56
Referred to in §515F.23

515F.13 Pool and residual market activities.

1. *Authorization.* Notwithstanding section 515F.9, rating organizations, advisory organizations, and insurers participating in joint underwriting, joint reinsurance pools, or residual market mechanisms may in connection with such activity act in cooperation with each other in the making of rates, rating systems, policy forms, underwriting rules, surveys, inspections, and investigations, the furnishing of loss and expense statistics or other information, or carrying on research. Joint underwriting, joint reinsurance pools, and residual market mechanisms shall not be deemed advisory organizations.

2. *Regulation.*

a. Except to the extent modified by this section, insurers, and joint underwriting, joint reinsurance pool, and residual market mechanism activities are subject to the other provisions of this chapter.

b. If, after hearing, the commissioner finds that an activity or practice of an insurer participating in joint underwriting or a pool is unfair, is unreasonable, will tend to lessen competition in a market, or is otherwise inconsistent with the provisions or purposes of this chapter, the commissioner may issue a written order and require the discontinuance of that activity or practice.

c. A pool shall file with the commissioner a copy of its constitution; its articles of incorporation, agreement, or association; its bylaws, rules, and regulations governing its activities; its members; the name and address of a resident of this state upon whom notices or orders of the commissioner or process may be served; and any changes in amendments or changes in the foregoing.

d. (1) A residual market mechanism, or plan or agreement to implement such a mechanism, and any changes or amendments thereto, shall be submitted in writing to the commissioner for consideration and approval, together with information as reasonably required by the commissioner. The commissioner shall only approve agreements found to contemplate both of the following:

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(a) The use of rates which meet the standards prescribed by this chapter.

(b) Activities and practices that are not unfair, unreasonable, or otherwise inconsistent with this chapter.

(2) At any time after the agreements are in effect, the commissioner may review the practices and activities of the adherents to the agreements and if, after a hearing, the commissioner finds that any such practice or activity is unfair or unreasonable, or is otherwise inconsistent with this chapter, the commissioner may issue a written order to the parties and either require the discontinuance of the acts or revoke approval of the agreement.

90 Acts, ch 1234, §57; 2012 Acts, ch 1023, §157
Referred to in §515F.3, 515F.14, 515F.23

515F.14 Examinations.

The commissioner may, as often as deemed expedient, make or cause to be made an examination of each advisory organization referred to in section 515F.8 and of each group, association, or other organization referred to in section 515F.13. The reasonable costs of an examination shall be paid by the advisory organization or group, association, or other organization examined. The officers, manager, agents, and employees of the advisory organization, or group, association, or other organization may be examined at any time under oath and shall exhibit all books, records, accounts, documents, or agreements governing its method of operation. In lieu of an examination, the commissioner may accept the report of an examination made by the insurance supervisory official of another state, pursuant to the laws of that state.

90 Acts, ch 1234, §58
Referred to in §515F.23

515F.15 Rate administration.

1. *Recording and reporting of loss and expense experience.*

a. The commissioner may adopt reasonable rules for use by companies to record and report to the commissioner their rates and other information determined by the commissioner to be necessary or appropriate for the administration of this chapter and the effectuation of its purposes.

b. The commissioner may adopt reasonable rules and statistical plans, which shall then be used by each insurer in the recording and reporting of its loss and expense experience, in order that the experience of all insurers may be made available at least annually in the form and detail necessary to aid the commissioner in determining whether rating systems comply with the standards set forth in section 515F.4. The commissioner may designate one or more advisory organizations or other agencies to assist in gathering the experience and making compilations, and the compilations shall be public documents.

2. *Interchange of rating plan data.* Reasonable rules and plans may be adopted by the commissioner for the interchange of data necessary for the application of rating plans.

3. *Consultation with other states.* In order to further uniform administration of rate regulatory laws, the commissioner and every insurer and advisory organization may exchange information and experience data with insurance supervisory officials, insurers, and advisory organizations in other states and may consult with them with respect to the application of rating systems.

4. *Rules.* The commissioner may make reasonable rules necessary, including definitions of the rate standards contained in section 515F.4, to effect the purposes of this chapter.

90 Acts, ch 1234, §59
Referred to in §515F.23

515F.16 False or misleading information.

A person, including an insurer, or advisory organization, shall not willfully withhold information which will affect the rates or premiums chargeable under this chapter from, or knowingly give false or misleading information to, the commissioner, a statistical agency

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designated by the commissioner, an advisory organization, or an insurer. A violation of this section subjects the one guilty of the violation to the penalties provided in section 515F.19.

90 Acts, ch 1234, §60
Referred to in §507B.4, 515F.23

515F.17 Assigned risks.

Agreements may be made among insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to, but who are unable to procure, the insurance through ordinary methods, and the insurers may agree among themselves on the use of reasonable rate modifications for such insurance, the agreements and rate modifications to be subject to the approval of the commissioner.

90 Acts, ch 1234, §61
Referred to in §515F.23

515F.18 Exemptions.

The commissioner may, upon the commissioner's own initiative or upon request of any person, by rule, exempt a market from any or all of the provisions of this chapter, if and to the extent that the exemption is necessary to achieve the purposes of this chapter.

90 Acts, ch 1234, §62
Referred to in §515F.23

515F.19 Penalties.

1. The commissioner may, upon a finding that a person or organization has violated a provision of this chapter, impose a civil penalty of not more than ten thousand dollars for each violation, but if the violation is found to be willful, a penalty of not more than twenty-five thousand dollars may be imposed for each violation.

a. The civil penalties may be in addition to any other penalty provided by law.

b. For purposes of this section, an insurer using a rate for which the insurer has failed to file the rate, supplementary rate information, underwriting rules or guides, or supporting information as required by this chapter, has committed a separate violation for each day the failure continues.

2. *a.* The commissioner may suspend or revoke the license of an advisory organization or insurer which fails to comply with an order of the commissioner within the time limit set by the order, or an extension of the order.

b. The commissioner may determine when a suspension of license becomes effective and it shall remain in effect for the period fixed by the commissioner, unless the commissioner modifies or rescinds the suspension, or until the order upon which the suspension is based is modified, rescinded, or reversed.

3. A penalty shall not be imposed and a license shall not be suspended or revoked except upon a written order of the commissioner stating the commissioner's findings, made after hearing.

4. A penalty collected under this section shall be deposited as provided in section 505.7.

90 Acts, ch 1234, §63; 2009 Acts, ch 181, §81
Referred to in §515F.16, 515F.23

SUBCHAPTER II

RATE FILINGS IN COMPETITIVE MARKETS

515F.20 Definitions.

As used in sections 515F.21 through 515F.25 unless the context otherwise requires:

1. *"Competitive market"* means a market for which an order is in effect pursuant to section 515F.22 that a reasonable degree of competition does exist.

2. *"Market"* means the interaction between buyers and sellers consisting of a product market component and a geographic market component. A product market component consists of identical or readily substitutable products including, but not limited to, consideration of coverage, policy terms, rate classifications, and underwriting. A geographic

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component is a geographical area in which buyers have a reasonable degree of access to the insurance product through sales outlets or other marketing mechanisms.

3. *"Noncompetitive market"* means a market which has not been found to be competitive pursuant to section 515F.22.

87 Acts, ch 132, §6
CS87, §515A.20
90 Acts, ch 1234, §77
C91, §515F.20
Referred to in §515F.21

515F.21 Scope of application.

Section 515F.20 and sections 515F.22 through 515F.25 apply to all forms of casualty insurance except joint underwriting and joint reinsurance, assigned risks, and those excluded by section 515F.3.

87 Acts, ch 132, §7
CS87, §515A.21
90 Acts, ch 1234, §65, 77
C91, §515F.21
Referred to in §515F.20

515F.22 Competitive market.

1. A noncompetitive market is presumed to exist unless the commissioner determines after a hearing that a reasonable degree of competition exists in the market and the commissioner issues an order to that effect. Such an order shall not become effective until sixty days after the date of the order and shall expire not later than one year thereafter unless the commissioner renews the order. Any affected insurer or insured may petition for a hearing on the renewal of an order relating to competitive status.

2. In determining whether a reasonable degree of competition exists, the commissioner shall consider relevant factors of workable competition pertaining to the market structure, market performance, and market conduct, and the practical opportunities available to consumers in the market to obtain pricing and other consumer information and to compare and obtain insurance from competing insurers. Such factors may include, but are not limited to, the following:

a. The size and number of insurers actually engaged in the market.

b. The profitability for insurers generally in the market segment and whether that profitability is unreasonably high.

c. The price variance on premiums offered in the market.

d. The availability of consumer information concerning the product and sales outlets or other sales mechanisms.

e. The efforts of insurers to provide consumer information.

f. Consumer complaints regarding the market generally.

87 Acts, ch 132, §8
CS87, §515A.22
90 Acts, ch 1234, §77
C91, §515F.22
Referred to in §515F.20, 515F.21

515F.23 Noncompetitive market.

Unless the commissioner has determined a market to be competitive, the provisions of sections 515F.1 through 515F.19 apply.

87 Acts, ch 132, §9
CS87, §515A.23
90 Acts, ch 1234, §66, 77
C91, §515F.23
Referred to in §515F.20, 515F.21

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515F.24 Filing of rates in a competitive market.

1. Subject to the inland marine exception specified in section 515F.5, subsection 1, a competitive filing shall become effective when filed and shall be deemed to meet the requirements of section 515F.4 as long as the filing remains in effect unless it is disapproved upon review by the commissioner.

2. In a competitive market, every insurer shall file with the commissioner all rates and supplementary rate information which are used in this state. The rates and supplementary rate information shall be filed not later than fifteen days after the effective date of the rates.

3. In a competitive market, if the commissioner finds that an insurer's rates require closer supervision because of the insurer's financial condition or unfairly discriminatory rating practices, the insurer shall file with the commissioner at least thirty days prior to the effective date of the rates all the rates and supplementary rate information and supporting information as prescribed by the commissioner. Upon application by the filer, the commissioner may authorize an earlier effective date.

87 Acts, ch 132, §10
CS87, §515A.24
90 Acts, ch 1234, §67, 77
C91, §515F.24
Referred to in §515F.20, 515F.21

515F.25 Disapproval of a rate filing in a competitive market.

1. If the commissioner believes that an insurer's rate filing in a competitive market violates the requirements of sections 515F.4 and 515F.5, the commissioner may require the insurer to file supporting information. If after reviewing the supporting information the commissioner continues to believe that the filing violates sections 515F.4 and 515F.5, the commissioner shall notify the insurer of the insurer's right to petition for a hearing on any subsequent order relating to the filing.

2. The commissioner may disapprove prefiled rates that have not become effective. However, the commissioner shall notify the insurer whose rates have been disapproved of the insurer's right to petition for a hearing on the disapproval within thirty days after the disapproval.

3. If the commissioner disapproves a filing in a competitive market, the commissioner shall issue an order specifying the reasons the filing fails to meet the requirements of sections 515F.4 and 515F.5. For rates in effect at the time of disapproval, the commissioner shall inform the insurer within a reasonable period of time the date when further use of the rates for policies or contracts of insurance is prohibited. The order shall be issued within thirty days of disapproval, or within thirty days of a hearing on the disapproval if a hearing is held. The order may include a provision for premium adjustment for the period after the effective date of the order for policies or contracts in effect on the date of the order.

4. Whenever an insurer has filed no legally effective rates as a result of the commissioner's disapproval of a filing, the commissioner shall on request of the insurer work with the insurer to develop interim rates for the insurer that are sufficient to protect the interest of all parties and the commissioner may order that a specified portion of the premium be placed in an escrow account approved by the commissioner. When new rates become legally effective, the commissioner shall order the escrowed funds or any overcharge in the interim rates to be distributed appropriately. The commissioner may waive distribution if the commissioner determines that the amount involved would not warrant such action.

87 Acts, ch 132, §11
CS87, §515A.25
90 Acts, ch 1234, §68, 77
C91, §515F.25
Referred to in §515F.20, 515F.21

515F.26 through 515F.29 Reserved.

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SUBCHAPTER III

FAIR ACCESS TO INSURANCE REQUIREMENTS PLAN

515F.30 Short title.

This subchapter may be cited as the *"Fair Access to Insurance Requirements Plan Act"*, or the *"FAIR Plan Act"*.

2003 Acts, ch 119, §1, 11; 2017 Acts, ch 54, §76

515F.31 Purpose.

The purposes of this subchapter include all of the following:

1. To make basic property insurance available to qualified applicants with the least possible administrative detail and expense.
2. To establish a plan, an industry placement facility, and a joint reinsurance association for the equitable distribution and placement of risks among insurers.
3. To utilize fully the voluntary insurance market as a source of essential property insurance.
4. To encourage the delivery of basic property insurance at the most reasonable cost possible, provided that insurance pricing by the FAIR plan is actuarially self-supporting and does not actively compete with insurance pricing in the voluntary insurance market.

2003 Acts, ch 119, §2, 11; 2017 Acts, ch 54, §76

515F.32 Definitions.

As used in this subchapter, unless the context otherwise requires:

1. *"Basic property insurance"* means insurance against direct loss to property as defined in the standard fire policy and extended coverage, vandalism, and malicious mischief endorsements; homeowners insurance; and such other coverage or classes of insurance as may be added to the FAIR plan by the commissioner. *"Basic property insurance"* does not include any of the following:
   a. Automobile insurance.
   b. Inland marine insurance.
2. *"FAIR plan"* means the plan to assure fair access to insurance requirements established pursuant to section 515F.33.
3. *"Insurer"* includes all companies or associations licensed to transact insurance business in this state under chapters 515, 518, and 518A, reciprocal insurers issued a certificate of authority pursuant to chapter 520, and companies or associations admitted or seeking to be admitted to do business in this state under any of those chapters, notwithstanding any provision of the Code to the contrary.

2003 Acts, ch 119, §3, 11; 2004 Acts, ch 1101, §74; 2021 Acts, ch 181, §28, 29

515F.33 FAIR plan established.

The FAIR plan to assure fair access to insurance requirements is established. The plan shall operate subject to the provisions and conditions of this subchapter.

2003 Acts, ch 119, §4, 11; 2017 Acts, ch 54, §76
Referred to in §515F.32, 515J.4

515F.34 Membership.

1. Eligibility for membership in the FAIR plan and its underwriting association requires all of the following:
   a. The insurer must be licensed to write property insurance in this state.
   b. The insurer is engaged in writing property insurance in this state, including the property insurance components of multiperil on a direct basis.
2. Each insurer that meets the eligibility requirements in subsection 1 shall be required to do all of the following:
   a. Automatically subscribe to the articles of agreement for the FAIR plan and the

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underwriting association as a prerequisite to authority to transact property insurance business in this state.

b. Become and remain a member both of the FAIR plan and the underwriting association.

c. Comply with the requirements of the FAIR plan and the underwriting association as a condition of the insurer's authority to transact property insurance business in this state.

2003 Acts, ch 119, §5, 11
Referred to in §515J.11

515F.35 Status of plan.

1. The FAIR plan is not and shall not be deemed a department, unit, agency, or instrumentality of the state.

2. All debts, claims, obligations, and liabilities incurred by the FAIR plan shall be the debts, claims, obligations, and liabilities of the FAIR plan only, and are not the debts or pledges of credit of the state, or the state's agencies, instrumentalities, officers, or employees.

3. The moneys of the FAIR plan are not part of the general fund of the state, and the state shall not budget for or provide general fund appropriations to the plan.

4. The records, reports, and communications of the FAIR plan, the governing committee, the committees of the FAIR plan, and their representatives, producers, and employees are not public records.

2003 Acts, ch 119, §6, 11

515F.36 Administration.

1. A governing committee shall administer the FAIR plan, subject to the supervision of the commissioner. The FAIR plan shall be operated by a manager appointed by the committee.

2. The committee shall consist of seven members.

a. Five of the members shall be elected to the committee, with one member from each of the following:

(1) American property casualty insurance association.
(2) National association of mutual insurance companies.
(3) Iowa insurance institute.
(4) Mutual insurance association of Iowa.
(5) Independent insurance agents of Iowa.

b. Two of the members shall be elected to the committee by other insurer members of the plan.

3. Not more than one insurer in a group under the same management or ownership shall serve on the committee at the same time.

4. The plan of operation and articles of association shall make provision for an underwriting association having authority on behalf of its members to cause to be issued property insurance policies, to reinsure in whole or in part any such policies, and to cede any such reinsurance. The plan of operation and articles of association shall provide, among other things, for the perils to be covered, limits of coverage, geographical area of coverage, compensation and commissions, assessments of members, the sharing of expenses, income, and losses on an equitable basis, cumulative weighted voting for the governing committee of the association, the administration of the FAIR plan, and any other matter necessary or convenient for the purpose of assuring fair access to insurance requirements.

2003 Acts, ch 119, §7, 11; 2004 Acts, ch 1101, §75; 2005 Acts, ch 70, §24; 2021 Acts, ch 181, §30

515F.37 Rules.

The commissioner shall adopt rules necessary to administer this subchapter.

2003 Acts, ch 119, §8, 11; 2017 Acts, ch 54, §76

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515F.38 Retroactive applicability.

This subchapter applies retroactively to October 7, 1968, to validate action taken under the Iowa basic property insurance inspection and placement program adopted by the commissioner of insurance.

2003 Acts, ch 119, §9, 11; 2017 Acts, ch 54, §76

515F.39 Cancellation or nonrenewal — FAIR notice.

If basic property insurance coverage is canceled or not renewed other than for nonpayment of a premium pursuant to section 515.125, 515.126, 515.127, 515.128, 518.23, or 518A.29, the insurer shall notify the named insured that the named insured may be eligible for basic property insurance through the FAIR plan. The notice shall accompany the notice of cancellation or the intent not to renew.

2021 Acts, ch 181, §31

CHAPTER 515G

MUTUAL INSURANCE COMPANY CONVERSIONS

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 521.2, 521A.14, 669.14, 670.7

515G.1	Definitions.	515G.8	Payment of fees, salaries, and costs.
515G.2	Mutual insurer becoming stock company — authorization.	515G.9	Act of conversion — continuation of company.
515G.3	Plan of conversion.	515G.10	Continuation of officers.
515G.4	Policyholders — voting rights.	515G.11	Rules.
515G.5	Appointment of consultant.	515G.12	Amendments — withdrawal.
515G.6	Approval of plan by policyholders — notice of election — effective date.	515G.13	Prohibitions on certain offers to acquire shares.
515G.7	Review of plan by commissioner — hearing authorized — approval.	515G.14	Limitation of actions — security for attorney fees.
		515G.15	Duties of secretary of state.

515G.1 Definitions.

As used in this chapter, unless the context clearly requires otherwise:

1. *"Affiliate"* of a mutual insurer means a person who controls, is controlled by, or is under common control with, the mutual insurer being converted.

2. *"Control"* has the meaning assigned to it in section 521A.1, subsection 3.

3. *"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.

4. *"Holder of a surplus note agreement"* means the holder of a guaranty fund or contribution certificate issued pursuant to section 515.20 or its equivalent which has been approved by the commissioner of insurance.

5. *"Mutual insurer"* means a domestic mutual property and casualty insurance company organized and licensed under chapter 515, 518, or 518A.

6. *"Voting policyholder"* means a policyholder who had a policy in force as provided in section 515G.4.

90 Acts, ch 1083, §1; 2006 Acts, ch 1117, §74; 2024 Acts, ch 1116, §3

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

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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, consolidation, 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.

90 Acts, ch 1083, §2; 2006 Acts, ch 1117, §75

515G.3 Plan of conversion.

1. A plan of conversion shall include all of the following:

a. The proposed articles of incorporation and bylaws of the mutual insurer as a stock company.

b. The manner of treating a holder of a surplus note agreement, if any. The holder of a surplus note agreement, if otherwise qualified, may, at its option, exchange the agreement for an equitable share of the securities or other consideration, or both, of the corporation into which the insurer is to be converted.

c. The manner and basis of exchanging the 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 to be provided to each voting policyholder in recognition of the voting rights of the voting policyholder, the equitable share of 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-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 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 minimis 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.

d. The number of voting common shares proposed to be authorized for the stock corporation, their par value, and the price at which they shall be offered.

2. A plan of conversion for an insurer organized on the mutual plan under chapter 491, shall also provide for conversion to a stock company as follows: the insurer organized on the mutual plan under chapter 491 shall amend its articles pursuant to chapter 491 as necessary

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to become a stock company, and shall immediately convert to a chapter 490 corporation as provided in section 490.1801 upon becoming a stock company.

90 Acts, ch 1083, §3; 2006 Acts, ch 1117, §76; 2012 Acts, ch 1023, §157; 2020 Acts, ch 1062, §57; 2021 Acts, ch 165, §229, 230

Referred to in §515G.5

515G.4 Policyholders — voting rights.

The policyholders who are entitled to notice of and to vote upon approval of a plan of conversion and entitled to notice of a public hearing are the policyholders whose policies are in force on the date of the adoption of the plan by the board of directors.

90 Acts, ch 1083, §4

Referred to in §515G.1

515G.5 Appointment of consultant.

1. A plan may provide for the appointment by the mutual insurer of a person as defined in section 4.1, subsection 20, who is qualified to act as a consultant. The appointment of the consultant shall be reviewed by the commissioner and unless the commissioner finds the consultant unqualified, the consultant shall carry out the duties required by the mutual insurer and this chapter.

2. The consultant may assist in determining the equity or value of the policyholders and the mutual insurer. The consultant may consider the value of the consideration to be given to the participating policyholders in exchange for their membership interests or into which the membership interest is to be converted and may consider any valuations necessary to carry out the plans provided for in section 515G.3. Valuations shall be made taking into account the latest filed annual statement of the mutual insurer and any significant developments occurring subsequent to the date of the statement.

3. The findings of the consultant may be modified by the mutual insurer at any time so long as the results are not unfair or inequitable to policyholders.

4. If it can be shown by the mutual insurer to the commissioner that an underwriter of the shares is a qualified person, the underwriter may be appointed as the consultant.

90 Acts, ch 1083, §5; 2018 Acts, ch 1041, §127

515G.6 Approval of plan by policyholders — notice of election — effective date.

After the plan has been approved by the commissioner as provided in section 515G.7, the plan of conversion shall be submitted to and shall not take effect until approved by two-thirds of the policyholders of the mutual insurer voting on the plan or such greater vote, if any, as is required by the articles of incorporation or bylaws of the mutual insurer. Notice of a meeting for the purpose of voting on the conversion plan shall be provided by mail to each policyholder entitled to vote in accordance with notice provisions in the articles of incorporation or bylaws of the mutual insurer. Each policyholder entitled to vote may cast one vote unless otherwise provided in the articles of incorporation or bylaws of the mutual insurer. Voting shall be by ballot, in person, or by proxy. A quorum consists of a quorum as defined in the articles of incorporation or bylaws of the mutual insurer. A copy of the plan of conversion, or a summary of the plan of conversion, shall accompany the notice of meeting and election. An approved plan of conversion shall take effect on the date specified in the plan.

90 Acts, ch 1083, §6

515G.7 Review of plan by commissioner — hearing authorized — approval.

The commissioner of insurance shall review the plan. The commissioner shall approve the plan if the commissioner finds the plan complies with all provisions of law, the plan is fair and equitable to the mutual insurer and its policyholders, and that the reorganized company will have the amount of capital and surplus deemed by the commissioner to be reasonably necessary for its future solvency. The commissioner may order a hearing on the fairness and equity of the terms of the plan after giving written notice of the hearing to the mutual insurer, and its policyholders, all of whom have the right to appear at the hearing.

90 Acts, ch 1083, §7; 2000 Acts, ch 1023, §33

Referred to in §505.23, 515G.6

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515G.8 Payment of fees, salaries, and costs.

A director, officer, agent, or employee of the mutual insurer shall not receive a fee, commission, or other valuable consideration, other than regular salary and compensation, for aiding, promoting, or assisting in the conversion except as set forth in the plan approved by the commissioner. However, this section does not prohibit the payment of reasonable fees and compensation to a consultant, attorneys at law, accountants, actuaries, or other persons specifically employed for services performed in the practice of their professions while completing the plan of conversion, even if these persons are directors of the mutual insurer.

90 Acts, ch 1083, §8

515G.9 Act of conversion — continuation of company.

1. When the commissioner and the policyholders approve the conversion plan as provided in this chapter, the commissioner shall issue a new certificate of authority to the successor stock company effective on the date specified in the plan. The successor stock company is a continuation of the mutual insurer and the conversion does not annul or modify any of the mutual insurer's existing suits, contracts, or liabilities except as provided in the approved conversion plan. All rights, franchises, and interests of the mutual insurer in and to property, assets, and other interests shall be transferred to and shall vest in the successor stock company and the successor stock company shall assume all obligations and liabilities of the mutual insurer.

2. The successor stock company shall exercise all rights and powers and perform all duties conferred or imposed by law on insurance companies writing the classes of insurance written by the company, and shall retain the rights and contracts existing before conversion, subject to provisions of the plan.

90 Acts, ch 1083, §9; 2019 Acts, ch 59, §189

515G.10 Continuation of officers.

The directors and officers of the mutual insurer shall serve the reorganized company until new directors and officers are elected and qualify pursuant to the articles of incorporation and bylaws of the reorganized company.

90 Acts, ch 1083, §10

515G.11 Rules.

The commissioner may issue rules pursuant to chapter 17A to carry out the provisions of this chapter.

90 Acts, ch 1083, §11

515G.12 Amendments — withdrawal.

At any time before approval of the plan of conversion and pursuant to rules issued by the commissioner, the board of directors of a mutual insurer may amend the conversion plan. The board of directors of a mutual insurer may withdraw the plan of conversion at any time prior to the approval of the plan of conversion by either the commissioner or the policyholders.

90 Acts, ch 1083, §12

515G.13 Prohibitions on certain offers to acquire shares.

Prior to and for a period of five years following the effective date of the conversion, and five years following the date of distribution of consideration to the policyholders in exchange for their membership interests, an officer or director, including family members and their spouses, of the mutual insurer or the successor stock company, shall not directly or indirectly offer to acquire or acquire control of the successor stock company unless the acquisition is made pursuant to a stock option or other plan approved by the commissioner, made pursuant to the plan of conversion, or made after the initial public offering from a broker or dealer of registered securities with the securities and exchange commission at the quoted price on the date of purchase, or made in connection with the defense against an acquisition of control of the reorganized company pursuant to any proposal not approved by the board of directors. As

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used in this section, *"family member"* includes a brother, sister, spouse, parent, grandparent, ancestor, or descendant of the officer or director.

90 Acts, ch 1083, §13

515G.14 Limitation of actions — security for attorney fees.

1. An action challenging the validity of a conversion plan, or any part of a conversion plan, shall not be commenced more than thirty days following the date of approval by the commissioner, unless an application for rehearing is filed pursuant to section 17A.16, subsection 2. If an application for rehearing is filed, then such action must be filed within thirty days after that application is denied or deemed denied or, if the application is granted, within thirty days after the issuance of the commissioner's final decision on rehearing.

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

90 Acts, ch 1083, §14; 2000 Acts, ch 1023, §34

[Subsection 2 was inadvertently omitted from Code 2001 through Code 2007]

2019 Acts, ch 24, §104

515G.15 Duties of secretary of state.

After approval of the conversion plan by the commissioner and the policyholders, the secretary of state shall accept for filing a verified copy of the amended articles of incorporation.

90 Acts, ch 1083, §15

CHAPTER 515H

PROPERTY AND CASUALTY ACTUARIAL OPINIONS

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

515H.1 Short title.
515H.2 Actuarial opinion of reserves — supporting documentation.
515H.3 Confidentiality.

515H.1 Short title.

This chapter shall be known and may be cited as the *"Property and Casualty Actuarial Opinions Act"*.

2007 Acts, ch 137, §13

515H.2 Actuarial opinion of reserves — supporting documentation.

1. *Statement of actuarial opinion.* Every property and casualty insurance company doing business in this state, unless otherwise exempted from this requirement by the commissioner, shall annually submit the opinion of an appointed actuary entitled "statement of actuarial opinion" with the company's annual statement in accordance with the provisions of section 515.63 and with the requirements of the national association of insurance commissioners' property and casualty annual statement instructions.

2. *Actuarial opinion summary.*

a. Every property and casualty insurance company domiciled in this state that is required to submit a statement of actuarial opinion shall annually submit an actuarial opinion summary, prepared and signed by the company's appointed actuary. The actuarial opinion summary shall be filed in accordance with the requirements of the national association of insurance commissioners' property and casualty company annual statement instructions

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and shall be considered a document in support of the statement of actuarial opinion required under subsection 1.

b. A property and casualty insurance company that is licensed but not domiciled in this state shall provide an actuarial opinion summary upon request of the commissioner.

3. *Actuarial report and work papers.*

a. An actuarial report and supporting work papers shall be prepared to support each statement of actuarial opinion in accordance with the requirements of the national association of insurance commissioners' property and casualty company annual statement instructions.

b. If an insurance company fails to provide a supporting actuarial report and work papers as requested by the commissioner or the commissioner determines that the actuarial report or work papers provided are unacceptable, the commissioner may engage a qualified actuary at the company's expense to review the statement of actuarial opinion and the basis for the opinion and to prepare a supporting actuarial report or work papers.

4. An appointed actuary shall not be liable for damages to any person, except the company and the insurance commissioner, for any act, error, omission, decision, or misconduct of the appointed actuary in conducting the actuary's duties pursuant to this section except in cases of fraud or willful misconduct on the part of the appointed actuary.

2007 Acts, ch 137, §14
Referred to in §515H.3

515H.3 Confidentiality.

1. A statement of actuarial opinion filed pursuant to section 515H.2, subsection 1, is a public record subject to examination and copying.

2. Documents in the possession or control of the insurance division that are provided to the division in support of a statement of actuarial opinion, that are considered an actuarial report, work papers, an actuarial opinion summary, or any other material provided by the company in connection with the actuarial report, work papers, or actuarial opinion summary are confidential records under section 507.14 and shall not be subject to subpoena or discovery or be admissible in evidence in any private civil action.

3. Disclosure of any documents, materials, or information to the division in compliance with the requirements of this chapter shall not be considered a waiver of any applicable privilege or claim of confidentiality.

2007 Acts, ch 137, §15

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CHAPTER 515I

SURPLUS LINES INSURANCE

Referred to in §87.4, 296.7, 321N.4, 331.301, 364.4, 432.1, 505.28, 505.29, 507A.4, 515E.9, 522B.6, 669.14, 670.7

515I.1 Purpose.
515I.2 Definitions.
515I.3 Placement of surplus lines insurance business with nonadmitted insurers and domestic surplus lines insurers.
515I.4 Requirements for eligible surplus lines insurers.
515I.4A Requirements for domestic surplus lines insurers.
515I.5 Duties of surplus lines insurance producers.
515I.6 Actions against eligible surplus lines insurers.
515I.7 Effect of payment to surplus lines insurance producer.
515I.8 Referrals to surplus lines insurance producers.
515I.9 Exempt commercial purchasers.
515I.10 Independently procured surplus lines insurance — premium tax — penalty.
515I.11 Violations and penalties.
515I.12 Cease and desist orders — civil and criminal penalties.
515I.13 Insurance policy or contract remains valid.
515I.13A Scope of operation.
515I.14 Severability.
515I.15 Rulemaking authority.

515I.1 Purpose.

1. The purposes of this chapter are to do all of the following:

a. Establish a system of regulation which will permit orderly access to surplus lines insurance in this state.

b. Encourage admitted insurers to make new and innovative types of insurance available to consumers in this state.

c. Protect persons seeking insurance in this state.

d. Permit surplus lines insurance to be placed with reputable and financially sound nonadmitted insurers.

e. Provide a system through which persons may independently procure surplus lines insurance.

f. Protect revenues of this state.

g. Foster a national system of regulation of surplus lines insurance by collaborating with other state insurance commissioners.

h. Provide a system which subjects surplus lines insurance activities in this state to the jurisdiction of the insurance commissioner and state and federal courts in suits by or on behalf of the state.

i. Ensure compliance with the federal Nonadmitted and Reinsurance Reform Act of 2010, Tit. V, subtit. B, of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act.

2. This chapter shall be liberally construed to promote these purposes.

2012 Acts, ch 1025, §1, 22; 2012 Acts, ch 1138, §73, 86, 87

515I.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Admitted insurer"* means an insurer licensed to do insurance business in this state.

2. *"Affiliate"* means, with respect to an insurer, any entity that controls, is controlled by, or is under common control with the insurer.

3. *"Affiliated group"* means any group of entities that are affiliates.

4. *"Commercial insurance"* means insurance for businesses or professionals.

5. *"Commissioner"* means the commissioner of insurance, or the commissioner's designees.

6. *"Control"* means either of the following:

a. That an entity directly or indirectly, or acting through one or more other persons, owns, controls, or has the power to vote twenty-five percent or more of any class of voting securities of another entity.

b. That an entity controls in any manner the election of a majority of the directors or trustees of another entity.

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7. *"Domestic surplus lines insurer"* means a domestic insurer that has been authorized by the commissioner pursuant to this chapter to do business as a domestic surplus lines insurer with which a surplus lines insurance producer may place surplus lines insurance.

8. *"Eligible surplus lines insurer"* means any of the following:

a. A nonadmitted insurer that has filed an application with the commissioner and been approved for placement of surplus lines insurance and appears on the Iowa listing of nonadmitted companies.

b. A nonadmitted insurer domiciled outside of the United States that is listed on the quarterly listing of alien insurers maintained by the national association of insurance commissioners.

c. A domestic surplus lines insurer authorized by the commissioner.

9. *"Exempt commercial purchaser"* means any person purchasing commercial insurance that, at the time of placement, meets all of the following requirements:

a. The person employs or retains a qualified risk manager to negotiate insurance coverage.

b. The person has paid aggregate nationwide commercial property and casualty insurance premiums in excess of one hundred thousand dollars in the immediately preceding twelve months.

c. The person meets at least one of the following criteria:

(1) The person possesses a net worth in excess of twenty million dollars except that beginning on January 1, 2015, and on January 1 every five years thereafter, this amount shall be adjusted to reflect the percentage change in the consumer price index for all urban consumers for the most recent available five-year period published by the United States department of labor, bureau of labor statistics.

(2) The person generates annual revenues in excess of fifty million dollars except that beginning on January 1, 2015, and on January 1 every five years thereafter, this amount shall be adjusted to reflect the percentage change in the consumer price index for all urban consumers for the most recent available five-year period published by the United States department of labor, bureau of labor statistics.

(3) The person employs more than five hundred full-time or full-time equivalent employees per individual insured or is a member of an affiliated group employing more than one thousand employees in the aggregate.

(4) The person is a nonprofit organization or public entity generating annual budgeted expenditures of at least thirty million dollars except that beginning on January 1, 2015, and on January 1 every five years thereafter, this amount shall be adjusted to reflect the percentage change in the consumer price index for all urban consumers for the most recent available five-year period published by the United States department of labor, bureau of labor statistics.

(5) The person is a municipality with a population in excess of fifty thousand persons.

10. *"Home state"* means:

a. Except as provided in paragraph *"b"*, with respect to an insured either of the following:

(1) The state in which an insured maintains its principal place of business or, in the case of an individual, the individual's principal residence.

(2) If one hundred percent of the insured risk is located out of the state described in subparagraph (1), the state to which the greatest percentage of the insured's taxable premium for that insurance policy or contract is allocated.

b. If more than one insured from an affiliated group is a named insured on a single surplus lines insurance policy or contract, the home state, as determined pursuant to paragraph *"a"*, subparagraph (1), of the member of the affiliated group that has the largest percentage of premium attributed to it under such insurance policy or contract.

11. *"Independently procured insurance"* means insurance obtained by a person directly from a nonadmitted insurer.

12. *"Insurer"* means the same as defined in section 507.1, subsection 2.

13. *"Nonadmitted insurer"* means an insurer not licensed to do insurance business in this state. *"Nonadmitted insurer"* does not include a risk retention group as defined in chapter 515E.

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14. *"Person"* means the same as defined in section 507.1, subsection 2, or any government or governmental entity.

15. *"Placement"* or *"placed"* means that an eligible surplus lines insurer has accepted a premium and issued an insurance policy or contract for a particular risk.

16. *"Premium tax"* means the tax imposed by the state on a contract of insurance equal to the applicable percent, as provided in section 432.1.

17. *"Qualified risk manager"* means a person who meets all of the following requirements:

a. The person is an employee of, or third party consultant retained by a commercial insurance policyholder.

b. The person provides skilled services in loss prevention, loss reduction, or risk and insurance coverage analysis, and purchase of insurance.

c. The person meets one of the following requirements:

(1) The person has a bachelor's degree from an accredited college or university in risk management, business administration, finance, economics, or any other field determined by the commissioner to demonstrate minimum competence in risk management; and meets both of the following requirements:

(a) Has three years of experience in risk financing, claims administration, loss prevention, risk and insurance coverage analysis, or purchasing commercial lines of insurance.

(b) Has one of the following designations:

(i) Chartered property and casualty underwriter.

(ii) Associate in risk management.

(iii) Certified risk manager.

(iv) Risk and insurance management society fellow.

(v) Any other designation, certification, or license determined by the commissioner to demonstrate minimum competency in risk management.

(2) The person has at least seven years of experience in risk financing, claims administration, loss prevention, risk and insurance coverage analysis, or purchasing commercial lines of insurance; and has any one of the designations specified in subparagraph (1), subparagraph division (b).

(3) The person has at least ten years of experience in risk financing, claims administration, loss prevention, risk and insurance coverage analysis, or purchasing commercial lines of insurance.

(4) The person has a graduate degree from an accredited college or university in risk management, business administration, finance, economics, or any other field determined by the commissioner to demonstrate minimum competence in risk management.

18. *"Surplus lines insurance"* means any property and casualty insurance in this state on properties, risks, or exposures, located or to be performed in this state, that is placed through a surplus lines insurance producer with an eligible surplus lines insurer. For purposes of this chapter only, *"surplus lines insurance"* also includes disability insurance that is in excess of policy limits available from an admitted insurer.

19. *"Surplus lines insurance producer"* means a person licensed pursuant to chapter 522B to sell, solicit, or negotiate surplus lines insurance.

2012 Acts, ch 1025, §2, 22; 2019 Acts, ch 19, §1, 2

515I.3 Placement of surplus lines insurance business with nonadmitted insurers and domestic surplus lines insurers.

1. Surplus lines insurance may be placed by a surplus lines insurance producer with a nonadmitted insurer or domestic surplus lines insurer only if all of the following requirements are met:

a. The proposed nonadmitted insurer or domestic surplus lines insurer is an eligible surplus lines insurer.

b. The proposed nonadmitted insurer or domestic surplus lines insurer is authorized to write the type of insurance sought in this state in its domiciliary jurisdiction.

c. Unless otherwise exempt from this requirement, after a diligent search the full amount or type of insurance cannot be obtained from an admitted insurer.

d. All other requirements of this chapter are met.

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2. *a.* In addition to the full amount of gross premiums charged by the nonadmitted insurer or domestic surplus lines insurer for the insurance on which a premium tax is imposed for surplus lines insurance for which the insured's home state is Iowa, a surplus lines insurance producer shall collect and pay to the state of Iowa the appropriate amount of premium tax as provided in section 432.1 for surplus lines insurance. The commissioner shall adopt rules to specify the use of credits or deductions that may be applied to the premium tax.

b. The tax on any portion of the premium unearned at the termination of the surplus lines insurance that has been credited by the state shall be returned to the policyholder directly by the surplus lines insurance producer. The surplus lines insurance producer is prohibited from rebating, for any reason, any part of the tax.

3. This section shall not apply to a person properly licensed as an insurance producer, who, for a fee and pursuant to a written agreement, is engaged solely to offer advice, counsel, opinion, or service to an insured with respect to the benefits, advantages, or disadvantages promised under any proposed or in-force policy of insurance if the person does not, directly or indirectly, participate in the sale, solicitation, or negotiation of insurance on behalf of the insured.

4. Insurance placed under this section shall be valid and enforceable as to all parties.

2012 Acts, ch 1025, §3, 22; 2019 Acts, ch 19, §3
Referred to in §515J.10

515I.4 Requirements for eligible surplus lines insurers.

1. When this state is the home state of the insured, a nonadmitted insurer shall not place any surplus lines insurance business in this state unless the insurer has been approved for such activity by the commissioner. A nonadmitted insurer seeking to qualify as an eligible surplus lines insurer shall submit a request to so qualify in a form and format as directed by the commissioner which demonstrates all of the following:

a. Capital and surplus or its equivalent under the laws of the insurer's domiciliary jurisdiction which equals the greatest of the following:

(1) The minimum capital and surplus requirements under the laws of this state.

(2) Fifteen million dollars.

(3) The risk-based capital level requirements pursuant to chapter 521E.

b. Evidence that the nonadmitted insurer is in good standing with its domiciliary regulator.

2. The commissioner may waive the requirements of this section or set specific requirements on a case-by-case basis upon an affirmative finding of acceptability by the commissioner that the placement of insurance with the nonadmitted insurer is necessary and will not be detrimental to the public and to policyholders. In determining whether business may be placed with a nonadmitted insurer, the commissioner shall consider all of the following:

a. The interests of the public and policyholders.

b. The length of time the insurer has been licensed to do insurance business in its domiciliary jurisdiction and elsewhere.

c. The unavailability of particular coverages from other admitted insurers or eligible surplus lines insurers in this state.

d. The size of the nonadmitted insurer as measured by the insurer's assets, capital and surplus, reserves, premium writings, insurance in force, or other appropriate criteria.

e. The kinds of business the nonadmitted insurer writes, the insurer's net exposure, and the extent to which the insurer's business is diversified among several lines of insurance and geographic locations.

f. The past and projected trend in the size of the nonadmitted insurer's capital and surplus considering such factors as premium growth, operating history, loss and expense ratios, or other appropriate criteria.

3. Eligible surplus lines insurers shall not be required to file or seek approval of their forms and rates.

2012 Acts, ch 1025, §4, 22; 2021 Acts, ch 181, §32

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515I.4A Requirements for domestic surplus lines insurers.

1. An insurer that is domiciled in this state may apply to the commissioner for licensure as a domestic surplus lines insurer if all of the following requirements are met:

a. The insurer possesses policyholder surplus of the greater of either fifteen million dollars or three hundred percent of authorized-control-level risk-based capital pursuant to chapter 521E.

b. The insurer is an eligible surplus lines insurer in at least one jurisdiction other than this state.

c. The board of directors of the insurer has passed a resolution seeking approval as a domestic surplus lines insurer in this state and stating that the insurer shall only write surplus lines business. The resolution shall not be amended without approval of the commissioner.

d. The commissioner has approved the insurer as a domestic surplus lines insurer in this state.

2. For the purposes of the federal Nonadmitted and Reinsurance Reform Act of 2010, 15 U.S.C. §8201 et seq., a domestic surplus lines insurer shall be considered a nonadmitted insurer as the term is referenced in the Act, with respect to risks insured in this state.

3. A domestic surplus lines insurer shall be deemed an eligible surplus lines insurer and is subject to all requirements of this chapter that are applicable to an eligible surplus lines insurer. A domestic surplus lines insurer is authorized to write any kind of insurance that a nonadmitted insurer not domiciled in this state is eligible to write.

4. Notwithstanding any other provision of law to the contrary, a policy or contract issued in this state by a domestic surplus lines insurer shall be subject to taxes assessed on a surplus lines policy or contract issued by a nonadmitted insurer, including the premium tax on surplus lines insurance, but shall not be subject to other taxes levied on an admitted insurer, whether domestic or foreign.

5. A policy or contract issued by a domestic surplus lines insurer is not a policy or contract for which coverage is provided under the Iowa insurance guaranty association pursuant to chapter 515B or the Iowa life and health insurance guaranty association pursuant to chapter 508C.

6. All financial and solvency requirements imposed in this state upon a domestic admitted insurer are applicable to a domestic surplus lines insurer unless a domestic surplus lines insurer is specifically exempted from such requirements.

7. A policy or contract issued by a domestic surplus lines insurer in this state is exempt from all requirements imposed in this state relating to insurance rating plans, policy or contract forms, policy or contract cancellation and nonrenewal, or premiums charged to the insured, in the same manner and to the same extent as a policy or contract issued by a nonadmitted insurer domiciled in another state.

2019 Acts, ch 19, §4; 2019 Acts, ch 89, §17; 2020 Acts, ch 1062, §58

515I.5 Duties of surplus lines insurance producers.

1. A surplus lines insurance producer shall not issue or deliver any evidence of insurance or purport to insure or represent that insurance will be or has been written by an eligible surplus lines insurer, unless the producer has authority from the insurer to bind the risk to be insured, or has received information from the insurer in the regular course of business that the coverage has been granted.

2. Upon placement of surplus lines insurance, the surplus lines insurance producer shall promptly deliver to the insured the policy or contract, or if the policy or contract is not then available, a certificate cover note, binder, or other evidence of insurance. The certificate cover note, binder, or other evidence of insurance shall contain information as specified by the commissioner by rule.

3. As soon as is reasonably possible after the placement of the insurance, the surplus lines insurance producer shall deliver a copy of the policy or contract or, if not available, a certificate of insurance to the insured to replace any evidence of insurance previously issued. Each policy or contract or certificate of insurance shall contain or have attached a complete record of all policy or contract insuring agreements, conditions, exclusions,

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clauses, endorsements, or any other material facts that would regularly be included in the policy or contract.

4. If, after delivery of any evidence of insurance, there is any change in the identity of the eligible surplus lines insurer, or the proportion of the risk assumed by such insurer, or any other material change in coverage as stated in the original evidence of insurance, or in any other material change as to the insurance coverage so evidenced, the surplus lines insurance producer shall promptly issue and deliver to the insured an appropriate substitute for, or endorsement of the original document, accurately showing the current status of the coverage and the surplus lines insurer responsible for the coverage.

5. Each surplus lines insurance producer shall keep a full and true record of each surplus lines insurance policy or contract placed by an eligible surplus lines insurer and issued or delivered by that person which covers risks wholly or partly located or to be performed in this state. These records and any other records deemed reasonably necessary by the commissioner shall be made available to the commissioner for examination upon request. Records shall be maintained for a period of not less than five years following termination of the surplus lines insurance policy or contract.

6. A surplus lines insurance producer shall file a report and remit all premium taxes due to this state for all surplus lines insurance placed by an eligible surplus lines insurer and issued or delivered by that person during the reporting period established by the commissioner. The specific requirements for the timing of and content of the report and the manner of filing shall be specified by the commissioner by rule.

2012 Acts, ch 1025, §5, 22

515I.6 Actions against eligible surplus lines insurers.

An eligible surplus lines insurer may be sued upon a cause of action arising in this state under a surplus lines insurance policy or contract placed by the insurer or upon evidence of insurance placed by the insurer and issued or delivered in this state by a surplus lines insurance producer. A policy or contract issued by an eligible surplus lines insurer shall contain a provision stating the substance of this section and designating the person upon whom service of process can be made on behalf of the insurer.

2012 Acts, ch 1025, §6, 22

515I.7 Effect of payment to surplus lines insurance producer.

A payment of premium to a surplus lines insurance producer acting for a person other than the producer in procuring, continuing, or renewing any policy or contract of surplus lines insurance procured under this chapter shall be deemed to be payment to the eligible surplus lines insurer, notwithstanding any other conditions or stipulations that are inserted in the policy or contract of insurance.

2012 Acts, ch 1025, §7, 22

515I.8 Referrals to surplus lines insurance producers.

A surplus lines insurance producer may accept referrals to place surplus lines insurance from any other licensed insurance producer and the surplus lines insurance producer may compensate the referring insurance producer for the referral.

2012 Acts, ch 1025, §8, 22

515I.9 Exempt commercial purchasers.

A surplus lines insurance producer seeking to procure or place surplus lines insurance in this state for an exempt commercial purchaser is not required to make a diligent search to determine whether the full amount or type of insurance sought by such exempt commercial purchaser can be obtained from an admitted insurer if both of the following requirements are met:

1. The surplus lines insurance producer has disclosed to the exempt commercial purchaser that such insurance may be available from an admitted insurer that may provide the purchaser with greater protection and with more regulatory oversight.

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2. The exempt commercial purchaser has subsequently requested in writing that the surplus lines insurance producer place such insurance with an eligible surplus lines insurer.

2012 Acts, ch 1025, §9, 22

515I.10 Independently procured surplus lines insurance — premium tax — penalty.

1. When this state is the home state of the insured, a person who directly procures, continues, or renews a surplus lines insurance policy or contract independently and without using a surplus lines insurance producer on properties, risks, or exposures located or to be performed in whole or in part in this state shall file a written report regarding the transaction with the commissioner, in a manner and method as directed by the commissioner by rule.

2. When this state is the home state of the insured, each person who has independently procured a surplus lines insurance policy or contract shall pay a premium tax at a rate appropriate to the amount of premium tax equal to the applicable percent, as provided in section 432.1. The tax shall be remitted via a method and schedule and in a manner as directed by the commissioner by rule.

3. The commissioner may assess a penalty of one percent of the delinquent amount of taxes owed per month as specified in section 507A.9.

2012 Acts, ch 1025, §10, 22

515I.11 Violations and penalties.

1. The commissioner may, after notice and a hearing, declare a surplus lines insurer ineligible to place surplus lines insurance in the state if at any time the commissioner has reason to believe that a surplus lines insurer meets any of the following conditions:

a. Is in unsound financial condition or has acted in an untrustworthy manner.

b. No longer meets the standards set forth in this chapter.

c. Has willfully violated the laws of this state.

d. Does not conduct its claims settlement practices in a fair and reasonable manner.

e. Has committed an unfair or deceptive insurance trade practice under chapter 507B.

2. The commissioner may suspend, revoke, or refuse to renew the license of a surplus lines insurance producer or impose any sanction or penalty allowed under chapter 507B after notice and hearing for one or more of the following grounds:

a. Removal of the resident surplus lines insurance producer's principal place of business from this state without notice to the commissioner.

b. Removal of the resident surplus lines insurance producer's office accounts and records from this state during the period for which the accounts and records are required to be maintained.

c. Closure of the surplus lines insurance producer's office for a period of more than thirty business days, unless permission is granted by the commissioner.

d. Failure to file required reports with the commissioner or the commissioner's designee.

e. Failure to remit surplus lines insurance premium taxes to this state as directed by the commissioner.

f. Violating any provision of this chapter.

g. For any cause for which an insurance producer license could be denied, revoked, or suspended, or renewal refused or a civil penalty imposed under chapter 522B.

3. The commissioner may initiate an administrative proceeding against a surplus lines insurance producer for the collection of unpaid premium taxes. The commissioner may assess a penalty of one percent of the delinquent amount of taxes owed per month as specified in section 507A.9 and any other penalties allowed by law.

4. A person that represents or aids a nonadmitted insurer in violation of this chapter shall be subject to criminal penalties as set forth in section 507A.10.

2012 Acts, ch 1025, §11, 22

515I.12 Cease and desist orders — civil and criminal penalties.

1. Upon a determination by the commissioner, after a hearing conducted pursuant to chapter 17A, that a surplus lines insurance producer, an eligible surplus lines insurer, or a nonadmitted insurer has violated a provision of this chapter, the commissioner shall reduce

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the findings of the hearing to writing and deliver a copy of the findings to the producer or insurer. The commissioner may issue an order requiring the producer or insurer to cease and desist from engaging in the conduct resulting in the violation and may assess a civil penalty of not more than fifty thousand dollars against the producer or insurer.

2. *a.* Upon a determination by the commissioner that a surplus lines insurance producer, an eligible surplus lines insurer, or a nonadmitted insurer has engaged, is engaging, or is about to engage in any act or practice constituting a violation of this chapter or a rule adopted or order issued under this chapter, the commissioner may issue a summary order, including a brief statement of findings of fact, conclusions of law, and policy reasons for the decision, and directing the producer or insurer to cease and desist from engaging in the act or practice or to take other affirmative action as is in the judgment of the commissioner necessary to comply with the requirements of this chapter.

b. A surplus lines insurance producer, an eligible surplus lines insurer, or a nonadmitted insurer to whom a summary order has been issued under this subsection may contest the order by filing a request for a contested case proceeding and hearing as provided in chapter 17A and in accordance with rules adopted by the commissioner. However, the producer or insurer shall have at least thirty days from the date that the order is issued in order to file the request. Section 17A.18A is inapplicable to a summary order issued under this subsection. If a hearing is not timely requested, the summary order becomes final by operation of law. The order shall remain effective from the date of issuance until the date the order becomes final by operation of law or is overturned by a presiding officer or court following a request for hearing.

c. A surplus lines insurance producer, an eligible surplus lines insurer, or a nonadmitted insurer violating a summary order issued under this subsection shall be deemed in contempt of that order. The commissioner may petition the district court to enforce the order as certified by the commissioner. The district court shall find the producer or insurer in contempt of the order if the court finds after hearing that the producer or insurer is not in compliance with the order. The court may assess a civil penalty against the producer or insurer and may issue further orders as it deems appropriate.

3. A person acting as a surplus lines insurance producer, an eligible surplus lines insurer, or nonadmitted insurer who willfully violates any provision of this chapter, or any rule adopted or order issued under this chapter, is guilty of a class "D" felony.

4. A person acting as a surplus lines insurance producer, an eligible surplus lines insurer, or nonadmitted insurer who willfully violates any provision of this chapter, or any rule adopted or order issued under this chapter, when such violation results in a loss of more than ten thousand dollars, is guilty of a class "C" felony.

5. The commissioner may refer such evidence as is available concerning violations of this chapter or of any rule adopted or order issued under this chapter, or of the failure of a person to comply with the licensing requirements of chapter 522B, to the attorney general or the proper county attorney who may, with or without such reference, institute the appropriate criminal proceedings under this chapter.

6. This chapter does not limit the power of the state to punish any person for any conduct that constitutes a crime under any other statute.

2012 Acts, ch 1025, §12, 22

515I.13 Insurance policy or contract remains valid.

A policy or contract of insurance issued or delivered by an eligible surplus lines insurer or a nonadmitted insurer which is otherwise valid and contains a condition or provision not in compliance with the requirements of this chapter is not thereby rendered invalid but shall be construed and applied in accordance with the conditions and provisions which would have applied had the policy or contract been issued or delivered in full compliance with this chapter.

2012 Acts, ch 1025, §13, 22

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515I.13A Scope of operation.

This chapter applies only to transactions when this state is the home state of the applicant or the insured.

2012 Acts, ch 1025, §14, 22

515I.14 Severability.

If any provision of this chapter, or the application of the provision of this chapter to any person or circumstance, is held invalid, the remainder of the chapter and the application of the provision to persons or circumstances other than those as to which it is held invalid, shall not be affected by that holding.

2012 Acts, ch 1025, §15, 22

515I.15 Rulemaking authority.

The commissioner shall adopt rules pursuant to chapter 17A to implement the purposes of this chapter.

2012 Acts, ch 1025, §16, 22

CHAPTER 515J

PRIVATE PRIMARY RESIDENTIAL FLOOD INSURANCE

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

515J.1 Title.
515J.2 Purpose.
515J.3 Intent.
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515J.8 Notice to consumers — special flood hazard areas.
515J.9 Cancellation and nonrenewal — notice.
515J.10 Surplus lines placements.
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515J.12 Certification — private flood insurance.
515J.13 Public records.
515J.14 Conflict of laws.
515J.15 Rules.

515J.1 Title.

This chapter shall be known and may be cited as the *"Private Primary Residential Flood Insurance Model Act"*.

2021 Acts, ch 73, §1

515J.2 Purpose.

The purpose of this chapter is to provide for the protection of lives and property from the peril of flood, and to encourage a robust private primary residential flood insurance market to provide consumer choices and alternatives to the existing national flood insurance program.

2021 Acts, ch 73, §2

515J.3 Intent.

It is the intent of the legislature that this chapter shall not restrict the use of existing filings by an insurer, or limit the ability of authorized insurers to provide flood insurance coverage in this state of any type other than primary residential flood insurance.

2021 Acts, ch 73, §3

515J.4 Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. *"Authorized insurer"* means an insurer authorized by the commissioner to write insurance under a certificate of authority issued by the commissioner to transact insurance in this state.

2. *"Commissioner"* means the commissioner of insurance.

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3. *"FAIR plan"* means the plan to assure fair access to insurance requirements established pursuant to section 515F.33.

4. *"National flood insurance program"* means the program of flood insurance coverage and floodplain management administered under the National Flood Insurance Act of 1968, as amended, Pub. L. No. 90-48, 42 U.S.C. §4001 et seq., and applicable regulations promulgated in 44 C.F.R.

5. *"Primary residential flood insurance"* means an insurance policy covering losses from flood to residential property, other than commercial property, written in this state by any authorized insurer and that is not written to apply coverage in excess of the coverage provided under another flood insurance policy, including a policy issued by a private insurer or by the national flood insurance program.

2021 Acts, ch 73, §4

515J.5 Rates.

1. Rates established pursuant to this section for flood insurance issued pursuant to this chapter shall not be subject to prior approval by the commissioner. An insurer shall attest that all rates are based on actuarial data, methodologies, standards, and guidelines relating to floods that are not excessive, inadequate, or unfairly discriminatory. The commissioner may audit an insurer's flood rates to ensure compliance with applicable state laws and administrative rules.

2. An insurer shall file with the commissioner all rates and any changes to such rates which the insurer proposes to use. A filing must state the proposed effective date, indicate the character and extent of the coverage contemplated, include the name of the insurer, and include the average statewide percentage change in rates. Actuarial data with regard to rates for flood coverage must be maintained by the insurer for two years after the effective date of a rate change.

2021 Acts, ch 73, §5

515J.6 Forms.

The commissioner may require, through the application of the state's existing regulatory system, all of the following:

1. That an authorized insurer file all forms for primary residential flood insurance coverage.

2. That an authorized insurer may issue an insurance policy, contract, or endorsement.

3. That flood insurance on a residential property that is located in a special flood hazard area designated by the federal emergency management agency provides coverage that at a minimum complies with 42 U.S.C. §4012a(b) and applicable regulations in 84 Fed. Reg. 4953.

2021 Acts, ch 73, §6

515J.7 Notice to commissioner.

At least thirty calendar days prior to writing primary residential flood insurance in this state, an authorized insurer shall comply with the following requirements:

1. Notify the commissioner of the insurer's intent to sell primary residential flood insurance.

2. File a plan of operation and financial projections, or material revisions to a plan of operation and financial projections, with the commissioner.

2021 Acts, ch 73, §7

515J.8 Notice to consumers — special flood hazard areas.

1. Before placing an applicant whose property is located in a special flood hazard area with private flood insurance, an insurance producer, surplus lines broker, or an authorized insurer upon the authorized insurer's election or if there is not an insurance producer or surplus lines broker, shall provide notice to the applicant of the following:

a. Of the existence of the national flood insurance program if the applicant does not currently have flood coverage under the national flood insurance program.

b. That flood coverage under the national flood insurance program may be provided at a

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subsidized rate, and that the full-risk rate for flood insurance may apply to the applicant's property if the applicant later seeks to reinstate coverage under the program.

2. This section is repealed effective thirty calendar days after enactment of federal legislation mandating that an insured may switch between private flood insurance and flood insurance under the national flood insurance program without risk of penalty. The commissioner shall notify the Iowa Code editor upon the occurrence of this condition.

2021 Acts, ch 73, §8

515J.9 Cancellation and nonrenewal — notice.

1. Notice of cancellation or nonrenewal of private residential flood insurance, other than for nonpayment of premium, shall be made and provided to the policyholder a minimum of forty-five days before the cancellation or nonrenewal of the flood insurance, and in compliance with the applicable provisions of sections 515.129A, 515.129B, and 515.129C.

2. Notwithstanding subsection 1, notice of cancellation of private residential flood insurance for nonpayment of the premium, or fraud or misrepresentation on the application for the flood insurance, shall be made and provided to the policyholder in compliance with the applicable provisions of sections 515.129A, 515.129B, and 515.129C.

2021 Acts, ch 73, §9

515J.10 Surplus lines placements.

Diligent search requirements pursuant to section 515I.3, subsection 1, paragraph "*c*", shall not apply to flood coverage under an insurance policy issued by an eligible surplus lines insurer until such time that the commissioner certifies in a commissioner's bulletin or by order that the admitted private flood insurance market is adequate.

2021 Acts, ch 73, §10

515J.11 Property insurance market participation.

Writing private flood insurance shall not constitute participation in the property insurance market for purposes of determining membership in the FAIR plan pursuant to section 515F.34.

2021 Acts, ch 73, §11

515J.12 Certification — private flood insurance.

An insurer that writes flood insurance under this chapter may certify that the insurance policy meets the definition of *"private flood insurance"* as specified in 42 U.S.C. §4012a(b)(7) and corresponding federal regulations.

2021 Acts, ch 73, §12

515J.13 Public records.

Upon disposition, all rates, supplementary rate information, and supporting information filed with the commissioner pursuant to this chapter shall be a public record under chapter 22, except any information marked by the insurer or the filer as confidential, trade secret, or proprietary pursuant to section 22.7, and that is accepted by the commissioner.

2021 Acts, ch 73, §13

515J.14 Conflict of laws.

Notwithstanding any law to the contrary, with respect to regulation of flood coverage written in this state by an authorized insurer, this chapter shall control.

2021 Acts, ch 73, §14

515J.15 Rules.

The commissioner may adopt rules pursuant to chapter 17A as necessary to administer this chapter.

2021 Acts, ch 73, §15

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CHAPTER 515K

TRAVEL INSURANCE

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

515K.1 Short title.
515K.2 Definitions.
515K.3 Licensing and registration — limited lines travel insurance producers and travel retailers.
515K.4 Travel protection plans.
515K.5 Sales and marketing practices.
515K.6 Travel administrators.
515K.7 Rates, forms, eligibility, and underwriting.
515K.8 Tax on gross premiums.
515K.9 Applicability.
515K.10 Rules.

515K.1 Short title.

This chapter shall be known and may be cited as the *"Travel Insurance Model Act"*.

2022 Acts, ch 1035, §1

515K.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Aggregator site"* means an internet site that provides access to information regarding insurance products, including product and insurer information, that is obtained from more than one insurer for use by consumers in comparison shopping.

2. *"Blanket travel insurance"* means a policy of travel insurance issued to any eligible group that provides coverage for specific classes of persons as defined in the policy, with coverage provided to all members of the eligible group without a separate charge to individual members of the eligible group.

3. *"Cancellation fee waiver"* means a contractual agreement between a supplier of travel services and the supplier's customers to waive some or all of the nonrefundable cancellation fee provisions of the supplier's underlying travel contract with or without regard to the reason for cancellation or to the form of reimbursement. A cancellation fee waiver shall not be considered insurance.

4. *"Commissioner"* means the commissioner of insurance.

5. *"Designated responsible producer"* means an employee of a limited lines travel insurance producer who is a licensed individual insurance producer and who is designated by the limited lines travel insurance producer as the individual responsible for compliance with the travel insurance laws and regulations applicable to the limited lines travel insurance producer and the limited lines travel insurance producer's registrants.

6. *"Eligible group"* means two or more persons who are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship, including but not limited to any of the following:

a. An entity engaged in the business of providing travel or travel services, including but not limited to a tour operator, a lodging provider, a vacation property owner, a hotel, a resort, a travel club, a travel agency, a property manager, a cultural exchange program, and a common carrier or the operator, owner, or lessor of a means of transportation of passengers including but not limited to an airline, a cruise line, a railroad, a steamship company, and a public bus carrier, where with regard to any particular travel or type of travel or travelers, all members or customers have a common exposure to risk attendant to such travel.

b. A college, school, or other institution of learning, covering students, teachers, employees, and volunteers of the college, school, or other institution of learning.

c. An employer, covering any group of employees, volunteers, contractors, and members of the employer's board of directors; and all dependents and guests of an employee, a volunteer, a contractor, or a member of the employer's board of directors.

d. A sports team, sports camp, or a sponsor of a sports team or sports camp, covering participants, members, campers, employees, officials, supervisors, or volunteers of the sports team, sports camp, or the sponsor of a sports team or sports camp.

e. A religious, charitable, recreational, educational, or civic organization, covering any

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group of members, participants, or volunteers of the religious, charitable, recreational, educational, or civic organization or a branch thereof.

f. A financial institution, a financial institution vendor, or a parent holding company, trustee, agent of, or agent designated by, one or more financial institutions or financial institution vendors, including account holders, credit card holders, debtors, guarantors, or purchasers.

g. An incorporated or unincorporated association, including a labor union, that has a common interest, a constitution, and bylaws; and that is organized and maintained in good faith for a purpose other than obtaining insurance for the members or participants of the association.

h. A trust or a trustee of a fund established, created, or maintained for the benefit of and covering members, employees, or customers, and that is subject to the commissioner permitting the use of a trust and the premium tax provisions under section 515K.8, of one or more associations meeting the requirements under paragraph *"g"*.

i. An entertainment production company covering any group of participants, volunteers, audience members, contestants, or workers.

j. A volunteer fire department, ambulance or rescue organization, first aid organization, civil defense organization, and similar volunteer organizations.

k. A preschool, or a day care facility for children or adults.

l. An organization for senior citizens.

m. An automobile or truck rental or leasing company that covers a group of individuals who may become renters, lessees, or passengers as defined by an individual's travel status on the rented or leased automobile or truck. The common carrier, the operator, owner, or lessor of a means of transportation, or the automobile or truck rental or leasing company is the policyholder under a policy to which this chapter applies.

n. Any other group, as determined by the commissioner by rule, that the members are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship, and for which issuance of a travel insurance policy is not contrary to the public interest.

7. *"Fulfillment materials"* means documentation sent to the purchaser of a travel protection plan that confirms the purchase and that provides details of the travel protection plan coverage and the travel assistance services.

8. *"Group travel insurance"* means travel insurance that is issued to an eligible group.

9. *"Limited lines travel insurance producer"* means any of the following:

a. A licensed managing general agent or a licensed third-party administrator.

b. A licensed insurance producer, including a licensed limited lines producer.

c. A travel administrator.

10. *"Offer and disseminate"* means to provide general information regarding travel insurance or a travel protection plan, including a description of the coverage and price, and to process an application and collect premiums for travel insurance or a travel protection plan.

11. *"Primary certificate holder"* means an individual who has elected and purchased travel insurance under a group policy.

12. *"Primary policyholder"* means an individual who has elected and purchased individual travel insurance.

13. *"Travel administrator"* means a person who directly or indirectly underwrites, collects charges, collateral, or premiums from, or adjusts or settles claims on, residents of this state in connection with travel insurance. *"Travel administrator"* shall not include a person whose only actions that would otherwise cause the person to be considered a travel administrator are any of the following:

a. A person that works for a travel administrator to the extent that the person's activities are subject to the supervision and control of the travel administrator.

b. A person that is an insurance producer and who sells insurance or is engaged in administrative and claims-related activities within the scope of the person's producers license.

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c. A person that is a travel retailer that offers and disseminates travel insurance and that is registered under the license of a limited lines travel insurance producer.

d. An individual who adjusts or settles claims in the normal course of the individual's practice or employment as an attorney and who does not collect charges or premiums in connection with insurance coverage.

e. A business entity that is affiliated with a licensed insurer while acting as a travel administrator for the direct and assumed insurance business of an affiliated insurer.

14. *"Travel assistance services"* means a non-insurance, non-insurance-related service for which a consumer is not indemnified based on a fortuitous event and for which provision of the service does not result in the transfer or shifting of risk that constitutes the business of insurance, including but not limited to any of the following services:

a. Security advisories.
b. Destination information.
c. Vaccination and immunization information services.
d. Travel reservation services.
e. Entertainment planning.
f. Activity and event planning.
g. Translation assistance.
h. Emergency messaging.
i. International legal and medical referrals.
j. Medical case monitoring.
k. Coordination of transportation arrangements.
l. Emergency cash transfer assistance.
m. Medical prescription replacement assistance.
n. Passport and travel document replacement assistance.
o. Lost luggage assistance.
p. Concierge services.
q. Any other service furnished in connection with planned travel.

15. *a.* *"Travel insurance"* means insurance coverage for personal risks incident to planned travel including all of the following:

(1) Interruption or cancellation of a trip or event.
(2) Loss of baggage or personal effects.
(3) Damage to an accommodation or to a rental vehicle.
(4) Sickness, accident, disability, or death occurring during travel.
(5) Emergency evacuation.
(6) Repatriation of remains.
(7) Any other contractual obligation to indemnify or pay a specified amount to a traveler upon a determinable contingency related to travel as approved by the commissioner.

b. *"Travel insurance"* shall not include a major medical plan that provides comprehensive medical protection for a traveler for a trip that lasts longer than six months, including a traveler who works or resides overseas as an expatriate, or any other product that requires a specific insurance producer license.

16. *"Travel protection plan"* means a product that provides one or more of any of the following:

a. Travel insurance.
b. Travel assistance services.
c. Cancellation fee waivers.

17. *"Travel retailer"* means a business entity that makes, arranges, or offers planned travel and that may offer and disseminate travel insurance as a service to the business's customers on behalf of and under the direction of a limited lines travel insurance producer.

2022 Acts, ch 1035, §2

515K.3 Licensing and registration — limited lines travel insurance producers and travel retailers.

1. *a.* The commissioner may issue a limited lines travel insurance producer license to a

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person that has filed an application for a limited lines travel insurance producer license in the form and manner prescribed by the commissioner.

b. A limited lines travel insurance producer must be licensed to sell, solicit, or negotiate travel insurance through a licensed insurer. A person shall not act as a limited lines travel insurance producer, or as a travel retailer, unless the person is licensed as a limited lines travel insurance producer or is registered as a travel retailer.

2. A travel retailer may offer and disseminate travel insurance under a limited lines travel insurance producer's license only if all of the following conditions are satisfied:

a. The travel retailer or the limited lines travel insurance producer provides all of the following to a purchaser of travel insurance:

(1) A description of the material terms, or the actual material terms, of the travel insurance coverage.

(2) A description of the claim filing process.

(3) A description of the review and cancellation process.

(4) The identity of, and the contact information for, the insurer and the limited lines travel insurance producer.

b. (1) Beginning on the date of licensure, a limited lines travel insurance producer shall establish and maintain a register, in the form and manner prescribed by the commissioner, of each travel retailer that offers travel insurance on behalf of the limited lines travel insurance producer. The register shall include all of the following information:

(a) The name, address, and contact information of each travel retailer.

(b) The name, address, and contact information of an officer or other individual who directs or controls each travel retailer's operations.

(c) Each travel retailer's federal tax identification number.

(2) A limited lines travel insurance producer shall submit the register under subparagraph (1) to the commissioner upon the commissioner's reasonable request, and shall certify that the register complies with 18 U.S.C. §1033.

(3) Provisions under Title XIII, subtitle 1, that are applicable to the suspension or revocation of a resident insurance producer's license, or to the imposition of penalties on a resident insurance producer, shall be applicable to limited lines travel insurance producers and travel retailers.

c. The limited lines travel insurance producer has a designated responsible producer.

d. The designated responsible producer, president, secretary, treasurer, and any other officer or individual who directs or controls the limited lines travel insurance producer's insurance operations has complied with all fingerprinting requirements applicable to insurance producers in this state.

e. The limited lines travel insurance producer has paid all licensing fees required by state law.

f. The limited lines travel insurance producer requires each employee and each authorized representative of the travel retailer who offers and disseminates travel insurance to successfully complete a training program that, at a minimum, educates each employee and each authorized representative on the details of each type of insurance offered by the travel retailer, ethical sales practices, and all disclosures that are required to be made to prospective purchasers.

3. A travel retailer that offers and disseminates travel insurance shall make brochures or other written materials that have been approved by the travel insurer available to prospective purchasers. The brochures or other written materials shall, at a minimum, do all of the following:

a. Provide the name, address, and telephone number of the insurer and the limited lines travel insurance producer.

b. Explain that the purchase of travel insurance by the prospective purchaser is not required in order to purchase any other product or service from the travel retailer.

c. Explain that a travel retailer that is not licensed as an insurance producer is only permitted to provide general information about travel insurance offered by the travel retailer, including a description of the coverage and price; however, the travel retailer is not qualified or authorized to answer technical questions about the terms and conditions of the travel

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insurance, or to evaluate the adequacy of the prospective purchaser's existing insurance coverage.

4. A travel retailer's employee or authorized representative who is not licensed as an insurance producer shall not do any of the following:

a. Evaluate or interpret the technical terms, benefits, or conditions of travel insurance offered to a prospective purchaser.

b. Evaluate or provide advice on a prospective purchaser's existing insurance coverage.

c. Represent themselves as a licensed insurer, a licensed insurance producer, or as an insurance expert.

5. Notwithstanding any other provision of law to the contrary, a travel retailer whose insurance-related activities and the insurance-related activities of the travel retailer's employees and authorized representatives are limited to offering and disseminating travel insurance on behalf of and under the direction of a limited lines travel insurance producer in compliance with this chapter, shall be authorized to receive related compensation if the travel retailer is included in the register maintained by the limited lines travel insurance producer under subsection 2, paragraph *"b"*.

6. As an insurer's designee, a limited lines travel insurance producer shall be responsible for the acts of each travel retailer that offers and disseminates travel insurance under the limited lines travel insurance producer's license and shall use reasonable means to ensure that each travel retailer complies with this chapter.

7. A person that is licensed as an insurance producer in a major line of authority shall be authorized to sell, solicit, and negotiate travel insurance. A property and casualty insurance producer shall not be required to become appointed by an insurer in order to sell, solicit, or negotiate travel insurance.

2022 Acts, ch 1035, §3
Referred to in §515K.5

515K.4 Travel protection plans.

A travel protection plan may be offered in this state at one price for all features included in the travel protection plan if all of the following are true:

1. The travel protection plan clearly discloses to the purchaser, at or prior to the time of purchase, that the travel protection plan includes, as applicable, travel insurance, travel assistance services, and cancellation fee waivers.

2. A purchaser is provided with an opportunity at or prior to the time of purchase to obtain additional details regarding each feature and the cost of each feature.

3. The fulfillment materials provided to the purchaser do all of the following:

a. Describe and delineate the travel insurance, travel assistance services, and cancellation fee waivers included in the travel protection plan.

b. Include, as applicable, travel insurance disclosures and the contact information for all persons providing travel assistance services and cancellation fee waivers.

2022 Acts, ch 1035, §4

515K.5 Sales and marketing practices.

1. All persons offering travel insurance to residents of this state shall be subject to sections 507B.3 and 507B.4, except as otherwise provided in this section. In the event of a conflict between this chapter and another provision under Title XIII, subtitle 1, regarding the sale and marketing of travel insurance and travel protection plans, this chapter shall control.

2. *a.* Any document provided to a prospective purchaser prior to the prospective purchaser's purchase of travel insurance, including but not limited to sales, advertising, and marketing materials, shall be consistent with the travel insurance policy, including but not limited to forms, endorsements, policies, rate filings, and certificates of insurance.

b. If a travel insurance policy or a travel insurance certificate contains any preexisting condition exclusion, a prospective purchaser shall, any time prior to the time of purchase, be provided an opportunity to learn more about the preexisting condition exclusion. Any preexisting condition exclusion information shall also be included in the travel insurance policy or travel insurance certificate fulfillment materials.

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c. The fulfillment materials and the information described in section 515K.3, subsection 2, paragraph *"a"*, subparagraphs (1) through (4) shall be provided to a primary policyholder or to a primary certificate holder as soon as practicable following the policyholder's or the certificate holder's purchase of a travel protection plan. Unless an insured has either started a covered trip or filed a claim under the travel insurance coverage, a policyholder or certificate holder may cancel a policy or certificate for a full refund of the travel protection plan price from the date of purchase of a travel protection plan until at least fifteen days following the date of delivery of the travel protection plan's fulfillment materials by postal mail, or ten days following the date of delivery of the travel protection plan's fulfillment materials by means other than postal mail. For purposes of this paragraph, *"delivery"* means handing fulfillment materials to the policyholder or certificate holder or sending fulfillment materials by postal mail or electronic means to the policyholder or certificate holder.

d. An insurer shall disclose in the policy documentation and fulfillment materials provided to the purchaser of travel insurance whether the travel insurance is primary or secondary to any other applicable insurance coverage.

e. If travel insurance is marketed directly to consumers through an insurer's internet site, or by another person via an aggregator site, it shall not be an unfair trade practice or other violation of law for the insurer or the other person to provide an accurate summary or short description of the available insurance coverage, if all provisions of each available travel insurance policy are accessible to consumers via electronic means.

3. No person shall offer, solicit, or negotiate travel insurance or a travel protection plan on an individual or group basis through use of a negative option or an opt out that requires a consumer to take an affirmative action to deselect coverage, such as unchecking a box on an electronic form when the consumer purchases a trip.

4. It shall be an unfair trade practice pursuant to section 507B.3 and section 507B.4 to do any of the following:

a. Offer or sell a travel insurance policy that, due to an exclusion or other provisions in the policy, cannot result in payment of any claim made by any insured under the policy.

b. Market blanket travel insurance coverage as no cost coverage.

5. If a consumer's travel destination is located in a jurisdiction that mandates specific insurance coverage, it shall not be an unfair trade practice to require that the consumer, as a condition of purchasing a travel package, select one of the following options:

a. Purchase of the coverage required by the destination jurisdiction through either the travel retailer or the limited lines travel insurance producer that provides the travel package.

b. Agree to obtain and provide proof of coverage that meets the destination jurisdiction's requirements prior to the consumer's departure.

2022 Acts, ch 1035, §5

515K.6 Travel administrators.

1. Notwithstanding any provision of Title XIII, subtitle 1, to the contrary, a person shall not act as, or represent itself as, a travel administrator for travel insurance in this state unless the person meets at least one of the following requirements:

a. The person is a licensed property and casualty insurance producer in this state.

b. The person is in compliance with all laws and regulations that are applicable to managing general agents in this state.

c. The person is in compliance with all laws and regulations that are applicable to third-party administrators in this state.

2. An insurer shall be responsible for the acts of a travel administrator administering travel insurance underwritten by the insurer, and for ensuring that the travel administrator maintains all records related to the insurer and makes the records available to the commissioner upon request of the commissioner.

2022 Acts, ch 1035, §6

515K.7 Rates, forms, eligibility, and underwriting.

1. Notwithstanding any provision of Title XIII, subtitle 1, to the contrary, travel insurance shall be classified and filed for purposes of rates and forms under an inland marine line

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of insurance provided that travel insurance that provides coverage for sickness, accident, disability, or death occurring during travel, either exclusively, or in conjunction with related coverages of emergency evacuation or repatriation of remains, or incidental limited property and casualty benefits such as baggage or trip cancellation, may be filed under either an accident and health line of insurance or an inland marine line of insurance.

2. Travel insurance may be issued in the form of an individual insurance policy, a group travel insurance policy, or a blanket travel insurance policy.

3. Eligibility and underwriting standards for travel insurance may be developed and provided based on travel protection plans designed for individual or identified marketing or distribution channels, provided that the standards also meet the state's underwriting standards for the line of insurance.

2022 Acts, ch 1035, §7

515K.8 Tax on gross premiums.

1. An insurer that offers travel insurance shall pay tax on gross premiums, as provided in section 432.1, on travel insurance premiums paid by any of the following:

a. A primary policyholder who is a resident of this state.

b. A primary certificate holder who is a resident of this state.

c. A blanket travel insurance policyholder that is a resident of this state, or that has the policyholder's principal place of business or the principal place of business of an affiliate or subsidiary that has purchased blanket travel insurance in this state for eligible blanket group members, subject to any apportionment rules that apply to the insurer across multiple taxing jurisdictions, or that permit the insurer to allocate premiums on an apportioned basis in a reasonable and equitable manner in those taxing jurisdictions.

2. An insurer that offers travel insurance shall do all of the following:

a. Document the state of residence or the state of the principal place of business of the primary policyholder or primary certificate holder.

b. Report as premiums only the amount allocable to travel insurance, and not report any amounts received from travel assistance services or cancellation fee waivers.

2022 Acts, ch 1035, §8
Referred to in §515K.2

515K.9 Applicability.

1. This chapter shall apply to travel insurance that covers any resident of this state, and travel insurance that is sold, solicited, negotiated, or offered in this state, and to any travel insurance policy or certificate that is delivered or issued for delivery in this state. This chapter shall not apply to cancellation fee waivers or to travel assistance services except as expressly provided in this chapter.

2. All applicable provisions of Title XIII, subtitle 1, shall apply to travel insurance except that specific provisions of this chapter shall supersede any general provisions of Title XIII, subtitle 1, that are otherwise applicable to travel insurance.

2022 Acts, ch 1035, §9

515K.10 Rules.

The commissioner may adopt rules pursuant to chapter 17A as necessary to implement and administer this chapter.

2022 Acts, ch 1035, §10

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CHAPTER 516

LIABILITY POLICIES — UNSATISFIED JUDGMENTS

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

516.1 Inurement of policy.
516.2 Settlement.
516.3 Limitation on action.

516.1 Inurement of policy.

All policies insuring the legal liability of the insured, issued in this state by any company, association or reciprocal exchange shall, notwithstanding any other provision of the statutes, contain a provision providing that, in event an execution on a judgment against the insured be returned unsatisfied in an action by a person who is injured or whose property is damaged, the judgment creditor shall have a right of action against the insurer to the same extent that such insured could have enforced the insured's claim against such insurer had such insured paid such judgment.

[C35, §9024-g1; C39, §**9024.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §516.1]

516.2 Settlement.

No settlement between said insurer and insured, after loss, shall bar said action unless consented to by said judgment plaintiff.

[C35, §9024-g2; C39, §**9024.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §516.2]

516.3 Limitation on action.

Said action may be brought against said insurer within one hundred eighty days from the entry of judgment in case no appeal is taken, and, in case of appeal, within one hundred eighty days after the judgment is affirmed on appeal, anything in the policy or statutes to the contrary notwithstanding.

[C35, §9024-g3; C39, §**9024.3;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §516.3]

CHAPTER 516A

UNINSURED, UNDERINSURED, OR HIT-AND-RUN MOTORISTS

Referred to in §87.4, 296.7, 321N.4, 331.301, 364.4, 505.28, 505.29, 515B.9, 669.14, 670.7

516A.1 Coverage included in every liability policy — rejection by insured.
516A.2 Construction — minimum coverage — stacking.
516A.3 Effect of insolvency.
516A.4 Insurer making payment — reimbursement.
516A.5 Tolling of statute.

516A.1 Coverage included in every liability policy — rejection by insured.

1. No automobile liability or motor vehicle liability insurance policy insuring against liability for bodily injury or death arising out of the ownership, maintenance, or use of a motor vehicle shall be delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state, unless coverage is provided in such policy or supplemental thereto, for the protection of persons insured under such policy who are legally entitled to recover damages from the owner or operator of an uninsured motor vehicle or a hit-and-run motor vehicle or an underinsured motor vehicle because of bodily injury, sickness, or disease, including death resulting therefrom, caused by accident and arising out of the ownership, maintenance, or use of such uninsured or underinsured motor vehicle, or arising out of physical contact of such hit-and-run motor vehicle with the person insured or with a motor vehicle which the person insured is occupying at the time of the accident. Both the uninsured motor vehicle or hit-and-run motor vehicle coverage, and the underinsured motor vehicle coverage shall include limits for bodily injury or death at least

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equal to those stated in section 321A.1, subsection 11. The form and provisions of such coverage shall be examined and approved by the commissioner of insurance.

2. However, the named insured may reject all of such coverage, or reject the uninsured motor vehicle or hit-and-run motor vehicle coverage, or reject the underinsured motor vehicle coverage, by written rejections signed by the named insured. If rejection is made on a form or document furnished by an insurance company or insurance producer, it shall be on a separate sheet of paper which contains only the rejection and information directly related to it. Such coverage need not be provided in or supplemental to a renewal policy if the named insured has rejected the coverage in connection with a policy previously issued to the named insured by the same insurer.

[C71, 73, 75, 77, 79, 81, §516A.1]

83 Acts, ch 101, §108; 90 Acts, ch 1233, §33; 2001 Acts, ch 16, §10, 37; 2021 Acts, ch 76, §150; 2023 Acts, ch 66, §125

Referred to in §516A.2, 516A.5

516A.2 Construction — minimum coverage — stacking.

1. *a.* Except with respect to a policy containing both underinsured motor vehicle coverage and uninsured or hit-and-run motor vehicle coverage, nothing contained in this chapter shall be construed as requiring forms of coverage provided pursuant hereto, whether alone or in combination with similar coverage afforded under other automobile liability or motor vehicle liability policies, to afford limits in excess of those that would be afforded had the insured thereunder been involved in an accident with a motorist who was insured under a policy of liability insurance with the minimum limits for bodily injury or death prescribed in section 321A.1, subsection 11. Such forms of coverage may include terms, exclusions, limitations, conditions, and offsets which are designed to avoid duplication of insurance or other benefits.

b. To the extent that *Hernandez v. Farmers Insurance Company*, 460 N.W.2d 842 (Iowa 1990), provided for interpolicy stacking of uninsured or underinsured coverages in contravention of specific contract or policy language, the general assembly declares such decision abrogated and declares that the enforcement of the antistacking provisions contained in a motor vehicle insurance policy does not frustrate the protection given to an insured under section 516A.1.

2. Pursuant to chapter 17A, the commissioner of insurance shall, by January 1, 1992, adopt rules to assure the availability, within the state, of motor vehicle insurance policies, riders, endorsements, or other similar forms of coverage, the terms of which shall provide for the stacking of uninsured and underinsured coverages with any similar coverage which may be available to an insured.

3. It is the intent of the general assembly that when more than one motor vehicle insurance policy is purchased by or on behalf of an injured insured and which provides uninsured, underinsured, or hit-and-run motor vehicle coverage to an insured injured in an accident, the injured insured is entitled to recover up to an amount equal to the highest single limit for uninsured, underinsured, or hit-and-run motor vehicle coverage under any one of the above described motor vehicle insurance policies insuring the injured person which amount shall be paid by the insurers according to any priority of coverage provisions contained in the policies insuring the injured person.

[C71, 73, 75, 77, 79, 81, §516A.2]

91 Acts, ch 213, §30; 2012 Acts, ch 1023, §157

516A.3 Effect of insolvency.

1. For the purpose of this chapter, the term *"uninsured motor vehicle"* shall, subject to the terms and conditions of the coverage required in this chapter, be deemed to include an insured motor vehicle with respect to which insolvency proceedings have been instituted against the liability insurer thereof by the insurance regulatory official of this or any other state or territory of the United States or of the District of Columbia.

2. An insurer's insolvency protection is applicable only to accidents occurring during a policy period in which its insured's uninsured motorist coverage is in effect and only if the

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liability insurer of the tortfeasor is insolvent at the time of such an accident or becomes insolvent after the accident.

[C71, 73, 75, 77, 79, 81, §516A.3]

91 Acts, ch 26, §46; 92 Acts, ch 1162, §46; 2021 Acts, ch 76, §150; 2022 Acts, ch 1021, §153

516A.4 Insurer making payment — reimbursement.

In the event of payment to any person under the coverage required by this chapter and subject to the terms and conditions of such coverage, the insurer making such payment shall, to the extent thereof, be entitled to the proceeds of any settlement or judgment resulting from the exercise of any rights of recovery of such person against any person or organization legally responsible for the bodily injury for which such payment is made, including the proceeds recoverable from the assets of the insolvent insurer. The person to whom said payment is made under the insolvency protection required by this chapter shall to the extent thereof, be deemed to have waived any right to proceed to enforce such a judgment against the assets of the judgment debtor who was insured by the insolvent insurer whose insolvency resulted in said payment being made, other than assets recovered or recoverable by such judgment debtor from such insolvent insurer.

[C71, 73, 75, 77, 79, 81, §516A.4]

516A.5 Tolling of statute.

Commencement of an action by an insured under a provision included in an automobile liability or motor vehicle liability insurance policy pursuant to section 516A.1 tolls the statute of limitations for purposes of the insurer's subrogated cause of action against a party, as defined in section 668.2. Section 668.8 is also applicable to an action commenced as described in this section.

98 Acts, ch 1057, §12

CHAPTER 516B

AUTOMOBILE LIABILITY POLICIES

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

516B.1 Definitions.
516B.2 Reduction in premiums to reflect reductions in losses.
516B.3 Certain speeding violations not considered in establishing rates.

516B.1 Definitions.

As used in this chapter, unless otherwise required by the context:

1. *"Automobile liability policy"* means an insurance policy issued by an insurance carrier authorized to do business in this state to or for the benefit of the person named in the policy as insured against loss from liability imposed by law for damages arising out of ownership, maintenance, or use of an insured automobile.

2. *"Commissioner"* means the commissioner of insurance.

86 Acts, ch 1218, §1

516B.2 Reduction in premiums to reflect reductions in losses.

1. The commissioner shall require that insurance companies transacting business in this state reduce the automobile liability insurance premiums charged insureds in this state for liability insurance renewed or issued on or after July 1, 1987. The reduction in insurance premiums, on a statewide basis, shall be at whatever amount the commissioner of insurance deems appropriate as reflecting the reduction in annual losses incurred by the insurance companies with the enactment of 1986 Iowa Acts, ch. 1009. The commissioner of insurance may annually make adjustments to the reduction in insurance premiums as the commissioner deems appropriate considering the latest statistics available to the commissioner.

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2. In making the determination on the amount of reduction of automobile liability insurance premiums which takes effect July 1, 1987, the commissioner may employ or contract with actuarial consultants as necessary in making the determination. The reasonable fees and expenses of an actuarial consultant employed or contracted by the commissioner for the purpose of determining the amount of the July 1, 1987, reduction shall be assessed against and paid by the affected insurance companies.

86 Acts, ch 1218, §2; 2014 Acts, ch 1026, §143; 2021 Acts, ch 76, §150

516B.3 Certain speeding violations not considered in establishing rates.

1. An insurance company transacting business in this state shall not consider the first two speeding violations that occur in any twelve-month period for the purpose of establishing rates for motor vehicle insurance charged by the insurer or to cancel or refuse to renew any such policy if the speeding violations were ten or fewer miles per hour over the speed limit and occurred under any of the following circumstances:

a. The speeding violations occurred on or after July 1, 1986, but before May 12, 1987, in a speed zone with a speed limit greater than thirty-five miles per hour.

b. The speeding violations occurred on or after May 12, 1987, but before July 1, 2026, in a speed zone with a speed limit between thirty-four miles per hour and fifty-six miles per hour.

c. The speeding violations occurred on or after July 1, 2026, in a speed zone with a speed limit between thirty-four miles per hour and sixty-one miles per hour.

2. If the rate for motor vehicle insurance is based on an operating record of a period longer than twelve months in length, the twelve-month periods under subsection 1 shall not overlap.

87 Acts, ch 120, §8; 88 Acts, ch 1158, §78; 88 Acts, ch 1214, §3; 2026 Acts, ch 1132, §5

Referred to in §507B.4

Subsection 1 amended

CHAPTER 516C

RESERVED

CHAPTER 516D

RENTAL OF MOTOR VEHICLES

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7, 714H.3

516D.1 Title.
516D.2 Scope.
516D.3 Definitions.
516D.3A Vehicle license recovery fee.
516D.4 Damage or loss — collision damage waiver.
516D.5 Recovery for damage or loss.
516D.6 Disclosures.
516D.7 Prohibitions.
516D.8 Rules.
516D.9 Enforcement.

516D.1 Title.

This chapter shall be known and may be cited as the *"Iowa Car Rental and Collision Damage Waiver Act"*.

91 Acts, ch 204, §1

516D.2 Scope.

This chapter applies to advertising and business practices relating to vehicle rental agreements entered into in this state.

91 Acts, ch 204, §2

516D.3 Definitions.

As used in this chapter, unless the context requires otherwise:

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1. *"Authorized driver"* means any of the following:

a. A customer to whom a vehicle is rented.

b. A person expressly listed by a rental company on a rental agreement as an authorized driver.

c. A customer's spouse, if the spouse is a licensed driver and satisfies the rental company's minimum age requirement.

d. A customer's employer or coworker, if the employer or coworker is engaged in a business activity with the customer to whom the vehicle is rented, is a licensed driver, and satisfies the rental company's minimum age requirement.

2. *"Collision damage waiver"* means a contract or contractual provision, whether separate from or a part of a rental agreement, whereby the rental company agrees, for a charge, to waive claims against an authorized driver for all, or any portion of, damages to the rental vehicle, loss due to theft of the rental vehicle, or damages resulting from the loss of use of the rental vehicle.

3. *"Customer"* means a person entering into a rental agreement and obtaining the use of a rental vehicle from a rental company under the terms of the rental agreement.

4. *"Estimated time for repair"* means a good faith estimate of the reasonable number of hours of labor, or fraction of an hour, needed to repair a damaged vehicle or damaged vehicle parts.

5. *"Estimated time for replacement"* means the number of hours of labor, or fraction of an hour, needed to replace damaged vehicle parts as set forth in collision damage estimating guides generally used in the vehicle repair business and commonly known as crash books.

6. *"Mandatory charge"* means any charge, fee differential, or surcharge that all or a majority of customers must pay in order to obtain or operate a rental vehicle except as follows:

a. *"Mandatory charge"* does not include an airport-imposed fee or a vehicle license recovery fee if the existence and amount of the fee are clearly and conspicuously disclosed immediately adjacent to any advertised rental price. The customer must be informed of the amount of the fee when the reservation is made. When an advertisement encompasses more than one rental location, the fee may be expressed as the maximum fee or range of fees.

b. *"Mandatory charge"* does not include taxes imposed directly upon the rental transaction by an authorized taxing authority.

c. *"Mandatory charge"* does not include mileage fees as long as the existence of any mileage limitation and cost per mile for excess mileage is clearly and conspicuously disclosed immediately adjacent to the advertised price.

7. *"Material restriction"* means a restriction, limitation, or other requirement which significantly affects the price of, normal anticipated use of, or a customer's financial responsibility for, a rental vehicle. Restrictions against any or all of the following activities in connection with the acquisition or use of a rental vehicle are not material restrictions:

a. Obtaining a rental vehicle by use of false or misleading information.

b. Operating a rental vehicle while intoxicated or under the influence of any drug.

c. Using a rental vehicle to transport persons or property for hire.

d. Using a rental vehicle to engage in a race, training activity, contest, or use for an illegal purpose.

e. Using a rental vehicle to push or tow a vehicle or other object.

f. Operating a rental vehicle in an abusive or reckless manner.

g. Operating a rental vehicle other than on regularly maintained hard surface roadways, including private driveways and parking lots. For purposes of this chapter, *"hard surface roadways"* includes, but is not limited to, all regularly maintained gravel-covered surfaces.

h. Operating a rental vehicle outside the continental United States unless specifically authorized by the rental agreement.

8. *"Placing a block"* means any procedure or mechanism which reserves a specified amount of the customer's otherwise available credit on the customer's credit or charge card account so that the amount is not available for future credit purchases.

9. *"Rental agreement"* means a written contract containing the terms and conditions for the use of a rental vehicle by a customer for a term of sixty days or less.

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10. *"Rental company"* means a person in the business of providing rental vehicles to customers.

11. *"Rental vehicle"* means a private passenger type vehicle which, upon the execution of a rental agreement, is made available to a customer for the customer's use or other authorized driver's use.

12. *"Vehicle license recovery fee"* means a charge that may be separately stated and charged on a vehicle rental transaction originating in this state to recover fees paid to this state by a rental company to license, title, register, and plate rental vehicles.

91 Acts, ch 204, §3; 92 Acts, ch 1163, §101; 2002 Acts, ch 1151, §29; 2015 Acts, ch 102, §1, 2
Referred to in §321.484, 537C.2

516D.3A Vehicle license recovery fee.

1. A rental company may include separately stated charges in a rental agreement pursuant to the provisions of this chapter for the recovery of fees paid to this state to license, title, register, and plate rental vehicles.

2. If a rental company includes a vehicle license recovery fee as a separately stated charge in a rental transaction, the amount of the fee shall represent the rental company's good-faith estimate of the rental company's average per vehicle portion of the rental company's total annual titling and registration fees paid to this state.

3. If the total amount of the vehicle license recovery fees collected by a rental company under this section in any calendar year exceeds the rental company's actual fees paid to this state to license, title, register, and plate rental vehicles for that calendar year, the rental company shall do both of the following:

a. Retain the excess amount to be held in a vehicle license recovery fee fund as a consumer credit for the following year.

b. Lower the estimated average per vehicle titling and registration charge for the following calendar year by the corresponding amount in the vehicle license recovery fee fund.

2015 Acts, ch 102, §3

516D.4 Damage or loss — collision damage waiver.

1. *a.* A rental company shall not hold, or attempt to hold, an authorized driver liable for physical damage to a rental vehicle, loss due to theft of a rental vehicle, or damages resulting from the loss of use of a rental vehicle, unless the rental company offers the customer a collision damage waiver under the terms and conditions described in subsection 2, or unless one or more of the following applies:

(1) The damage or loss is caused intentionally by an authorized driver or is a result of the authorized driver's willful, abusive, reckless, or wanton misconduct.

(2) The damage or loss arises out of the authorized driver's operation of the rental vehicle while intoxicated or under the influence of a drug.

(3) The damage or loss is caused while the authorized driver is engaged in a race, training activity, contest, or use of the rental vehicle for an illegal purpose.

(4) The rental agreement is based on false or misleading information supplied by the customer or an authorized driver.

(5) The damage or loss is caused by operating the rental vehicle other than on regularly maintained hard surface roadways, including private driveways and parking lots.

(6) The damage or loss arises out of the use of the rental vehicle to transport persons or property for hire or to push or tow anything.

(7) The damage or loss occurs while the rental vehicle is operated by a driver other than an authorized driver.

(8) The damage or loss arises out of the use of the rental vehicle outside the continental United States unless such use is specifically authorized by the rental agreement.

(9) The damage or loss is attributable to theft which occurs with the prior knowledge or knowing participation of an authorized driver, or which is attributable to the authorized driver leaving the rental vehicle unattended with the keys in the rental vehicle.

b. This section does not alter the liability of a customer or authorized driver for bodily injury or the death of another and for property damage other than to the rental vehicle in

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accordance with the rental agreement. This section does not prohibit a rental company from accepting or negotiating master contracts with companies or government entities in advance of need whereby the companies or government entities specifically agree to assume liability in exchange for rate concessions. This section does not prohibit a rental company from entering into agreements with insurance companies to provide replacement vehicles to insurance company customers whereby the insurance company agrees to assume the risk of loss.

c. If the rental vehicle is not repaired, damages shall not exceed the fair market value of the vehicle, as determined in the customary market for that vehicle, less salvage or actual sale value, plus additional license and tax fees incurred because of the sale, plus administrative fees. A claim shall not be made for loss of use if the rental vehicle is not repaired.

2. *a.* A rental company may offer a collision damage waiver under the following terms and conditions:

(1) All restrictions, conditions, and exclusions must be printed in the rental agreement, or on a separate sheet or document, in ten point type, or larger; or written in pen and ink or typewritten in or on the face of the rental agreement in a blank space provided for such restrictions, conditions, and exclusions. The rental agreement may provide that the collision damage waiver may be voided under the conditions set forth in subsection 1, paragraph "*a*", subparagraphs (1) through (9).

(2) The rental agreement, separate sheet, or document must clearly and conspicuously state both the daily and estimated total charge for the collision damage waiver.

(3) (a) The rental agreement, separate sheet, or document given to the customer prior to entering into the rental agreement must display in ten point type, or larger, the following notice:

> NOTICE: This contract offers, for an additional charge, a collision damage waiver to cover all or part of your responsibility for damage to the rental vehicle.
>
> Before deciding whether to purchase the collision damage waiver, you may wish to determine whether your own automobile insurance affords you coverage for damage to the rental vehicle and the amount of the deductible under your own insurance coverage. The purchase of this collision damage waiver is not mandatory and may be declined.

(b) The customer must separately acknowledge that the customer received the above notice, that the customer desires to purchase the collision damage waiver, and the terms of the collision damage waiver to which the customer agrees.

(4) The car rental company shall not pay commissions to a rental counter agent or representative for selling collision damage waivers and is prohibited from considering volume of sales of collision damage waivers in an employee evaluation or determination of promotion.

b. However, notwithstanding whether a rental company offers a collision damage waiver under the provisions of this subsection, the rental company shall not hold an authorized driver liable for damage or loss due to theft except where subsection 1, paragraph "*a*", subparagraph (9) applies.

91 Acts, ch 204, §4; 2012 Acts, ch 1023, §127

516D.5 Recovery for damage or loss.

A claim against an authorized driver resulting from damage to a rental vehicle, loss due to theft of a rental vehicle, or damages resulting from the loss of use of a rental vehicle, must be reasonably and rationally related to the actual loss incurred. A rental company shall mitigate damages where possible and shall not assert or collect any claim for physical damage which exceeds the actual cost of the repair, including all discounts or price reductions. Administrative fees shall be limited to the reasonable administrative costs associated with processing the damage claim. A claim made for loss of use shall not exceed the daily rental

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rate stated in the customer's contract, excluding optional charges, multiplied by the total of the estimated time for replacement and the estimated time for repair, divided by eight.

91 Acts, ch 204, §5

516D.6 Disclosures.

1. All material restrictions on an advertised rate or on the use of the rental vehicle must be clearly and conspicuously disclosed in any price advertisement.

2. A rental company shall only advertise, quote, and charge a rental rate that includes all mandatory charges. A rental company shall not impose any mandatory charges in addition to the advertised or quoted rental rate.

91 Acts, ch 204, §6

516D.7 Prohibitions.

Unfair or deceptive acts or practices in the advertisement or rental of vehicles are prohibited. Unfair or deceptive acts or practices include, but are not limited to, the following:

1. A representation connected with the advertisement or rental of a vehicle that the purchase of a collision damage waiver is mandatory.

2. Failure to provide disclosures as required by this chapter.

3. Failure to disclose in a manner likely to be noticed and comprehended in an advertisement, as defined in section 714.16, subsection 1, paragraph "*a*", the availability of a collision damage waiver, and the cost of the waiver.

4. Misrepresentation of a customer's need for a collision damage waiver, personal accident insurance, or personal effects insurance.

5. Misrepresentation of the characteristics or availability of a reserved rental vehicle in order to rent a customer a more expensive vehicle than the one reserved.

6. Failure to provide a vehicle in the class reserved, or, if the reserved vehicle is out of stock, failure to provide another vehicle in the class reserved or a more expensive vehicle. A replacement vehicle for an out-of-stock reserved vehicle may be provided from the stock of the rental company or from another rental company but, in any event, must be provided at the rate quoted for the vehicle reserved.

7. Failure to disclose the following material restrictions, where applicable, in response to direct consumer inquiries regarding the price of renting a vehicle, when the rental company discloses a vehicle rental rate, and at the time the reservation is accepted:

a. Specific geographic restrictions and limitations, other than travel outside the continental United States.

b. Advance reservation and payment requirements.

c. The existence of penalties or higher rates that may apply for early or late returns.

d. Cost of an additional driver fee.

e. Credit or cash deposit requirements.

f. Extent of liability for damage or loss and price range of collision damage waiver.

g. Mileage limitations and charges.

8. Placement of a block against a customer's credit limit or charge against a customer's credit card in the following manner:

a. Placing a block or charge against a customer's credit limit without disclosing in the rental agreement in a clear and conspicuous manner the fact that a block or charge will be placed against the customer's credit card, and the amount of the block or charge. Such disclosure shall also be made orally whenever possible.

b. Placing a block or charge against a portion or the entirety of the credit limit of the card or otherwise placing a block or charge against the card in excess of the estimated total daily or weekly charges and rental deposits, including taxes and charges of optional services accepted by the customer, stated in the rental agreement multiplied by the number of days of the estimated rental if rented on a daily basis or, if rented on a weekly basis, multiplied by the number of weeks of the estimated rental.

c. Placing a block or charge against a customer's credit card and then failing to clear the unused amount of the block or charge against the customer's credit card after the customer returns the rental vehicle in the same amount of time, subject to credit card company or

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charge card company availability, as it took the rental company to place the block or charge against the customer's card when the customer rented the vehicle.

d. Placing or threatening to place a block or charge on a customer's credit card when seeking to recover any portion of a claim arising out of damage to, or loss of use of, the rental vehicle, unless, after the rental vehicle is damaged or lost, the rental company determines the exact amount of the repair or replacement costs and the customer authorizes the charge.

e. Charging an amount to a customer's credit card for damage to, or loss of use of, a rental vehicle after the customer has left the location where the rental vehicle was returned, unless the customer has authorized the specific charge, in a specific amount, to be charged to the customer's credit card. This subsection does not apply to a block in the amount of one dollar obtained for authorized charge amounts.

9. Assessment of additional driver fees for licensed drivers who are spouses or business associates engaged in business activities with the customer to whom the vehicle is rented, other than charges for a person who does not satisfy the rental company's minimum age requirement, if applicable.

91 Acts, ch 204, §7; 2023 Acts, ch 166, §1

516D.8 Rules.

The attorney general shall prescribe forms and adopt rules pursuant to chapter 17A as necessary to administer this chapter.

91 Acts, ch 204, §8

516D.9 Enforcement.

A violation of this chapter or any rules adopted by the attorney general pursuant to this chapter is a violation of section 714.16, subsection 2, paragraph *"a"*. The provisions of section 714.16, including, but not limited to, provisions relating to investigation, injunctive relief, and penalties, apply to violations of this chapter.

91 Acts, ch 204, §9

CHAPTER 516E

MOTOR VEHICLE SERVICE CONTRACTS

Repealed by 2019 Acts, ch 142, §16, 19; see chapter 523C

CHAPTER 517

EMPLOYERS LIABILITY INSURANCE

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

517.1 Reserve required.
517.2 Terms defined.
517.3 Distribution of unallocated payments.
517.4 Reports required.
517.5 Inspection not basis for civil liability.
517.6 Issuance of employers' liability coverage.

517.1 Reserve required.

Every corporation, association, company, or reciprocal exchange writing any of the several classes of insurance authorized by section 515.48, subsection 5, paragraph *"d"*, shall maintain reserves for outstanding losses under insurance against loss or damage from accident to or injuries suffered by an employee or other person and for which the insured is liable computed as follows:

1. For all liability suits being defended under policies written more than:

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a. Ten years prior to the date as of which the statement is made, one thousand five hundred dollars for each suit.

b. Five and less than ten years prior to the date as of which the statement is made, one thousand dollars for each suit.

c. Three and less than five years prior to the date as of which the statement is made, eight hundred fifty dollars for each suit.

2. For all liability policies written during the three years immediately preceding the date as of which the statement is made, such reserve shall be sixty percent of the earned liability premiums of each of such three years less all loss and loss expense payments made under liability policies written in the corresponding years; but in any event, such reserve shall, for the first of such three years, be not less than seven hundred fifty dollars for each outstanding liability suit on said year's policies.

3. For all compensation claims under policies written more than three years prior to the date as of which the statement is made, the present values at four percent interest of the determined and the estimated future payments.

4. For all compensation claims under policies written in the three years immediately preceding the date as of which the statement is made, such reserve shall be sixty-five percent of the earned compensation premiums of each of such three years, less all loss and loss expense payments in connection with such claims under policies written in the corresponding years; but in any event, in the case of the first year of any of such three-year period such reserve shall be not less than the present value at four percent interest of the determined and the estimated unpaid compensation claims under policies written during such year.

[C24, 27, 31, 35, 39, §**9025;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §517.1]

2015 Acts, ch 29, §79

517.2 Terms defined.

As used in this chapter, unless the context otherwise requires:

1. *a.* *"Earned premiums"* shall include gross premiums charged on all policies written, including all determined excess and additional premiums, less returned premiums, other than premiums returned to policyholders as dividends, and less reinsurance premiums and premiums on policies canceled, and less unearned premiums on policies in force.

b. Any participating company which has charged in its premiums a loading solely for dividends shall not be required to include such loading in its earned premiums, provided a statement of the amount of such loading has been filed with and approved by the commissioner of insurance.

2. *"Compensation"* shall relate to all insurances affected by virtue of statutes providing compensation to employees for personal injuries irrespective of fault of the employer.

3. *"Liability"* shall relate to all insurance, except compensation insurance, against loss or damage from accident to or injuries suffered by an employee or other person and for which the insured is liable.

4. *"Loss payments"* and *"loss expense payments"* shall include all payments to claimants, including payments for medical and surgical attendance, legal expenses, salaries and expenses of investigators, and field personnel, rents, stationery, telegraph and telephone charges, postage, salaries and expenses of office employees, home office expenses, and all other payments made on account of claims, whether such payments shall be allocated to specific claims or unallocated.

[C24, 27, 31, 35, 39, §**9026;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §517.2]

2015 Acts, ch 30, §166

517.3 Distribution of unallocated payments.

1. *a.* All unallocated liability loss expense payments made in a given calendar year subsequent to the first four years in which an insurer has been issuing liability policies shall be distributed as follows:

(1) Thirty-five percent shall be charged to the policies written in that year.

(2) Forty percent to the policies written in the preceding year.

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(3) Ten percent to the policies written in the second year preceding.
(4) Ten percent to the policies written in the third year preceding.
(5) Five percent to the policies written in the fourth year preceding.

b. The payments made in each of the first four calendar years in which an insurer issues liability policies shall be distributed as follows:

(1) In the first calendar year one hundred percent shall be charged to the policies written in that year.

(2) In the second calendar year fifty percent shall be charged to the policies written in that year and fifty percent to the policies written in the preceding year.

(3) In the third calendar year forty percent shall be charged to the policies written in that year, forty percent to the policies written in the preceding year, and twenty percent to the policies written in the second year preceding.

(4) In the fourth calendar year thirty-five percent shall be charged to the policies written in that year, forty percent to the policies written in the preceding year, fifteen percent to the policies written in the second year preceding, and ten percent to the policies written in the third year preceding.

c. A schedule showing such distribution shall be included in the annual statement.

2. *a.* All unallocated compensation loss expense payments made in a given calendar year subsequent to the first three years in which an insurer has been issuing compensation policies shall be distributed as follows:

(1) Forty percent shall be charged to the policies written in that year.
(2) Forty-five percent to the policies written in the preceding year.
(3) Ten percent to the policies written in the second year preceding.
(4) Five percent to the policies written in the third year preceding.

b. The payments made in each of the first three calendar years in which an insurer issues compensation policies shall be distributed as follows:

(1) In the first calendar year one hundred percent shall be charged to the policies written in that year.

(2) In the second calendar year fifty percent shall be charged to the policies written in that year and fifty percent to the policies written in the preceding year.

(3) In the third calendar year forty-five percent shall be charged to the policies written in that year, forty-five percent to the policies written in the preceding year, and ten percent to the policies written in the second year preceding.

c. A schedule showing such distribution shall be included in the annual statement.

3. Whenever, in the judgment of the commissioner of insurance, the liability or compensation loss reserves of any insurer under the commissioner's supervision, calculated in accordance with the foregoing provisions, are inadequate, the commissioner may, in the commissioner's discretion, require such insurer to maintain additional reserves based upon estimated individual claims or otherwise.

[C24, 27, 31, 35, 39, §**9027;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §517.3]
2015 Acts, ch 30, §167; 2016 Acts, ch 1073, §149

517.4 Reports required.

Each insurer that writes liability or compensation policies shall include in the annual statement required by law a schedule of its experience thereunder in such form as the commissioner of insurance may prescribe.

[C24, 27, 31, 35, 39, §**9028;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §517.4]
Annual statement, §515.63

517.5 Inspection not basis for civil liability.

No inspection of any place of employment made by insurance company inspectors or other inspectors inspecting for group self-insurance purposes shall be the basis for the imposition of civil liability upon the inspector or upon the insurance company employing the inspector or upon any group organized for self-insurance purposes which employs an inspector and is regulated by the insurance departments; but this provision refers only to liability arising out of the making of an inspection and shall not be construed to deny or limit the liability

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of any employer to the employer's employees or the liability of any insurance carrier on its insurance policy.

[C79, 81, §517.5]

517.6 Issuance of employers' liability coverage.

An insurer intending to issue a policy providing employers' liability insurance only and covering a corporate officer excluded from workers' compensation coverage by the signing of a written rejection of workers' compensation coverage under section 87.22, shall file the policy with and obtain the approval of the commissioner of insurance. The filing shall include the premium rates which will apply to the employers' liability coverage.

83 Acts, ch 36, §6, 8

CHAPTER 517A

LIABILITY INSURANCE FOR PUBLIC EMPLOYEES

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

See chapter 669 for tort liability of state
See chapter 670 for tort liability of governmental subdivisions

517A.1 Authority to purchase.

517A.1 Authority to purchase.

1. All state commissions, departments, boards, and agencies and all commissions, departments, boards, districts, municipal corporations, and agencies of all political subdivisions of the state of Iowa not otherwise authorized are hereby authorized and empowered to purchase and pay the premiums on liability, personal injury, and property damage insurance covering all officers, proprietary functions, and employees of such public bodies, including volunteer fire fighters, while in the performance of any or all of their duties including operating an automobile, truck, tractor, machinery, or other vehicles owned or used by said public bodies, which insurance shall insure, cover, and protect against individual personal, corporate, or quasi corporate liability that said bodies or their officers or employees may incur.

2. The form and liability limits of any such liability insurance policy purchased by any commission, department, board, or agency of the state of Iowa shall be subject to the approval of the attorney general.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §517A.1]

2021 Acts, ch 76, §150

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CHAPTER 518

COUNTY MUTUAL INSURANCE ASSOCIATIONS

Referred to in §87.4, 296.7, 321H.3, 331.301, 364.4, 423.3, 505.28, 505.29, 506.14, 507.1, 508C.3, 515.1, 515B.2, 515F.3, 515F.32, 515G.1, 518C.2, 518C.3, 518C.5, 518C.10, 521.1, 521A.14, 521E.1, 522F.1, 533C.103, 537.7103, 669.14, 670.7

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

518.1 Incorporation.
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518.27 Form — approval.
518.28 Failure to file copy.
518.29 Disapproval of filings.
518.30 Certificate suspension.
518.31 Rulemaking.

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]

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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]

518.6A Remote participation in meetings of members.

1. Members of any class may participate in any meeting of the members by means of remote communication to the extent the board of directors authorizes such participation for such class. Participation as a member by means of remote communication shall be subject to such guidelines and procedures as the board of directors adopts, and shall be in conformity with subsection 2.

2. Members participating in a meeting of the members by means of remote communication shall be deemed present and may vote at such a meeting if the association has implemented reasonable measures to do all of the following:

a. Verify that each person participating remotely as a member is a member.

b. Provide such members a reasonable opportunity to participate in the meeting and to vote on matters submitted to the members, including an opportunity to communicate, and to read or hear the proceedings of the meeting, substantially concurrently with such proceedings.

3. Unless the bylaws require the meeting of the members to be held at a place, the board of directors may determine that any meeting of the members shall not be held at any place and shall instead be held solely by means of remote communication, but only if the association implements the measures specified in subsection 2.

2021 Acts, ch 165, §234, 248

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 unless otherwise approved by the commissioner.

[C66, 71, 73, 75, 77, 79, 81, §518.7]

97 Acts, ch 186, §22; 2000 Acts, ch 1023, §35; 2023 Acts, ch 138, §1, 3

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

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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.

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

a. Any peril or perils resulting in physical loss or damage to property;

b. Theft of personal property;

c. Injury, sickness or death of animals and the furnishing of veterinary service.

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

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

b. 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]

2012 Acts, ch 1023, §157

Referred to in §518.17

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

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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

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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-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 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,

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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, or limited partnerships publicly traded on a nationally established stock exchange in the United States. 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; 2013 Acts, ch 124, §23; 2014 Acts, ch 1092, §186

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.

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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

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 that is in compliance with chapter 521B 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; 2024 Acts, ch 1025, §1

Referred to in §521.13

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

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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

Referred to in §432.1

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

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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 sixty 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; 2024 Acts, ch 1116, §4, 7

Referred to in §515F.39

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

Referred to in §518.28

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.

1. 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

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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.

2. 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; 2021 Acts, ch 76, §150

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

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CHAPTER 518A

STATE MUTUAL INSURANCE ASSOCIATIONS

Referred to in §87.4, 296.7, 321H.3, 331.301, 364.4, 423.3, 505.28, 505.29, 506.14, 507.1, 508C.3, 515.1, 515B.2, 515F.3, 515F.32, 515G.1, 518C.2, 518C.3, 518C.5, 518C.10, 519.10, 521.1, 521A.2, 521A.14, 521E.1, 522F.1, 533C.103, 537.7103, 616.11, 669.14, 670.7

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518A.1 Organization — purpose and powers.

1. Any number of persons may, by incorporating under chapter 491, enter into contracts with each other for the following kinds of insurance from loss or damage by:

a. Any peril or perils resulting in physical loss of or damage to property.

b. Theft of personal property.

c. Injury, sickness, or death of animals and the furnishing of veterinary service.

d. Any vehicle, excluding automobile or aircraft, including loss and expense resulting from the ownership, maintenance, or use thereof, but shall not include insurance against bodily injury to the person.

2. For the purpose of this protection these contracts of insurance shall be subject only to such provisions as are contained in this chapter and shall consist of:

a. An application on blanks furnished by the association and signed by the insured or the insured's representative, which may contain in addition to other provisions:

(1) The value of the property.

(2) The proper description of the property.

(3) The amount of other insurance and the encumbrance on the property.

(4) Agreement to be governed by the articles of incorporation and bylaws in force at the time the policy is issued.

(5) A representation that the foregoing statements are true as far as the same are known to the insured or material to the risk.

(6) That the insurance shall take effect when approved by the secretary.

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

3. Such associations may insure risks of their members or may reinsure risks of other associations or companies.

4. 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.

5. 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.

[C73, §1160; C97, §1759; S13, §1759-a; C24, 27, 31, 35, 39, §**9029;** C46, 50, 54, 58, 62, §518.1; C66, 71, 73, 75, 77, 79, 81, §518A.1]

88 Acts, ch 1112, §510; 2007 Acts, ch 137, §18; 2015 Acts, ch 30, §168

Referred to in §518A.44

518A.1A Plan of organization.

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

99 Acts, ch 165, §18

518A.2 State mutual insurance associations.

Any association incorporated under the laws of this state for the purpose of furnishing insurance as provided for in this chapter is authorized to do business in the county in which its principal place of business is located, the counties contiguous thereto, and the next tier of contiguous counties and in other states where they are legalized and authorized to do business. Each association seeking to modify its authorized writing territory shall file with the commissioner a plan for controlled expansion demonstrating that provisions have been made adequately to service and protect policyholders. The expansion plan shall not be modified without the prior written approval of the commissioner, which approval shall not be unreasonably withheld. The words "mutual" and "association" shall be incorporated in and become a part of their 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, §518A.2]

2002 Acts, ch 1111, §28

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518A.3 Meetings.

Unless the time and place of holding the annual meeting of the members of any association transacting business under the provisions of this chapter are plainly stated in their articles of incorporation or bylaws, twenty days' notice of the time and place of holding of said meetings shall be given to all members of the association. Annual meetings may adjourn from time to time.

[S13, §1759-o; C24, 27, 31, 35, 39, §**9031;** C46, 50, 54, 58, 62, §518.3; C66, 71, 73, 75, 77, 79, 81, §518A.3]

518A.3A Remote participation in meetings of members.

1. Members of any class may participate in any meeting of members by means of remote communication to the extent the board of directors authorizes such participation for such class. Participation as a member by means of remote communication shall be subject to such guidelines and procedures as the board of directors adopts, and shall be in conformity with subsection 2.

2. Members participating in a meeting of the members by means of remote communication shall be deemed present and may vote at such a meeting if the association has implemented reasonable measures to do all of the following:

a. Verify that each person participating remotely as a member is a member.

b. Provide such members a reasonable opportunity to participate in the meeting and to vote on matters submitted to the members, including an opportunity to communicate, and to read or hear the proceedings of the meeting, substantially concurrently with such proceedings.

3. Unless the bylaws require the meeting of the members to be held at a place, the board of directors may determine that any meeting of the members shall not be held at any place and shall instead be held solely by means of remote communication, but only if the association implements the measures specified in subsection 2.

2021 Acts, ch 165, §235, 248

518A.4 Amendments to articles. Repealed by 2009 Acts, ch 145, §54. See §518A.57.

518A.5 Articles and bylaws part of policy.

When such articles of incorporation and bylaws are printed on the policy they become a part thereof and are binding upon the association and the insured alike.

[C24, 27, 31, 35, 39, §**9033;** C46, 50, 54, 58, 62, §518.5; C66, 71, 73, 75, 77, 79, 81, §518A.5]

518A.6 Officers — election.

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

[C24, 27, 31, 35, 39, §**9034;** C46, 50, 54, 58, 62, §518.6; C66, 71, 73, 75, 77, 79, 81, §518A.6]

97 Acts, ch 186, §23; 2000 Acts, ch 1023, §40; 2023 Acts, ch 138, §2, 3

518A.6A Bylaws.

The directors of the association may enact the bylaws and regulations not inconsistent with law as they consider necessary for the regulation and conduct of the business. A change in the bylaws shall not limit coverage under existing policies of insurance. An association shall file with the commissioner bylaws and amendments to bylaws within thirty days of adoption.

2000 Acts, ch 1023, §41

518A.7 Policies — issuance — conditions. Repealed by 2009 Acts, ch 145, §54.

518A.8 Articles — approval — bylaws.

The articles of incorporation, and any subsequent amendments, to the articles of an organization shall be filed with and approved by the commissioner of insurance before

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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.

[C97, §1761; S13, §1759-c; C24, 27, 31, 35, 39, §**9036;** C46, 50, 54, 58, 62, §518.8; C66, 71, 73, 75, 77, 79, 81, §518A.8]

99 Acts, ch 165, §19; 2009 Acts, ch 145, §38

518A.9 Premium charges.

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

[C97, §1765; S13, §1759-h; C24, 27, 31, 35, 39, §**9037;** C46, 50, 54, 58, 62, §518.9; C66, 71, 73, 75, 77, 79, 81, §518A.9]

2000 Acts, ch 1023, §43; 2009 Acts, ch 145, §39

Referred to in §519.11

518A.9A Assessments prohibited.

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

2000 Acts, ch 1023, §44

518A.10 and 518A.11 Reserved.

518A.12 Investments.

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

a. This section applies to the investments of state 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 companies, 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 state mutual insurance associations have the meanings assigned to them under statutory accounting methods. Financial terms relating to companies other than state 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 national association of insurance 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.

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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:

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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-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 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, or limited partnerships publicly traded on a nationally established stock exchange in the United States. 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

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real estate investment limitation to effectuate a merger with, or the acquisition of, another association.

[C24, 27, 31, 35, 39, §**9040;** C46, 50, 54, 58, 62, §518.12; C66, 71, 73, 75, 77, 79, 81, §518A.12]

95 Acts, ch 185, §33; 96 Acts, ch 1138, §4, 84; 2000 Acts, ch 1023, §45; 2005 Acts, ch 70, §46; 2006 Acts, ch 1010, §142; 2007 Acts, ch 137, §19; 2009 Acts, ch 41, §263; 2009 Acts, ch 145, §40 – 42; 2010 Acts, ch 1061, §68; 2013 Acts, ch 124, §24; 2014 Acts, ch 1092, §187

518A.13 through 518A.17 Reserved.

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 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 association 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 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.

[C73, §1160; C97, §1762, 1763; S13, §1759-d, -e; C24, 27, 31, 35, 39, §**9044;** C46, 50, 54, 58, 62, §518.18; C66, 71, 73, 75, 77, 79, 81, §518A.18]

85 Acts, ch 228, §8; 2000 Acts, ch 1023, §46; 2006 Acts, ch 1117, §92; 2009 Acts, ch 181, §84

518A.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.

[C24, 27, 31, 35, 39, §**9045;** C46, 50, 54, 58, 62, §518.19; C66, 71, 73, 75, 77, 79, 81, §518A.19]

2009 Acts, ch 145, §43

518A.20 Five-day limit.

In case of damage or loss to livestock by fire or lightning or loss or damage to automobiles or aircraft by theft or fire, notice of such loss must be given the association by mailing written notice within five days from the time such loss or damage occurred.

[C24, 27, 31, 35, 39, §**9046;** C46, 50, 54, 58, 62, §518.20; C66, 71, 73, 75, 77, 79, 81, §518A.20]

518A.21 Ten-day limit.

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

[C24, 27, 31, 35, 39, §**9047;** C46, 50, 54, 58, 62, §518.21; C66, 71, 73, 75, 77, 79, 81, §518A.21]

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518A.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.

[C24, 27, 31, 35, 39, §**9048;** C46, 50, 54, 58, 62, §518.22; C66, 71, 73, 75, 77, 79, 81, §518A.22]
2009 Acts, ch 145, §44

518A.23 Presumption as to value. Repealed by 2009 Acts, ch 145, §54.

518A.24 Value of building — liability.

The association issuing such policy may show the actual value of said property at date of policy, and any depreciation in the value thereof before the loss occurred; but the said association shall be liable for the actual value of the property insured at the date of the loss, unless such value exceeds the amount of insurance stated in the policy.

[C24, 27, 31, 35, 39, §**9050;** C46, 50, 54, 58, 62, §518.24; C66, 71, 73, 75, 77, 79, 81, §518A.24]

518A.25 Value of personal property — value of crops.

In any action on a policy to recover loss or damage on personal property, the association shall not be liable in excess of the amount of damage or loss at the time the loss or damage occurs; provided that the value of growing crops may be stated in the policy or contract.

[C24, 27, 31, 35, 39, §**9051;** C46, 50, 54, 58, 62, §518.25; C66, 71, 73, 75, 77, 79, 81, §518A.25]

518A.26 Arbitration.

No recovery on a policy or contract of insurance shall be defeated for failure of the insured to comply, after a loss occurs, with any arbitration or appraisement stipulation as to fixing the value of property. No arbitration shall take place except substantially where the property was situated at the time of loss. Contracts of insurance to indemnify against loss by hail to growing crops which stipulate for arbitration shall provide that the decision of the majority of the arbitrators shall be final only as to the arbitration.

[C31, 35, §9051-c1; C39, §**9051.1;** C46, 50, 54, 58, 62, §518.26; C66, 71, 73, 75, 77, 79, 81, §518A.26]

518A.27 Reinsurance — quo warranto.

The commissioner of insurance may address inquiries to any association in relation to its doings and condition and any association so addressed shall promptly reply thereto in writing. If the commissioner of insurance is then satisfied that the association has failed to comply with any provisions of this law, or is exceeding its powers, or is not carrying out its contracts in good faith; or is transacting business fraudulently or soliciting insurance in territories where it is not legally admitted to do business, or is in such condition as to render the further transaction of business by it hazardous to the public or its policyholders, the business under the commissioner's supervision and with the consent of the association may be reinsured in some mutual association, or the commissioner may present the facts relating thereto to the attorney general and if the circumstances warrant the attorney general may commence an action in quo warranto in a court of competent jurisdiction.

[C97, §1766; S13, §1759-g; C24, 27, 31, 35, 39, §**9052;** C46, 50, 54, 58, 62, §518.27; C66, 71, 73, 75, 77, 79, 81, §518A.27]

518A.28 Reserved.

518A.29 Cancellation or nonrenewal by association — 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.

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

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

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

4. *Notice.* Service of notice under subsection 2 or 3 may be 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.

[S13, §1759-m; C24, 27, 31, 35, 39, §**9054;** C46, 50, 54, 58, 62, §518.29; C66, 71, 73, 75, 77, 79, 81, §518A.29]

2000 Acts, ch 1023, §47; 2001 Acts, ch 69, §36; 2003 Acts, ch 91, §48; 2009 Acts, ch 145, §45; 2024 Acts, ch 1116, §5, 7

Referred to in §515F.39

518A.30 through 518A.34 Reserved.

518A.35 Annual tax.

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 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.

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 state mutual insurance association that fails to pay its premium tax on or before the due date.

3. *a.* Each state 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 state 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

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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.

[C24, 27, 31, 35, 39, §**9060;** C46, 50, 54, 58, 62, §518.35; C66, 71, 73, 75, 77, 79, 81, §518A.35]

2000 Acts, ch 1023, §48; 2001 Acts, ch 24, §57; 2002 Acts, ch 1050, §46; 2003 Acts, ch 145, §286; 2003 Acts, ch 179, §137, 159; 2004 Acts, ch 1175, §340, 348; 2006 Acts, ch 1117, §93

518A.36 Reserved.

518A.37 Surplus.

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

90 Acts, ch 1234, §71; 99 Acts, ch 165, §20; 2002 Acts, ch 1111, §29; 2009 Acts, ch 145, §46

518A.38 Reserved.

518A.39 "Debt" defined.

In ascertaining such corporate indebtedness, a debt shall be deemed to exist, on account of its liabilities on the policy certificates or contracts of insurance issued by it equal to the amount of surplus or other funds accumulated by such corporation for the purpose of fulfilling its policy contracts of insurance and which can be used for no other purpose.

[C24, 27, 31, 35, 39, §**9064;** C46, 50, 54, 58, 62, §518.39; C66, 71, 73, 75, 77, 79, 81, §518A.39]

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 June 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 as provided in section 505.7.

[C73, §1160; C97, §1764; S13, §1759-f; C24, 27, 31, 35, 39, §**9065;** C46, 50, 54, 58, 62, §518.40; C66, 71, 73, 75, 77, 79, 81, §518A.40]

2006 Acts, ch 1117, §94; 2009 Acts, ch 145, §47; 2009 Acts, ch 181, §85

518A.41 Insurance producers to be licensed.

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

[C24, 27, 31, 35, 39, §**9066;** C46, 50, 54, 58, 62, §518.41; C66, 71, 73, 75, 77, 79, 81, §518A.41]

2002 Acts, ch 1119, §73; 2004 Acts, ch 1110, §58

518A.42 Limitation on termination of independent insurance producers.

A state 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

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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, §30

518A.43 Reserved.

518A.44 Reinsurance.

1. A state 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 that is in compliance with chapter 521B and authorized to write the kinds of insurance enumerated in section 518A.1.

2. Reinsurance sufficient to protect the financial stability of the state mutual insurance association is required. In general, reinsurance coverage obtained by an 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.

95 Acts, ch 185, §35; 99 Acts, ch 165, §21; 2000 Acts, ch 1023, §49; 2002 Acts, ch 1111, §31; 2021 Acts, ch 76, §150; 2024 Acts, ch 1025, §2

Referred to in §521.13

518A.45 through 518A.50 Reserved.

518A.51 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 employee of the association.

95 Acts, ch 185, §36

518A.52 Form — approval.

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

95 Acts, ch 185, §37; 2000 Acts, ch 1023, §50

Referred to in §518A.53

518A.53 Failure to file copy.

Upon the failure of a state mutual insurance association to file a copy of its forms of policies or contracts pursuant to section 518A.52, the commissioner of insurance may suspend its authority to transact business within the state until such forms of policies or contracts have been filed and approved.

95 Acts, ch 185, §38; 2000 Acts, ch 1023, §51

518A.54 Disapproval of filings.

1. If the commissioner finds that a filing does not meet the requirements of this chapter, written notice of disapproval shall be sent to the state mutual 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.

2. If, at any time after a form has been approved, the commissioner finds that the form no longer meets the requirements of this chapter, the commissioner may order the discontinuance of the use of the form. The order of discontinuance shall be in writing and may be issued only after a hearing with at least ten days' prior notice to all state mutual

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insurance associations affected by the order. The order shall state the grounds upon which the order is based and when the order of discontinuance is effective.

95 Acts, ch 185, §39; 2000 Acts, ch 1023, §52; 2021 Acts, ch 76, §150

518A.55 Certificate suspension.

The commissioner of insurance may suspend a state 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, §40; 2000 Acts, ch 1023, §53

518A.56 Rulemaking authority.

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

2009 Acts, ch 145, §48

518A.57 Powers of 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 proposed addition or amendment has been mailed to each member of the association at least ten days in advance of the meeting in which such proposed action is to be considered, and provided that no such addition or amendment shall become effective until approved by the commissioner of insurance and recorded in the office of the secretary of state.

2009 Acts, ch 145, §49

CHAPTER 518B

RIOT REINSURANCE PROGRAM

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

518B.1	Definitions.	518B.5	Warrants issued — overage fund.
518B.2	Reimbursement fund created.	518B.6	Insolvent insurers.
518B.3	Secretary reimbursed.		
518B.4	Insurers assessed.	518B.7	Recovery factor included.

518B.1 Definitions.

As used in this chapter, unless the context requires otherwise:

1. *"The secretary"* means the secretary of the United States department of housing and urban development.
2. *"Farm property"* means the residence, personal effects, other farm buildings and other personal property used in conjunction with a farming operation.
3. *"The Act"* means section 1223 of the federal Housing and Urban Development Act of 1968, Pub. L. No. 90-448, 90th Congress approved August 1, 1968.
4. *"The fund"* or *"fund"* means the federal riot reinsurance reimbursement fund referred to in this chapter.
5. *"Commissioner"* means the commissioner of insurance.

[C71, 73, 75, 77, 79, 81, §518B.1]

2006 Acts, ch 1010, §143; 2023 Acts, ch 64, §83

518B.2 Reimbursement fund created.

There is hereby created the federal riot reinsurance reimbursement fund in the office of the treasurer of state which shall be operated under the joint control of the director of the department of administrative services and the commissioner. The fund shall consist of all payments made by insurers in accordance with the provisions of this chapter. The director of

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the department of administrative services shall have the same power to enforce the collection of the assessments provided under this chapter as any other obligation due the state.

[C71, 73, 75, 77, 79, 81, §518B.2]

2003 Acts, ch 145, §286; 2021 Acts, ch 80, §331

518B.3 Secretary reimbursed.

The commissioner shall reimburse the secretary in an amount up to five percent of the aggregate property, except farm property insurance premiums earned in this state during the calendar year immediately preceding the calendar year with respect to which the secretary paid losses on lines of insurance reinsured by the secretary in this state during that year and for which the secretary claims reimbursement from the fund in accordance with the Act.

[C71, 73, 75, 77, 79, 81, §518B.3]

518B.4 Insurers assessed.

Whenever the secretary shall, in accordance with the Act, present to the state a request for reimbursement under the Act, the commissioner shall immediately assess all insurers which, during the calendar year with respect to which reimbursement is requested by the secretary, were licensed to write and engaged in writing property insurance business, including the property insurance components of multiperil policies on a direct basis, in this state. The amount of each such insurer's assessment shall be calculated by multiplying the amount of the reimbursement requested by the secretary by a fraction the numerator of which is the insurer's premium actually written in this state in that calendar year on habitational and commercial property, except farm property, risks and the denominator of which is the aggregate premiums written by all licensed insurers on such property risks. In no event shall any insurer's assessment be less than one hundred dollars.

[C71, 73, 75, 77, 79, 81, §518B.4]

Referred to in §518B.6, 518B.7

518B.5 Warrants issued — overage fund.

1. The secretary shall be reimbursed up to the amount requested by warrants issued against the fund by the director of the department of administrative services upon vouchers approved by the director of the department of administrative services and the commissioner. If the assessment produces a fund greater than the amount requested by the secretary, the overage shall be placed in a special fund in the office of the treasurer of state under the control of the commissioner and the director of the department of administrative services and shall be applied to any subsequent requests by the secretary for reimbursement of losses paid on lines of insurance reinsured by the secretary in this state in accordance with the Act.

2. In the event that the provisions of this chapter and the assessments made under this chapter are no longer needed in order to effectuate the program for which they were intended, the amounts remaining in the special fund shall inure to the general fund of the state.

[C71, 73, 75, 77, 79, 81, §518B.5]

2003 Acts, ch 145, §286; 2021 Acts, ch 76, §129

518B.6 Insolvent insurers.

In the event any insurer fails, by reason of insolvency, to pay any assessment, the commissioner shall cause the reimbursement ratios computed under section 518B.4 to be immediately recalculated excluding therefrom the insolvent insurer, so that its assessment is in effect assumed and redistributed among the remaining insurers.

[C71, 73, 75, 77, 79, 81, §518B.6]

518B.7 Recovery factor included.

Insurers shall include in filings submitted pursuant to chapter 515A, a factor, applicable to the line or lines of insurance on which the assessment is levied, sufficient to recover within not more than three years after the date of assessment any amounts so assessed under section

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518B.4 during the preceding calendar year together with the amount of costs and expenses reasonably attributable to such assessment and recovery thereof.

[C71, 73, 75, 77, 79, 81, §518B.7]

CHAPTER 518C

COUNTY AND STATE MUTUAL INSURANCE GUARANTY ASSOCIATION

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

518C.1 Title.
518C.2 Scope.
518C.3 Definitions.
518C.4 Association established.
518C.5 Board of directors.
518C.6 Duties and powers of the association.
518C.7 Plan of operation.
518C.8 Duties and powers of the commissioner.
518C.9 Effect of paid claims.
518C.10 Nonduplication of recovery.
518C.11 Prevention of insolvencies.
518C.12 Examination of the association.
518C.13 Tax exemption.
518C.14 Recognition of assessments in rates.
518C.15 Immunity.
518C.16 Stay of proceedings.
518C.17 Actions against the association.
518C.18 Timely filing of claims.
518C.19 Prohibited advertising.

518C.1 Title.

This chapter shall be known and may be cited as the *"Iowa County and State Mutual Insurance Guaranty Association Act"*.

2000 Acts, ch 1035, §1

518C.2 Scope.

This chapter applies to direct insurance authorized to be written by an insurer licensed to transact insurance business in this state under chapter 518 or 518A.

2000 Acts, ch 1035, §2

518C.3 Definitions.

As used in this chapter unless the context otherwise requires:

1. *"Association"* means the Iowa county and state mutual insurance guaranty association established pursuant to section 518C.4.

2. *"Claimant"* means an insured making a first-party claim or a person instituting a liability claim against an insolvent insurer. *"Claimant"* does not include a person who is an affiliate of an insolvent insurer.

3. *"Commissioner"* means the commissioner of insurance.

4. *a.* *"Covered claim"* means an unpaid claim, including one for unearned premiums, which arises out of and is within the coverage and subject to the applicable limits of an insurance policy subject to this chapter which is issued by an insurer, if the insurer becomes an insolvent insurer on or after July 1, 2000, and one of the following conditions exists:

(1) The claimant is a resident of this state at the time of the event giving rise to the covered claim. For a claimant other than an individual, the residence of the claimant is the state in which its principal place of business is located.

(2) The claim is a first-party claim by the claimant for damage to property permanently located in this state.

b. (1) *"Covered claim"* does not include any of the following:

(a) An amount due a reinsurer, insurer, insurance pool, underwriting association, or other group assuming insurance risks, as subrogation, contribution, indemnity recoveries, or otherwise.

(b) An amount that constitutes the portion of a claim that is within an insured's deductible or self-insured retention.

(c) A fee or other amount relating to goods or services sought by or on behalf of an

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attorney, adjuster, witness, or other provider of goods or services retained by the insolvent insurer or by an insured prior to the date the insurer was declared insolvent.

(d) An amount that constitutes a fine, penalty, interest, or punitive or exemplary damages.

(e) A fee or other amount sought by or on behalf of an attorney, adjuster, witness, or other provider of goods or services retained by the insured or claimant in connection with the assertion of any claim, covered or otherwise, against the association.

(f) A claim filed with the association or with a liquidator for protection afforded under the insured's policy or contract for incurred but not reported losses or expenses.

(g) An amount that is an obligation owed to or on behalf of an affiliate of, as defined in section 521A.1, an insolvent insurer.

(2) Notwithstanding subparagraph (1), subparagraph divisions (a) through (g), a person is not prevented from presenting a noncovered claim to the insolvent insurer or its liquidator. However, the noncovered claim shall not be asserted against any other person, including the person to whom benefits were paid or the insured of the insolvent insurer, except to the extent that the claim is outside the coverage of the policy issued by the insolvent insurer.

5. *"Insolvent insurer"* means an insurer against which a final order of liquidation with a finding of insolvency has been entered on or after July 1, 2000, by a court of competent jurisdiction of this state.

6. *"Insurer"* means a person licensed to transact insurance business in this state under either chapter 518 or chapter 518A either at the time the policy was issued or when the insured event occurred.

7. *"Net direct written premiums"* means direct gross premiums written in this state on insurance policies subject to this chapter, less return premiums and dividends paid or credited to policyholders on such direct business. *"Net direct written premiums"* does not include premiums on a contract between insurers or reinsurers.

8. *"Person"* means an individual, corporation, partnership, association, or voluntary organization.

2000 Acts, ch 1035, §3; 2011 Acts, ch 70, §34, 35; 2012 Acts, ch 1023, §128

518C.4 Association established.

An Iowa county and state mutual insurance guaranty association is established as a nonprofit unincorporated legal entity. An insurer shall be a member of the association as a condition of the insurer's authority to transact insurance business in this state. The association shall perform its functions under a plan of operation established and approved pursuant to section 518C.7 and shall exercise its powers through a board of directors established under section 518C.5. Except as otherwise provided in such plan of operation, an annual or special meeting of members of the association may be held on call as directed by the association's board of directors or by the commissioner of insurance. Written notice shall be given not less than ten days prior to the meeting by ordinary mail to each member at the member's principal office as shown by the records in the commissioner's office. The notice shall state the time and place, and in the case of a special meeting, the purpose of the meeting. Members may vote in person and ten members present in person shall constitute a quorum for the transaction of any business.

2000 Acts, ch 1035, §4

Referred to in §518C.3

518C.5 Board of directors.

1. The board of directors of the association shall consist of the officers and directors of the mutual insurance association of Iowa or its successor association, but only if such officers and directors are employed by a corporation organized as a county mutual insurance association pursuant to chapter 518 or a state mutual insurance association pursuant to chapter 518A.

2. An officer and director of the mutual insurance association of Iowa shall serve in the same capacity on the association board as the officer or director serves the mutual insurance association of Iowa or its successor association, but only if the officer and director is employed

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by a corporation organized as a county mutual insurance association pursuant to chapter 518 or a state mutual insurance association pursuant to chapter 518A.

2000 Acts, ch 1035, §5; 2011 Acts, ch 70, §36
Referred to in §518C.4

518C.6 Duties and powers of the association.

1. The association is subject to all of the following:

a. (1) The association is obligated to pay a covered claim as follows:

(a) A covered claim existing prior to the final order of liquidation and arising within thirty days after the final order of liquidation.

(b) A covered claim existing before the policy expiration date if the expiration date is less than thirty days after the final order of liquidation.

(c) A covered claim existing before the insured replaces the policy or causes its cancellation, if the insured replaces or cancels the policy within thirty days of the final order of liquidation.

(2) An obligation under subparagraph (1) is satisfied by paying to the claimant an amount as follows:

(a) An amount not exceeding ten thousand dollars per policy for a covered claim for the return of unearned premium.

(b) An amount not exceeding the lesser of the policy limits or five hundred thousand dollars per claim for all covered claims for all damages arising out of any one or a series of accidents, occurrences, or incidents, regardless of the number of persons making claims or the number of applicable policies.

b. The association is obligated to pay covered claims subject to a limitation as established by the rights, duties, and obligations under the policy issued by the insolvent insurer.

c. (1) The association shall assess member insurers amounts necessary to pay the obligations of the association under paragraphs "*a*" and "*b*" subsequent to an insolvency, the expenses of handling covered claims subsequent to an insolvency, the cost of examinations under section 518C.12, and other expenses as authorized by this chapter. The assessment of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the preceding calendar year bear to the net direct written premiums of all member insurers for the preceding calendar year. Each member insurer shall be notified of the assessment not less than thirty days before it is due. A member insurer shall not be assessed in any year an amount greater than two percent of that member insurer's net direct written premiums for the preceding calendar year. If the maximum assessment, together with the other assets of the association, do not provide in any one year an amount sufficient to make all necessary payments, the funds available shall be prorated and the unpaid portion shall be paid as soon as funds become available. The association may exempt or defer, in whole or in part, the assessment of any member insurer if the assessment would cause the member insurer's financial statement to reflect amounts of surplus less than the minimum amounts required for a certificate of authority to transact insurance business. A member insurer serving as a servicing facility pursuant to this section may set off against any assessment authorized payments made on covered claims and expenses incurred in the payment of such claims by the member insurer. All overdue and unpaid assessments shall draw interest at the rate of seven percent per annum.

(2) The association may pursue and retain for its own account salvage and subrogation recoverable on paid covered claim obligations. An obligation of the association to defend an insured shall cease upon the association's payment of an amount equal to the lesser of the association's covered claim obligation or the applicable policy limits.

d. The association shall investigate claims filed with the association and adjust, compromise, settle, defend, and pay covered claims to the extent of the association's obligation and deny all other claims.

e. The association shall notify such persons as the commissioner directs under section 518C.8, subsection 2, paragraph "*a*".

f. The association shall process claims through its employees or through one or more member insurers or other persons designated as servicing facilities. Designation of a

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servicing facility is subject to the approval of the commissioner, but such designation may be declined by a member insurer.

g. The association shall reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association, and pay the other expenses of the association authorized by this chapter.

2. The association may do any of the following:

a. Appear in, defend, and appeal an action on a claim brought against the association.

b. Employ or retain persons necessary to handle claims and perform other duties of the association.

c. Borrow funds necessary to effect the purposes of this chapter in accord with the plan of operation.

d. Sue or be sued.

e. Negotiate and become a party to contracts necessary to carry out the purposes of this chapter.

f. Perform such other acts necessary or proper to effectuate the purposes of this chapter.

3. The board of directors, in its discretion, may from time to time refund excess amounts to member insurers that are not needed for current or projected liabilities of a particular insolvency. The amount of each refund is equal to the net direct written premiums of the member insurer for the preceding calendar year divided by the net written premiums of all member insurers for the preceding calendar year, multiplied by the total amount to be refunded to all members. At the discretion of the board of directors, an assessment or refund of any member insurer in an amount not to exceed twenty-five dollars may be waived.

2000 Acts, ch 1035, §6; 2011 Acts, ch 70, §37; 2012 Acts, ch 1023, §157
Referred to in §518C.7, 518C.10

518C.7 Plan of operation.

1. *a.* The association shall submit a plan of operation to the commissioner, together with any amendments necessary or suitable to ensure the fair, reasonable, and equitable administration of the association. The plan of operation and any amendment become effective upon written approval by the commissioner.

b. If the association fails to submit a suitable plan of operation within ninety days following July 1, 2000, or if at any time after submission of a suitable plan the association fails to submit suitable amendments to the plan, the commissioner, after notice and opportunity for hearing, shall adopt rules necessary or advisable to effectuate the provisions of this chapter. Such rules shall continue in force until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner.

2. A member insurer shall comply with the association's plan of operation.

3. The plan of operation shall provide for all of the following:

a. Procedures for the performance of the duties and execution of the powers of the association under section 518C.6.

b. Procedures for managing the assets of the association.

c. Procedures by which claims may be filed with the association and acceptable forms of proof of covered claims. Notice of claims to the receiver or liquidator of the insolvent insurer constitutes notice to the association or its agent, and a list of such claims shall be periodically submitted to the association or similar organization in another state by the receiver or liquidator.

d. The place and time for meetings of the board of directors, as necessary.

e. Procedures for keeping records of all financial transactions of the association, its agents, and the board of directors.

f. That any member insurer aggrieved by a final action or decision of the association may appeal the action or decision to the commissioner within thirty days after the action or decision.

g. Additional provisions necessary or proper for the performance of the duties and execution of the powers of the association.

4. The plan of operation may delegate any or all duties and powers of the association, except those under section 518C.6, subsection 1, paragraph "*c*", and section 518C.6,

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subsection 2, paragraph *"c"*, to a person with the approval of both the board of directors and the commissioner. Such delegation shall only be made to a person extending protection which is not substantially less favorable and effective than that provided by this chapter. Such person shall be reimbursed as a servicing facility and shall be paid for the performance of any other functions of the association.

2000 Acts, ch 1035, §7; 2012 Acts, ch 1023, §157; 2013 Acts, ch 30, §127
Referred to in §518C.4

518C.8 Duties and powers of the commissioner.

1. The commissioner shall do both of the following:

a. Notify the association of the existence of an insolvent insurer not later than three days after the commissioner receives notice of the determination of the insolvency.

b. Upon request of the board of directors, provide the association with a statement of the net direct written premiums of each member insurer.

2. The commissioner may do any of the following:

a. Require that the association notify the insureds of the insolvent insurer and any other interested parties of the determination of insolvency and of their rights under this chapter. The notification shall be by regular mail at their last known address, but, if sufficient information for notification by mail is not available, notice by publication in a newspaper of general circulation is sufficient.

b. Suspend or revoke, after notice and opportunity for hearing, the certificate of authority to transact insurance business in this state of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the commissioner may levy a penalty on any member insurer which fails to pay an assessment when due. Such penalty shall not exceed five percent of the unpaid assessment per month, except that a penalty shall not be less than one hundred dollars per month.

c. Revoke the designation of any servicing facility if the commissioner finds claims are being processed unsatisfactorily.

3. Judicial review of an action of the commissioner may be sought pursuant to chapter 17A.

2000 Acts, ch 1035, §8
Referred to in §518C.6

518C.9 Effect of paid claims.

1. A person recovering under a claim made pursuant to this chapter is deemed to have assigned the person's rights under the policy to the association to the extent of the person's recovery from the association. A claimant seeking the protection of this chapter shall cooperate with the association to the same extent as such claimant would have been required to cooperate with the insolvent insurer. The association has no cause of action against a claimant for any sums the association has paid out.

2. The association or a similar entity in another state shall be recognized as a claimant in the liquidation of an insolvent insurer for any amounts paid by the association or similar entity on covered claim obligations as determined under this chapter or under similar law in another state. The association or similar entity shall receive dividends and any other distributions at the priority set forth under the applicable liquidation law. The receiver, liquidator, or statutory successor of an insolvent insurer is bound by determinations of covered claim eligibility under this chapter and by settlements of covered claims made by the association or a similar organization in another state. The court having jurisdiction shall grant such claims priority equal to that which the claimant would have been entitled in the absence of this chapter against the assets of the insolvent insurer. The expenses of the association or similar organization in handling claims shall be accorded the same priority as the liquidator's expenses.

3. The association shall periodically file with the receiver, liquidator, or statutory successor of the insolvent insurer statements of the covered claims paid by the association and estimates

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of anticipated claims on the association, which statements shall preserve the rights of the association against the assets of the insolvent insurer.

2000 Acts, ch 1035, §9

518C.10 Nonduplication of recovery.

1. A person having a claim under another policy, which claim arises out of the same facts which give rise to a covered claim, is first required to exhaust the person's rights under the other policy. An amount recovered or recoverable by a person under another insurance policy shall be credited against the liability of the association under section 518C.6, subsection 1, paragraph *"a"*. For purposes of this section, *"another insurance policy"* means a policy issued by an insurance company, whether a member insurer or not, which policy insures against any of the types of risks insured by an insurance company authorized to transact insurance business under chapter 518 or 518A, or comparable statutes of another state, except those types of risks set forth in chapters 508 and 514.

2. A person having a claim which may be recovered under more than one insurance guaranty association or an equivalent entity shall seek recovery first from the association of the place of residence of the insured. However, if the claim is a first-party claim for damage to property with a permanent location, recovery shall be first sought from the association or equivalent entity of the state in which the property is permanently located. An amount recovered from any other guaranty association or equivalent entity shall be subtracted from the maximum liability of the Iowa county and state mutual insurance guaranty association under section 518C.6, subsection 1, paragraph *"a"*.

2000 Acts, ch 1035, §10

518C.11 Prevention of insolvencies.

1. *a.* The board of directors, upon majority vote and for purposes of detecting and preventing insurer insolvencies, may do either of the following:

(1) Make recommendations to the commissioner for the detection and prevention of insurer insolvencies.

(2) Respond to a request by the commissioner to discuss and make recommendations regarding the status of a member insurer whose financial condition may be hazardous to policyholders or the public.

b. The board of directors, at the conclusion of a domestic insurer insolvency, may prepare a report based on the information available to the association on the history and causes of the insolvency. The report may be submitted to the commissioner.

2. Recommendations and reports made pursuant to subsection 1, paragraph *"a"*, subparagraph (2), are not public records under chapter 22.

2000 Acts, ch 1035, §11

518C.12 Examination of the association.

The association is subject to examination and regulation by the commissioner. The board of directors, not later than March 30 of each year, shall submit a financial report for the preceding calendar year in a form approved by the commissioner.

2000 Acts, ch 1035, §12

Referred to in §518C.6

518C.13 Tax exemption.

The association is exempt from the payment of fees and taxes levied by this state or a subdivision of the state except for taxes levied on property.

2000 Acts, ch 1035, §13

518C.14 Recognition of assessments in rates.

The rates and premiums charged for insurance policies to which this chapter applies shall include amounts sufficient to recoup a sum equal to the amounts paid to the association by the member insurer less any amounts returned to the member insurer by the association. Such

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rates and premiums shall not be deemed excessive as a result of including such recoupment allowances.

2000 Acts, ch 1035, §14

518C.15 Immunity.

There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member insurer, the association or its agents or employees, the board of directors, any committee established for the purpose of administering the affairs of the association, or any person serving as an alternate or substitute representative director of the association, or the commissioner, or the commissioner's representatives, for any reasonable action taken or any reasonable failure to act by them in the performance of their duties and powers under this chapter.

2000 Acts, ch 1035, §15; 2011 Acts, ch 70, §38

518C.16 Stay of proceedings.

1. A proceeding to which the insolvent insurer is a party or in which the insolvent insurer is obligated to defend a party shall be stayed from the date of the insolvency to and including the date set as the deadline for the filing of claims against the insolvent insurer or its receiver. However, upon application, the court having jurisdiction of the receivership may lengthen or shorten the period, either as to all claims or as to any particular claim. The association may waive such stay as to specific cases involving covered claims.

2. The association, on its own behalf or on behalf of the insured, with respect to a covered claim based on the default of an insurer who is or who becomes insolvent, or based on the failure of an insurer to defend an insured, is entitled to set the default aside and defend such claim on its merits.

2000 Acts, ch 1035, §16; 2021 Acts, ch 76, §150

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 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.

2000 Acts, ch 1035, §17; 2006 Acts, ch 1117, §95

518C.18 Timely filing of claims.

Notwithstanding any other provision of this chapter, a covered claim shall not include a claim filed with the association after the final date set by the court for the filing of claims against the insolvent insurer or its receiver.

2000 Acts, ch 1035, §18

518C.19 Prohibited advertising.

A person, in connection with the sale of an insurance policy, shall not advertise or publish that claims under the insurance policy are subject to this chapter or that such claims will be paid by the association.

2000 Acts, ch 1035, §19

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CHAPTER 519

LIABILITY INSURANCE — CERTAIN PROFESSIONS

Referred to in §87.4, 296.7, 331.301, 364.4, 423.3, 505.28, 505.29, 515B.2, 669.14, 670.7

519.1 Authorization.
519.2 Incorporation — powers.
519.3 Articles — approval — bylaws.
519.4 Approval of policy — certificate of authority.
519.5 Conditions.
519.6 Reports.
519.7 Reinsurance reserve.
519.8 Cancellation of policy.
519.9 Fees.
519.10 Powers of commissioner.
519.11 Liability to assessments.
519.12 Foreign companies.
519.13 Construction.

519.1 Authorization.

Any number of physicians and surgeons, osteopathic physicians and surgeons, podiatric physicians, chiropractors, pharmacists, dentists, and graduate nurses, licensed to practice their profession in this state, and hospitals licensed under chapter 135B, may, by complying with the provisions of this chapter and without regard to other statutory provisions, enter into contracts with each other for the purpose of protecting themselves by insurance against loss by reason of actions at law on account of their alleged error, mistake, negligence, or carelessness in the treatment and care of patients, including the performance of surgical operations, or in the prescribing and dispensing of drugs and medicines, or for loss by reason of damages in other respects, and to reimburse any member in case of such loss.

[C24, 27, 31, 35, 39, §**9069;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §519.1]

95 Acts, ch 108, §19; 2008 Acts, ch 1088, §141

Action on liability policy, chapter 516

519.2 Incorporation — powers.

All corporations, organized for the purpose of transacting such insurance business under the provisions of this chapter, shall incorporate under the provisions of chapter 491, and be known as mutual corporations; and are hereby empowered to collect such assessments, or premium payments, provided for in their articles of incorporation or bylaws, as are required to pay losses and expenses incurred in the conduct of their business and to cede reinsurance. Such mutual insurance corporations may issue certificates of membership, or policies; and may provide that all assessments, or premium payments, payable thereunder, be made in cash, or on the installment, or assessment plan.

[C24, 27, 31, 35, 39, §**9070;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §519.2]

519.3 Articles — approval — bylaws.

The articles of incorporation, and any subsequent amendments, of such mutual insurance corporation shall be filed with and approved by the commissioner of insurance before being filed with the secretary of state. A mutual insurance corporation shall file with the commissioner bylaws and subsequent amendments to the bylaws within thirty days of adoption of the bylaws or amendments.

[C24, 27, 31, 35, 39, §**9072;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §519.3]

2009 Acts, ch 145, §50

519.4 Approval of policy — certificate of authority.

No such mutual insurance corporation shall issue membership certificates, or policies, until its form of certificate or policy, shall have been submitted to, and approved by, the commissioner of insurance and until it has secured from such commissioner of insurance a certificate authorizing it to transact such an insurance business.

[C24, 27, 31, 35, 39, §**9073;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §519.4]

519.5 Conditions.

No such certificate shall be issued by the commissioner of insurance until two hundred fifty individual applications or ten or more applications from a hospital group, have been received, and until the commissioner of insurance is satisfied that such mutual insurance corporation

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has bona fide applications representing the number of applicants required, and that there is in the possession of such mutual insurance corporation cash assets amounting to not less than ten times the maximum single retained risk.

[C24, 27, 31, 35, 39, §**9074;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §519.5]

519.6 Reports.

Such mutual insurance corporations doing business under the provisions of this chapter shall, annually, before the first day of March, report to the commissioner of insurance, upon blanks furnished by the commissioner, the same facts, so far as applicable, as are required to be furnished by mutual insurance associations under the statutes of Iowa, which report shall be tabulated by the commissioner of insurance and published by the commissioner in the annual report on insurance.

[C24, 27, 31, 35, 39, §**9075;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §519.6]

Annual report, §515.63

519.7 Reinsurance reserve.

Such mutual insurance corporations shall, annually, set aside and maintain as a reinsurance reserve, an amount equal to ten percent of the receipts from assessments, or premium payments, during the year until the total amount thus accumulated shall equal forty percent, but not to exceed fifty percent of the amount of the annual assessment, or premium payment, at the rate charged for such insurance on all policies in force. The reserve thus accumulated may be used for the payment of losses and expenses, and when so used shall be restored and maintained in like manner as originally accumulated.

[C24, 27, 31, 35, 39, §**9076;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §519.7]

519.8 Cancellation of policy.

Any certificate of membership, or policy, issued by such a mutual insurance corporation may be canceled by the corporation by giving thirty days' written notice thereof to the insured; or such cancellation may be upon demand of the insured; and such cancellation, when so made, either by the corporation or by the insured, shall be upon a pro rata basis, and the cancellation of such certificate or policy shall release the member from all other future obligations to such corporation.

[C24, 27, 31, 35, 39, §**9077;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §519.8]

519.9 Fees.

Such a mutual insurance corporation shall pay the same fees for admission into the state, for annual reports, and for annual certificates of authority as are required to be paid by domestic mutual companies organized and doing business under chapter 515; such certificate shall expire June 1 of the year following the date of its issue.

[C24, 27, 31, 35, 39, §**9078;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §519.9]

88 Acts, ch 1112, §109

519.10 Powers of commissioner.

The commissioner of insurance shall have and exercise the same control over such corporations as the commissioner now has over state mutual insurance associations organized and doing business under chapter 518A.

[C24, 27, 31, 35, 39, §**9079;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §519.10]

2000 Acts, ch 1023, §54

519.11 Liability to assessments.

The provisions as to maximum liability of members to assessments when assets are insufficient and to assessments when the corporation is insolvent, found in section 518A.9, shall apply to all mutual insurance corporations organized under this chapter.

[C24, 27, 31, 35, 39, §**9080;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §519.11]

99 Acts, ch 165, §22; 2000 Acts, ch 1023, §55

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519.12 Foreign companies.

Any mutual insurance association organized under the laws of any other state, for the purpose of transacting the kind of business described in this chapter, and which has on hand surplus amounting to not less than ten times the maximum single retained risk, and has not less than two hundred fifty members, may upon application, be admitted to do business in this state if the commissioner finds such admission is in the public interest; and shall thereafter make all reports and be subject to taxation, examination, and supervision by the commissioner of insurance to the same extent and in the same manner as are domestic corporations organized under the provisions of this chapter.

[C24, 27, 31, 35, 39, §**9081;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §519.12]

519.13 Construction.

All laws, or parts of laws, in conflict herewith shall be so construed as not to include corporations regulated by this chapter.

[C24, 27, 31, 35, 39, §**9082;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §519.13]

CHAPTER 519A

MEDICAL MALPRACTICE INSURANCE

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

519A.1 Intent.
519A.2 Definitions.
519A.3 Temporary joint underwriting association.
519A.4 Plan of operation.
519A.5 Policy forms and rates.
519A.6 Stabilization reserve fund.
519A.7 Procedures.
519A.8 Participation.
519A.9 Governing board.
519A.10 Appeals and judicial review.
519A.11 Annual statements.
519A.12 Examinations.
519A.13 Privileged communications.

519A.1 Intent.

1. The general assembly finds that a critical situation exists because of the high cost and impending unavailability of medical malpractice insurance. The purposes of sections 519A.2 through 519A.13 are to assure that the public is adequately protected against losses arising out of medical malpractice by providing licensed health care providers with medical malpractice insurance through the requirement that certain liability insurance carriers write medical malpractice insurance for a period of two years upon a finding of an emergency by the commissioner of insurance that either such insurance is not available through normal channels or that it is not available on a reasonable basis because of lack of competition for such insurance, or otherwise; to establish an association to equitably spread the risks for such insurance; and to provide for recoupment of losses resulting from the operation of the association through a stabilization reserve fund contributed to by insureds, a surcharge on future liability insurance policies, or a favorable premium tax treatment.

2. It is the intent of this chapter to provide only an interim solution to the impending unavailability of medical malpractice insurance. It is not anticipated that this chapter will resolve the underlying causes of the unavailability and high cost which extend beyond the insurance mechanism. It is anticipated that future legislation will be required to deal on a more permanent basis with the underlying causes of the current situation.

[C77, 79, 81, §519A.1]

2016 Acts, ch 1073, §150

519A.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Association"* means the joint underwriting association established pursuant to this section and sections 519A.3 through 519A.13.

2. *"Commissioner"* means the commissioner of insurance or a designee.

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3. *"Licensed health care provider"* means and includes a physician and surgeon, osteopathic physician and surgeon, dentist, podiatric physician, optometrist, pharmacist, chiropractor, or nurse licensed pursuant to chapter 147, a hospital licensed pursuant to chapter 135B, and a nursing facility licensed pursuant to chapter 135C.

4. *"Medical malpractice insurance"* means insurance coverage against the legal liability of the insured and against loss, damage, or expense incident to a claim arising out of the death or injury of any person as the result of negligence or malpractice in rendering professional service by any licensed health care provider.

5. *"Net direct premiums"* means gross direct premiums written on liability insurance as reported in the annual statements filed by the insurers with the commissioner, including the liability component of multiple peril package policies as computed by the commissioner, less return premiums for the unused or unabsorbed portions of premium deposits.

[C77, 79, 81, §519A.2]

95 Acts, ch 108, §20; 2002 Acts, ch 1111, §32; 2008 Acts, ch 1088, §141; 2016 Acts, ch 1073, §151

Referred to in §519A.1, 519A.3, 519A.4, 519A.5, 519A.10, 519A.13

519A.3 Temporary joint underwriting association.

1. A temporary joint underwriting association is created, consisting of all insurers authorized to write and engaged in writing on a direct basis within this state liability insurance, including insurers covering such peril in multiple peril policies. Every such insurer shall be a member of the association and shall remain a member as a condition of its authority to continue to write liability insurance in this state.

2. The purpose of the association shall be to provide, for a period not exceeding two years, a market for medical malpractice insurance on a self-supporting basis without subsidy from its members.

3. *a.* The association shall not commence underwriting operations for health care providers until the commissioner, after notice and opportunity for hearing, has determined that medical malpractice insurance is not available at a reasonable cost for a specific type of licensed health care provider in the voluntary market. Upon such determination the association shall be authorized to issue policies of medical malpractice insurance for such specific type of health care provider but need not be the exclusive agency through which such insurance may be written on a primary basis in this state.

b. If the commissioner determines at any time that medical malpractice insurance can be made available in the voluntary market at a reasonable price for any specific type of licensed health care provider, the association shall thereby cease underwriting medical malpractice insurance for that type of licensed health care provider.

4. The association shall, subject to the terms and conditions of section 519A.2, this section, and sections 519A.4 through 519A.13, have and exercise the following powers on behalf of its members:

a. To issue, or to cause to be issued, policies of insurance to applicants, including incidental coverages and subject to limits as specified in the plan of operation but not to exceed one million dollars for each claimant under one policy and three million dollars for all claimants under one policy in any one year.

b. To underwrite such insurance and to adjust and pay losses with respect thereto, or to appoint service companies to perform those functions.

c. To assume reinsurance from its members.

d. To cede reinsurance.

[C77, 79, 81, §519A.3]

2012 Acts, ch 1023, §157; 2016 Acts, ch 1073, §152

Referred to in §519A.1, 519A.2, 519A.4, 519A.5, 519A.10, 519A.13

519A.4 Plan of operation.

1. *a.* The association shall submit a plan of operation to the commissioner, together with any amendments necessary or suitable to assure the fair, reasonable, and equitable administration of the association consistent with sections 519A.2, 519A.3, this section, and

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sections 519A.5 through 519A.13. The plan of operation and any amendments thereto shall become effective only after promulgation of the plan or amendment by the commissioner as a rule pursuant to section 17A.4, provided that the initial plan may in the discretion of the commissioner become effective immediately upon filing with the administrative rules coordinator pursuant to section 17A.5, subsection 2, paragraph *"b"*, subparagraph (1), subparagraph division (a).

b. If the association fails to submit a suitable plan of operation within twenty-five days following July 1, 1975, or if at any time thereafter the association fails to submit suitable amendments to the plan, the commissioner shall adopt rules necessary to effectuate sections 519A.2, 519A.3, this section, and sections 519A.5 through 519A.13. Such rules shall continue in force until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner.

2. The plan of operation shall provide for economic, fair and nondiscriminatory administration, and for the prompt and efficient provision of medical malpractice insurance. The plan shall contain other provisions, including but not limited to preliminary assessment of all members for initial expenses necessary to commence operations, establishment of necessary facilities, management of the association, assessment of members to defray losses and expenses, commission arrangements, reasonable and objective underwriting standards, acceptance and cession of reinsurance, appointment of servicing carriers or other servicing arrangements, and procedures for determining amounts of insurance to be provided by the association.

3. All member insurers shall comply with the plan of operation.

[C77, 79, 81, §519A.4]

2012 Acts, ch 1023, §157; 2015 Acts, ch 30, §225; 2016 Acts, ch 1073, §153; 2017 Acts, ch 29, §153; 2018 Acts, ch 1041, §105; 2026 Acts, ch 1040, §105

Referred to in §519A.1, 519A.2, 519A.3, 519A.5, 519A.10, 519A.13

Subsection 1, paragraph a amended

519A.5 Policy forms and rates.

1. The rates, rating plans, rating classifications, and policy forms and endorsements applicable to insurance written by the association and the statistical and experience data relating thereto shall be subject to sections 519A.2 through 519A.4, this section, and sections 519A.6 through 519A.13 and to the provisions of the general insurance code which are not inconsistent with the purposes and provisions of this chapter.

2. All policies issued by the association shall provide for a continuous period of coverage beginning with their respective effective dates. All policies shall terminate at 12:01 a.m. two years from the date of finding of an emergency by the commissioner, or earlier in accordance with sections 519A.2 through 519A.4, this section, and sections 519A.6 through 519A.13; or because of failure of the policyholder to pay any premium or stabilization reserve fund charge or portion of either when due. All policies shall be issued subject to the group retrospective rating plan and the stabilization reserve fund authorized by this chapter. No policy form shall be used by the association unless it has been filed with and approved by the commissioner.

3. The commissioner shall specify whether policy forms and the rate structure shall be on a "claims-made" or "occurrence" basis and coverage shall be provided by the association only on the basis specified by the commissioner. The commissioner shall specify the "claims-made" basis only if the contract makes provision for residual "occurrence" coverage upon the retirement, death, disability or removal from this state of the insured. Provision may be made for a premium charge allocable to any such residual "occurrence" coverage and such premium charges for such residual coverage shall be segregated and separately maintained for such purpose which may include the reinsurance of all or a part of that portion of the risk.

4. The rates, rating plans, rating rules, and rating classifications applicable to the insurance written by the association shall be on an actuarially sound basis, giving due consideration to the group retrospective rating plan and the stabilization reserve fund, and shall be calculated to be self-supporting.

5. All policies issued by the association shall be subject to a nonprofit group retrospective

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rating plan to be approved by the commissioner under which the final premium for all policyholders of the association, as a group, will be equal to the administrative expenses, loss and loss adjustment expenses and taxes, plus a reasonable allowance for contingencies and servicing. Policyholders shall be given full credit for all investment income, net of expenses and a reasonable management fee, on policyholder supplied funds. The standard premium, before retrospective adjustment, for each policy issued by the association shall be established for portions of the policy period coinciding with the association's fiscal year on the basis of the association's rates, rating plans, rating rules, and rating classifications then in effect. The maximum final premium for all policyholders of the association, as a group, shall be limited as provided in section 519A.6, subsection 5. Since the business of the association is subject to the nonprofit group retrospective rating plan required by this subsection, there shall be a presumption that the rates filed and premiums imposed by the association are not unreasonable or excessive.

6. The association shall certify to the commissioner the estimated amount of any deficit remaining after the stabilization reserve fund has been exhausted in payment of the maximum final premium for all policyholders of the association. Within sixty days after that certification the commissioner shall authorize the members of the association to commence recoupment of their respective shares of the deficit by deducting their share of the deficit from past or future premium taxes due the state of Iowa. The association shall amend the amount of its certification of deficit to the commissioner as the values of its incurred losses become finalized and the members of the association shall amend their recoupment procedure accordingly.

7. In the event that sufficient funds are not available for the sound financial operation of the association, all members shall contribute to the financial requirements of the association in the manner provided for in section 519A.8. Any contribution shall be reimbursed to the members by recoupment as provided in subsection 6.

[C77, 79, 81, §519A.5]

2002 Acts, ch 1111, §33; 2016 Acts, ch 1073, §154

Referred to in §519A.1, 519A.2, 519A.3, 519A.4, 519A.10, 519A.13

519A.6 Stabilization reserve fund.

1. There is created a stabilization reserve fund. The fund shall be administered by three directors, one of whom shall be the commissioner. The remaining two directors shall be appointed by the commissioner, one of whom shall be a representative of the association and the other a representative of its policyholders.

2. The directors shall act by majority vote with two directors constituting a quorum for the transaction of any business or the exercise of any power of the fund. The directors shall serve without salary, but each director other than the commissioner shall be reimbursed for actual and necessary expenses incurred in the performance of official duties as a director. The directors shall not be subject to any personal liability with respect to the administration of the fund for acts or decisions made in good faith pursuant to the provisions of this chapter.

3. Each policyholder shall pay to the association a stabilization reserve fund charge determined by the directors which shall not exceed the amount of one annual premium due for insurance through the association. Such charge shall be separately stated in the policy. The association shall cancel the policy of any policyholder who fails to pay the stabilization reserve fund charge.

4. The association shall promptly pay to the fund all stabilization reserve fund charges which it collects from its policyholders and any retrospective premium refunds payable under any group retrospective rating plan approved by the commissioner under the provisions of this chapter.

5. All moneys received by the fund shall be held in trust by a corporate trustee selected by the directors. The corporate trustee may invest the moneys held in trust, subject to the approval of the directors. All investment income shall be credited to the fund, and all expenses of administration of the fund shall be charged against the fund. The moneys held in trust shall be used solely for the purpose of discharging when due any retrospective premium charges payable by policyholders of the association under the group retrospective

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rating plan approved by the commissioner. Payment of retrospective premium charges shall be made by the directors upon certification to them by the association of the amount due. If all moneys accruing to the fund are finally exhausted in payment of retrospective premium charges, all liability and obligations of the association's policyholders with respect to the payment of retrospective premium charges shall there upon terminate and shall be conclusively presumed to have been discharged. Any moneys remaining in the fund after all such retrospective premium charges have been paid shall be returned to policyholders pursuant to procedures authorized by the directors.

[C77, 79, 81, §519A.6]
2017 Acts, ch 29, §154
Referred to in §519A.1, 519A.2, 519A.3, 519A.4, 519A.5, 519A.10, 519A.13

519A.7 Procedures.

1. Upon a finding by the commissioner, after notice and opportunity for hearing, that medical malpractice insurance is not available at a reasonable cost for a specific type of licensed health care provider in the voluntary market and upon notification of that finding to the association, any licensed health care provider of the type specified in the commissioner's finding shall be entitled to apply to the association for medical malpractice insurance coverage. The application may be made on behalf of a licensed health care provider by an authorized agent.

2. If the association determines that the applicant meets the underwriting standards of the association as prescribed in the plan of operation, then the association, upon receipt of the premium or such portion thereof as is prescribed in the plan of operation, shall cause to be issued a policy of medical malpractice insurance.

[C77, 79, 81, §519A.7]
Referred to in §519A.1, 519A.2, 519A.3, 519A.4, 519A.5, 519A.10, 519A.13

519A.8 Participation.

All members of the association shall participate in its writings, expenses, servicing allowance, management fees and losses in the proportion that the net direct premiums of each member, excluding that portion of premiums attributable to the operation of the association, written during the preceding calendar year bears to the aggregate net direct premiums written in this state by all members of the association. Each member's proportion shall be determined annually on the basis of the annual statements and other reports filed by the insurer with the commissioner.

[C77, 79, 81, §519A.8]
Referred to in §519A.1, 519A.2, 519A.3, 519A.4, 519A.5, 519A.10, 519A.13

519A.9 Governing board.

1. The association shall be governed by a board of eleven directors of whom three shall be appointed annually by the commissioner to represent the licensed health care providers. Eight members shall be elected annually, except as provided in subsection 2, by the members of the association. Vacancies on the board shall be filled for the remaining period of the term by majority vote of the remaining directors subject to approval of the commissioner.

2. *a.* The commissioner shall designate a time and place for a meeting of the members of the association at which the eight elected members serving on the board shall be elected. The commissioner shall appoint the appointive members of the board on or before the date of the meeting.

b. The commissioner may, prior to the first meeting of the members of the association, appoint an interim governing board of the association consisting of eight member insurers and three representatives of the licensed health care providers. The eight member insurers of that interim governing board shall serve until their successors are elected by the members of the association. In appointing members of the association to the interim governing board,

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the commissioner shall consider among other things whether all member insurers are fairly represented.

[C77, 79, 81, §519A.9]

2002 Acts, ch 1111, §34; 2012 Acts, ch 1023, §157

Referred to in §519A.1, 519A.2, 519A.3, 519A.4, 519A.5, 519A.10, 519A.13

519A.10 Appeals and judicial review.

1. Any applicant or any person insured pursuant to section 519A.7, or a legal representative, or any affected insurer, may appeal to the commissioner within thirty days after any ruling, action or decision by or on behalf of the association, with respect to those items the plan of operation defines as appealable matters.

2. All orders of the commissioner made pursuant to sections 519A.2 through 519A.9, this section, and sections 519A.11 through 519A.13 shall be subject to judicial review as provided in the Iowa administrative procedure Act, chapter 17A.

[C77, 79, 81, §519A.10]

2003 Acts, ch 44, §114; 2016 Acts, ch 1073, §155

Referred to in §519A.1, 519A.2, 519A.3, 519A.4, 519A.5, 519A.13

519A.11 Annual statements.

The association shall file in the office of the commissioner on or before the first day of March each year, a statement as prescribed by the commissioner. The statement shall contain matters and information required by the commissioner including, but not limited to, information with respect to its transactions, condition, operations and affairs during the preceding year, and shall be in a form approved by the commissioner. The commissioner may, at any time, require the association to furnish additional information with respect to matters considered to be material to the scope, operation and experience of the association.

[C77, 79, 81, §519A.11]

Referred to in §519A.1, 519A.2, 519A.3, 519A.4, 519A.5, 519A.10, 519A.13

519A.12 Examinations.

The commissioner shall make an examination of the association at least annually. The expenses of each examination shall be paid by the association.

[C77, 79, 81, §519A.12]

Referred to in §519A.1, 519A.2, 519A.3, 519A.4, 519A.5, 519A.10, 519A.13

519A.13 Privileged communications.

There shall be no liability on the part of, and no cause of action of any nature shall arise against the association, the commissioner, or any other person or organization, for any statements made in good faith by any of them in any report or communication concerning risks insured or to be insured by the association, or during any proceedings within the scope of sections 519A.2 through 519A.12 and this section.

[C77, 79, 81, §519A.13]

2016 Acts, ch 1073, §156

Referred to in §519A.1, 519A.2, 519A.3, 519A.4, 519A.5, 519A.10

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CHAPTER 520

RECIPROCAL OR INTERINSURANCE CONTRACTS

Referred to in §87.4, 296.7, 331.301, 364.4, 423.3, 505.28, 505.29, 507.1, 508C.3, 509.5, 514A.1, 515B.1, 515B.2, 515B.9, 515F.32, 521.1, 521A.1, 521A.2, 521E.1, 521F.2, 521J.5, 522B.1, 522F.1, 533C.103, 537.7103, 669.14, 670.7

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520.1 Authorization.

Individuals, partnerships, and corporations, and cities, counties, townships, school districts and any other units of local government of this state, designated as subscribers under this chapter, are authorized to exchange reciprocal or interinsurance contracts with each other, and with individuals, partnerships, and corporations of other states, territories, districts, and countries, providing insurance among themselves for any loss which may be insured against under the law, except life insurance.

[C24, 27, 31, 35, 39, §**9083;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §520.1]

2022 Acts, ch 1021, §154

520.2 Execution of contract.

Reciprocal or interinsurance contracts may be executed by an attorney, agent, or other representative designated as the attorney in fact, duly authorized and acting for such subscribers under powers of attorney. The attorney may be a corporation. The attorney shall have the power and authority to execute any and all instruments, papers, and documents incident to and a part of the business of the reciprocal or interinsurance exchange, including deeds for the conveyance of real estate, and acquisition and sale of securities. The attorney shall have the power and authority to do all things necessary and incident to the management and operation of such business. The certificate of the commissioner of insurance certifying the name of the attorney for any reciprocal or interinsurance exchange shall be sufficient proof of the authority of any such attorney.

[C24, 27, 31, 35, 39, §**9084;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §520.2]

2021 Acts, ch 80, §332

Referred to in §520.14

520.3 Office of attorney — foreign office.

The principal office of such attorney shall be maintained at such place as is designated by the subscribers in the power of attorney; provided that, where the principal office of such attorney is located in another state, the commissioner of insurance shall not issue a certificate of authority, or license, as provided in this chapter unless such attorney shall hold a license or certificate of authority from the insurance department of such other state.

[C24, 27, 31, 35, 39, §**9085;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §520.3]

Referred to in §520.14

520.4 Preliminary declaration.

Such subscribers so contracting among themselves, shall, through their attorney, file with the commissioner of insurance a declaration verified by the oath of such attorney, or, where

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such attorney is a corporation, by the oath of the duly authorized officers thereof, setting forth:

1. The name of the attorney and the name or designation under which such contracts are issued, which name or designation shall not be so similar to any name or designation adopted by any attorney or by any insurance organization in the United States prior to the adoption of such name or designation by the attorney, as to confuse or deceive.
2. The location of the principal office.
3. The kind or kinds of insurance to be effected.
4. A copy of each form of policy, contract, or agreement under or by which insurance is to be effected.
5. A copy of the form of power of attorney under which such insurance is to be effected.
6. That applications have been made for indemnity or insurance upon at least one hundred separate risks aggregating not less than one and one-half million dollars represented by executed contracts or bona fide applications to become concurrently effective; or in case of employers liability or workers' compensation insurance, covering a total payroll of not less than two and one-half million dollars.
7. That there is in the possession of such attorney and available for the payment of losses, assets amounting to not less than three hundred thousand dollars.
8. A financial statement under oath in form prescribed for the annual statement.
9. The instrument authorizing service of process as provided for in this chapter.
10. Certificate showing deposit of funds.

[C24, 27, 31, 35, 39, §**9086;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §520.4]
Referred to in §85.65A, 520.5, 520.9, 520.14, 520.18

520.5 Actions — venue — commissioner as process agent.

Concurrently with the filing of the declaration provided for by the terms of section 520.4, the attorney shall file with the commissioner of insurance, an instrument in writing executed by the attorney for the subscribers, conditioned that, upon the issuance of certificate of authority provided for in this chapter, action may be brought in the county in which the property or person insured thereunder is located, and that service of process shall be had upon the commissioner of insurance or upon the attorney in fact in all suits in this state, whether arising out of such policies, contracts, agreements or otherwise. Service shall be valid and binding upon all subscribers exchanging at any time reciprocal or interinsurance contracts through such attorney. All suits of every kind and description brought against the reciprocal exchange, or the subscribers on account of their connection with the reciprocal exchange, must be brought against the attorney in fact or the exchange as such, and shall not be brought against any of the subscribers individually on account of their connection with or membership in such reciprocal exchange, and must be brought in the manner and method provided in this section.

[C24, 27, 31, 35, 39, §**9087;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §520.5]
2020 Acts, ch 1063, §291
Referred to in §520.14

520.6 Service of process.

Service of process made on the commissioner as the agent for service of process shall be made as provided in section 505.30.

[C24, 27, 31, 35, 39, §**9088;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §520.6]
2018 Acts, ch 1018, §11
Referred to in §520.7, 520.14

520.7 Judgment — satisfaction.

A judgment rendered in any such case where service of process has been made under section 520.6 upon the commissioner of insurance, shall be valid and binding against any

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and all such subscribers as their interests appear and such judgment may be satisfied out of the funds in the possession of the attorney belonging to such subscribers.

[C24, 27, 31, 35, 39, §**9089;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §520.7]

2019 Acts, ch 59, §190

Referred to in §520.14

520.8 Reports — limitations on risks.

There shall be filed with the commissioner of insurance by such attorney whenever the commissioner of insurance shall so require, a statement under oath of such attorney showing the maximum amount of indemnity upon a single risk, and, except as to workers' compensation insurance, no subscriber shall assume on any single risk an amount greater than ten percent of the net worth of such subscriber.

[C24, 27, 31, 35, 39, §**9090;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §520.8]

Referred to in §520.14

520.9 Standard of solvency.

1. There shall at all times be maintained as assets a sum in cash, or in securities of the kind designated by the laws of the state where the principal office is located for the investment of funds of insurance companies, equal to one hundred percent of the net unearned premiums or deposits collected and credited to the account of subscribers, or assets equal to fifty percent of the net annual deposits collected and credited to the account of subscribers on policies having one year or less to run and pro rata on those for longer periods; in addition to which there shall be maintained in cash, or in such securities, assets sufficient to discharge all liabilities on all outstanding losses arising under policies issued, the same to be calculated in accordance with the laws of the state relating to similar reserves for companies insuring similar risks; provided that where the assets on hand available for the payment of losses other than determined losses, do not equal five million dollars, all liability for each determined loss or claim deferred for more than one year, shall be provided for by a special deposit in a trust company or bank having fiduciary powers of the state in which the principal office is located, to be used in payment of compensation benefits for disability; such deposit to be a trust fund and applicable only to the purposes stated, or such liability may be reinsured in authorized companies with a surplus of at least five million dollars. For the purpose of such reserves, net deposits shall be construed to mean the advance payments of subscribers after deducting the amount specifically provided in the subscribers' agreements for expenses. If at any time the assets so held in cash or such securities shall be less than required above, or less than five million dollars, the subscribers or their attorney for them shall make up the deficiency within thirty days after notice from the commissioner of insurance to do so. In computing the assets required by this section, the amount specified in section 520.4, subsection 7, shall be included.

2. Notwithstanding subsection 1, a person issuing reciprocal contracts and authorized to transact business under this chapter shall comply with the minimum surplus requirements of this section or chapter 521E, whichever is greater.

[C24, 27, 31, 35, 39, §**9091;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §520.9]

88 Acts, ch 1111, §16; 96 Acts, ch 1046, §8; 2007 Acts, ch 137, §20

Referred to in §85.65A, 520.9A, 520.14

520.9A Solvency standard — transition.

Notwithstanding section 520.9, a reciprocal or interinsurance insurer authorized to transact business in this state prior to July 1, 1988, may continue in operation provided that the insurer contributes an additional ten percent of the previous year ending capital and surplus to capital and surplus each year. If an insurer fails to contribute the additional ten percent, the commissioner of insurance may revoke the insurer's authorization to do business in this state. The insurance commissioner may waive this requirement for just cause shown.

88 Acts, ch 1111, §17

Referred to in §520.14

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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 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 as provided in section 505.7.

[C24, 27, 31, 35, 39, §**9092;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §520.10]
2006 Acts, ch 1117, §96; 2009 Acts, ch 181, §86
Referred to in §520.14, 520.15

520.11 Implied powers of corporations.

Any corporation organized under the laws of this state shall, in addition to the rights, powers, and franchises specified in its articles of incorporation, have full power and authority to exchange insurance contracts of the kind and character mentioned in this chapter. The right to exchange such contracts is hereby declared to be incidental to the purposes for which such corporations are organized and as fully granted as the rights and powers expressly conferred.

[C24, 27, 31, 35, 39, §**9093;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §520.11]
2021 Acts, ch 80, §333
Referred to in §520.14

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

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fails to timely file an application for renewal shall pay an administrative fee of five hundred dollars to the treasurer of state for deposit as provided in section 505.7.

[C24, 27, 31, 35, 39, §**9094;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §520.12]

88 Acts, ch 1112, §110; 2006 Acts, ch 1117, §97; 2009 Acts, ch 181, §87

Referred to in §520.10, 520.14, 520.15

520.13 Fidelity or surety bonds executed.

Fidelity or surety bonds executed by a reciprocal or interinsurance exchange pursuant to authority given by the commissioner of insurance shall be received and accepted as company or corporate bonds, provided, however, that such reciprocal companies before being permitted to qualify for writing fidelity or surety bonds shall be required to maintain a surplus of three hundred thousand dollars.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §520.13]

Referred to in §520.14

520.14 Violations — exceptions.

It shall be unlawful for an attorney to exchange contracts of insurance of the kind and character specified in this chapter, or for an attorney or representative of the attorney to solicit or negotiate any applications for the same without the attorney having first complied with the provisions of sections 520.2 through 520.13. For the purpose of organization and upon issuance of permit by the commissioner of insurance, powers of attorney and applications for such contracts may be solicited without compliance with the provisions of this chapter, but an attorney, agent, or other person shall not make any such contracts of indemnity until all of the provisions of this chapter shall have been complied with.

[C24, 27, 31, 35, 39, §**9095;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §520.14]

2004 Acts, ch 1110, §59; 2009 Acts, ch 133, §169

520.15 Refusal or revocation of certificate.

In addition to the penalties provided in sections 520.10 and 520.12, and where not otherwise provided, the penalty for failure or refusal to comply with any of the terms and provisions of this chapter, upon the part of the attorney, shall be the refusal, suspension, or revocation of certificate of authority or license by the commissioner of insurance and the public announcement of the commissioner's act, after due notice and opportunity for hearing has been given such attorney so that the attorney may appear and show cause why such action should not be taken.

[C24, 27, 31, 35, 39, §**9096;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §520.15]

2020 Acts, ch 1063, §292

520.16 Bonds.

Where the principal office of the attorney in fact is located in this state the attorney shall give a fidelity bond to the subscribers thereof, personal or surety, in such sum as the commissioner of insurance shall deem sufficient, no less, however, than ten thousand dollars, which bond shall be approved by and deposited with the commissioner of insurance.

[C24, 27, 31, 35, 39, §**9097;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §520.16]

520.17 Additional security — refusal.

Should the commissioner of insurance consider the surety on said bond, or the amount thereof, insufficient, the commissioner may require additional security or an increase in the amount of the bond. If such additional security or increase be not furnished within thirty days after notice to furnish the same, the commissioner of insurance may revoke the certificate of authority.

[C24, 27, 31, 35, 39, §**9098;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §520.17]

520.18 Foreign attorney — bonds.

Where the principal office of the attorney is located in another state, there shall be filed with the commissioner of insurance, in connection with the declaration, provided for by section

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520.4, certified copies of all such bonds given by such attorney as security for the funds of subscribers.

[C24, 27, 31, 35, 39, §**9099;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §520.18]

520.19 Annual tax — fees.

In lieu of all other taxes, licenses, charges, and fees whatsoever, such attorney shall annually pay to the commissioner the same fees as are paid by mutual companies transacting the same kind of business, and an annual tax based upon the applicable percentage stated in section 432.1, subsection 4, calculated upon the gross premiums or deposits collected from subscribers in this state during the preceding calendar year, after deducting therefrom returns, or cancellations, and all amounts returned to subscribers or credited to their accounts as savings, and the amount returned upon canceled policies and rejected applications covering property situated or on business done within this state.

[C24, 27, 31, 35, 39, §**9100;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §520.19]

88 Acts, ch 1112, §305; 2005 Acts, ch 70, §47

520.20 Form of policy — construction.

The attorney may insert in any form of policy prescribed by the laws of this state any provisions or conditions required by the plan of reciprocal or interinsurance, provided the same shall not be inconsistent with or in conflict with any law of this state. Such policy, in lieu of conforming to the language and form prescribed by such law, shall be held to conform thereto in substance if such policy includes a provision or endorsement reciting that the policy shall be construed as if in the language and form prescribed by such law. Any such policy or endorsement shall first be filed with and approved by the commissioner of insurance.

[C24, 27, 31, 35, 39, §**9101;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §520.20]

520.21 Reinsurance.

Such attorney shall not effect any reinsurance on risks in this state unless the insurance carrier granting such reinsurance shall be licensed in this state.

[C24, 27, 31, 35, 39, §**9102;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §520.21]

Referred to in §521.13

520.22 Reserved.

520.23 Deposit of securities by reciprocal or interinsurance exchanges.

If the commissioner of insurance or chief insurance officer of any other state or territory of the United States, claiming to proceed under existing or future laws of any such state or territory, shall require reciprocal or interinsurance exchanges of this state or the agents thereof to make any deposit of securities in such other state or territory for the protection of policyholders or otherwise or to make payment of taxes, fines, penalties, certificates of authority, license fees or otherwise or subject them to any restrictions, obligations, conditions, or penalties, greater than are required or imposed by the laws of the state of Iowa relating to reciprocal or interinsurance exchanges, from such exchanges of such other states or territories by the then existing laws of this state, then and in every such case all such reciprocal or interinsurance exchanges of such other states or territories shall be and they are hereby required to make like deposits for like purposes with the insurance division of this state and to pay to the commissioner of insurance taxes, fines, penalties, certificates of authority, license fees and otherwise in an amount equal to the amount of such charges and payments, and shall be subjected to the same restrictions, obligations, conditions, or penalties imposed by the commissioner of insurance or chief insurance officer of such other states under and by virtue of law, upon reciprocal or interinsurance exchanges of this state and the agents thereof.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §520.23]

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CHAPTER 521

CONSOLIDATION, MERGER, AND REINSURANCE

Referred to in §87.4, 296.7, 331.301, 364.4, 505.23, 505.28, 505.29, 507C.12, 508B.2, 515G.2, 521A.14, 521J.11, 521J.112, 669.14, 670.7

521.1 Definitions.
521.2 Consolidation, merger, and reinsurance.
521.3 Submission of plan and application to commissioner of insurance.
521.4 Procedure — notice.
521.5 Commission created.
521.6 Examination.
521.7 Appearance by members, policyholders, or shareholders.
521.8 Authorization.
521.9 Unanimous decision required. Repealed by 2006 Acts, ch 1117, §127.
521.10 Election called.
521.11 Approval and filing with commissioner. Repealed by 2006 Acts, ch 1117, §127.
521.12 Companies other than life — approval of plan. Repealed by 2006 Acts, ch 1117, §127.
521.13 Reinsurance transactions — exemption.
521.14 Expenses and costs — how paid.
521.15 Violations. Repealed by 2004 Acts, ch 1110, §71.
521.16 Applicability of section 521A.3.
521.17 Additional filing requirements — plans and articles of merger or consolidation.
521.18 Articles of merger or consolidation — filing fees and approval.
521.19 Merger or consolidation effective with division.

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"* means a company or association organized under chapter 508, 514B, 515, 518, 518A, or 520, and includes a mutual insurance holding company organized pursuant to section 521A.14.
5. *"Dividing insurer"* means the same as defined in section 521I.1.
6. *"Resulting insurer"* means the same as defined in section 521I.1.

[S13, §1821-m; C24, 27, 31, 35, 39, §**9104;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §521.1]

89 Acts, ch 83, §75; 95 Acts, ch 185, §41; 2006 Acts, ch 1117, §98; 2007 Acts, ch 22, §91; 2011 Acts, ch 70, §39; 2019 Acts, ch 20, §18

Referred to in §521.2

521.2 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.
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 insurance company shall not 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 risk.
5. One or more foreign or domestic stock insurance companies may merge into a domestic mutual insurance company organized under chapter 491 as provided in this chapter.
6. One or more domestic health maintenance organizations or limited service

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organizations formed under chapter 514B may merge into a domestic insurance company organized under chapter 490 or chapter 491 as provided in this chapter.

7. Sections 491.102 through 491.105 shall not be applicable to a merger or consolidation of a domestic mutual insurance company pursuant to this chapter.

[S13, §1821-n; C24, 27, 31, 35, 39, §**9105;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §521.2]

95 Acts, ch 185, §42; 2006 Acts, ch 1117, §99; 2007 Acts, ch 137, §21; 2009 Acts, ch 145, §51; 2011 Acts, ch 70, §40, 41

Referred to in §508.33A

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.

[S13, §1821-o; C24, 27, 31, 35, 39, §**9106;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §521.3]

2006 Acts, ch 1117, §100

Referred to in §521.4

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.

[S13, §1821-p; C24, 27, 31, 35, 39, §**9107;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §521.4]

2006 Acts, ch 1117, §101

Referred to in §521.7

521.5 Commission created.

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.

[S13, §1821-q; C24, 27, 31, 35, 39, §**9108;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §521.5]

88 Acts, ch 1112, §702; 2006 Acts, ch 1117, §102

Referred to in §521.1

521.6 Examination.

The commission may examine the affairs and condition of any company as it deems proper. The commission shall have the power to summon and compel the attendance and testimony of witnesses. The commission shall have the power to compel the production of books and papers before the commission, and may administer oaths.

[S13, §1821-q; C24, 27, 31, 35, 39, §**9109;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §521.6]

2006 Acts, ch 1117, §103; 2007 Acts, ch 22, §92

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521.7 Appearance by members, policyholders, or shareholders.

When notice is given as provided in section 521.4, any member, policyholder, or shareholder of the affected company shall have the right to appear before the commission and be heard regarding the application and plan.

[S13, §1821-q; C24, 27, 31, 35, 39, §**9110;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §521.7]

2006 Acts, ch 1117, §104

521.8 Authorization.

The commission, if satisfied that the interests of the members, policyholders, or shareholders of the affected company are properly protected and no reasonable objection to the application and plan exists, may approve, disapprove, or require modification of the proposed plan of consolidation, merger, or reinsurance 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.

[S13, §1821-q; C24, 27, 31, 35, 39, §**9111;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §521.8]

2006 Acts, ch 1117, §105

521.9 Unanimous decision required. Repealed by 2006 Acts, ch 1117, §127.

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.

[S13, §1821-q; C24, 27, 31, 35, 39, §**9113;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §521.10]

2006 Acts, ch 1117, §106

521.11 Approval and filing with commissioner. Repealed by 2006 Acts, ch 1117, §127.

521.12 Companies other than life — approval of plan. Repealed by 2006 Acts, ch 1117, §127.

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.

[S13, §1821-s; C24, 27, 31, 35, 39, §**9116;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §521.13]

97 Acts, ch 186, §24; 2006 Acts, ch 1117, §107

521.14 Expenses and costs — how paid.

All expenses and costs incident to proceedings under this chapter shall be paid by the company filing the application and plan.

[S13, §1821-t; C24, 27, 31, 35, 39, §**9117;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §521.14]

2006 Acts, ch 1117, §108

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521.15 Violations. Repealed by 2004 Acts, ch 1110, §71.

521.16 Applicability of section 521A.3.

For an insurer subject to chapter 521A, the provisions of section 521A.3 shall also be applicable to a merger or consolidation subject to this chapter. As used in this section, "*insurer*" means the same as defined in section 521A.1.

95 Acts, ch 185, §43; 2006 Acts, ch 1117, §109; 2008 Acts, ch 1123, §41

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.

2006 Acts, ch 1117, §110

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.

2006 Acts, ch 1117, §111

521.19 Merger or consolidation effective with division.

A dividing insurer and the dividing insurer's officers, directors, and shareholders shall have the authority to adopt and execute a plan of merger or consolidation on behalf of a resulting insurer, to execute and deliver documents, plans, certificates, and resolutions, and to make any filings on behalf of such resulting insurer. If provided in a plan of merger or consolidation, the merger or consolidation shall be effective simultaneously with the effectiveness of a division pursuant to 521I.10.

2019 Acts, ch 20, §19

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CHAPTER 521A

INSURANCE HOLDING COMPANY SYSTEMS

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 507C.12, 508.5, 508.9, 508B.2, 510.1B, 510.6, 511.8(4)(b), 515.8, 515.12, 515G.2, 521.16, 521C.2, 521C.6, 521C.9, 669.14, 670.7

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MUTUAL INSURANCE HOLDING COMPANIES

521A.14 Mutual insurance holding companies.

GENERAL PROVISIONS

521A.1 Definitions.

For the purpose of this chapter, unless the context otherwise requires:

1. *"Affiliate of"*, or a person affiliated with, a specific person, shall mean a person who directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

2. The term *"commissioner"* shall mean the insurance commissioner, the commissioner's deputies, or the insurance division, as appropriate.

3. *"Control"*, including *"controlling"*, *"controlled by"*, and *"under common control with"*, shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is solely the result of an official position with or a corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided in section 521A.3, subsections 1 through 5, or section 521A.4, subsection 11, whichever is applicable, that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

4. *"Domestic insurer"* means an insurer organized or created under the laws of this state except an insurer excluded under subsection 9.

5. *"Enterprise risk"* means any activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including but not limited to anything that would cause the insurer's risk-based capital to fall into a company-action-level event as set forth in section 521E.3 for insurers or section 521F.4 for health organizations, or would cause the insurer to be in hazardous financial condition pursuant to 191 IAC ch. 110.

6. *"Group capital calculation instructions"* means the most recent instructions adopted

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by the NAIC group capital calculation working group or its successor, and as published or amended by the NAIC in accordance with procedures adopted by the NAIC.

7. *"Group-wide supervisor"* means a regulatory official who is authorized, and who is determined or acknowledged by the commissioner pursuant to section 521A.6B to have sufficient significant contacts with an internationally active insurance group, to engage in conducting and coordinating group-wide supervision of the internationally active insurance group.

8. *"Insurance holding company system"* shall consist of two or more affiliated persons, one or more of which is an insurer.

9. *"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 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.

10. *"Internationally active insurance group"* means an insurance holding company system that includes an insurer registered under section 521A.4 and that meets all of the following criteria:

a. The insurance holding company system has premiums written in at least three countries.

b. The percentage of gross premiums written outside the United States is at least ten percent of the insurance holding company system's total gross written premiums.

c. Based on a three-year rolling average, the total assets of the insurance holding company system are at least fifty billion dollars or the total gross written premiums of the insurance holding company system are at least ten billion dollars.

11. *"Liquidity stress test framework"* means the most recent NAIC liquidity stress test framework, initially adopted in 2020, for life insurers meeting the scope criteria, and as published or amended by the NAIC in accordance with procedures adopted by the NAIC.

12. *"NAIC"* means the national association of insurance commissioners.

13. A *"person"* is an individual, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert, but does not include a joint venture partnership exclusively engaged in owning, managing, leasing, or developing real or tangible personal property.

14. *"Reciprocal jurisdiction"* means the same as described in section 521B.102, subsection 6, paragraph *"a"*, subparagraph (1).

15. A *"securityholder"* of a specified person is one who owns any security of such person, including common stock, preferred stock, debt obligations, and any other security convertible into or evidencing the right to acquire any of the foregoing.

16. *"Scope criteria"* means the thresholds detailed in the NAIC liquidity stress test framework that are used to establish the life insurer entities that are subject to a liquidity stress test for a specific data year.

17. A *"subsidiary"* of a specified person is an affiliate controlled by such person directly, or indirectly through one or more intermediaries.

18. *"Supervisory college"* means a temporary or permanent forum for communication and cooperation between regulators charged with supervision of an insurer or its affiliates.

19. The term *"voting security"* shall include any security convertible into or evidencing a right to acquire a voting security.

[C71, 73, 75, 77, 79, 81, §521A.1]

86 Acts, ch 1102, §1, 2; 90 Acts, ch 1234, §72; 97 Acts, ch 186, §25; 2006 Acts, ch 1117, §112; 2014 Acts, ch 1018, §1, 2; 2016 Acts, ch 1122, §7; 2022 Acts, ch 1050, §2; 2023 Acts, ch 64, §84

Referred to in §507C.2, 507F.3, 508.33A, 510A.2, 511.8(1)(c), 515.125, 515.128, 515B.2, 515G.1, 518C.3, 521.16, 521H.2, 521H.6, 522.2

521A.2 Subsidiaries of insurers.

1. *Authorization.* Any domestic insurer, either by itself or in cooperation with one or more persons, subject to the limitations set forth herein or elsewhere in this chapter, may organize or acquire one or more subsidiaries engaged or registered to engage in one or more of the following businesses or activities:

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a. Any kind of insurance business authorized by the jurisdiction in which it is incorporated.

b. Acting as an insurance producer for its parent or for any of its parent's insurer subsidiaries or intermediate insurer subsidiaries.

c. Investing, reinvesting, or trading in securities and derivative transactions pursuant to section 511.8, subsection 16, for the domestic insurer's own account, that of its parent, any subsidiary of its parent, or any affiliate or subsidiary.

d. Management of any investment company subject to or registered pursuant to the Investment Company Act of 1940, as amended, including related sales and services.

e. Acting as a broker dealer subject to or registered pursuant to the Securities Exchange Act of 1934 as amended.

f. Rendering financial services or advice to individuals, governments, government agencies, corporations, or other organizations or groups.

g. Rendering other services related to the operations of an insurance business including but not limited to actuarial, loss prevention, safety engineering, data processing, accounting, claims, appraisal, and collection services.

h. Ownership and management of assets which the parent corporation could itself own and manage. However, the aggregate investment by the insurer and its subsidiaries acquired or organized pursuant to this paragraph shall not exceed the limitations applicable to the investments by the insurer.

i. Acting as administrative agent for a government instrumentality which is performing an insurance function.

j. Financing of insurance premiums, agents and other forms of consumer financing.

k. Any other business or service activity reasonably ancillary to an insurance business.

l. Owning a corporation or corporations engaged or organized to engage exclusively in one or more of the businesses specified in paragraphs *"a"* through *"k"*.

2. *Exception.* Nothing contained in subsection 1 shall prohibit a domestic insurer, either by itself or in cooperation with one or more persons, from investing amounts up to a total of ten percent of surplus in one or more subsidiaries or affiliates organized to do any lawful business.

3. *Additional investment authority.* In addition to investments in common stock, preferred stock, debt obligations and other securities permitted under all other sections of this subtitle, a domestic insurer may also:

a. Invest, in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries, amounts which do not exceed the lesser of ten percent of the insurer's assets or fifty percent of the insurer's surplus as regards policyholders, if after the investments the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs. In calculating the amount of the investments, investments in domestic or foreign insurance subsidiaries shall be excluded and both of the following shall be included:

(1) Total net moneys or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of such subsidiary whether or not represented by the purchase of capital stock or issuance of other securities.

(2) All amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities and all contributions to the capital or surplus, of a subsidiary subsequent to its acquisition or formation.

b. Invest any amount in common stock, preferred stock, debt obligations and other securities of one or more subsidiaries provided that each such subsidiary agrees to limit its investments in any asset so that such investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in paragraph *"a"* of this subsection or in chapters 511, 515, 518A, and 520 applicable to the insurer. For the purpose of this paragraph, *"total investment of the insurer"* shall include both:

(1) Any direct investment by the insurer in an asset.

(2) The insurer's proportionate share of any investment in an asset by any subsidiary

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of the insurer, which shall be calculated by multiplying the amount of the subsidiary's investment by the percentage of the insurer's ownership of such subsidiary.

c. With the approval of the commissioner, invest any greater amount in common stock, preferred stock, debt obligations, or other securities of one or more subsidiaries, if after the investment the insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

d. Invest, reinvest, and trade in derivative transactions pursuant to section 511.8, subsection 16, for the domestic insurer's own account, that of its parent, any subsidiary of its parent, or any affiliate or subsidiary.

4. *Exemption from investment restrictions.* Investments in common stock, preferred stock, debt obligations or other securities of subsidiaries made pursuant to subsection 3 shall not be subject to any of the otherwise applicable restrictions or prohibitions contained in the Code applicable to such investments of insurers.

5. *Qualification of investment — when determined.* Whether any investment pursuant to subsection 3 meets the applicable requirements of the subsection is to be determined before the investment is made by calculating the applicable investment limitations as though the investment had already been made, taking into account the then outstanding principal balance on all previous investments in debt obligations, and the value of all previous investments in equity securities as of the day they were made, net of any return of capital invested, excluding dividends.

6. *Cessation of control.* If an insurer ceases to control a subsidiary, it shall dispose of any investment therein made pursuant to this section within three years from the time of the cessation of control or within such further time as the commissioner may prescribe, unless at any time after such investment shall have been made, such investment shall have met the requirements for investment under any other section of the Code, and the insurer has notified the commissioner thereof.

[C71, 73, 75, 77, 79, 81, §521A.2; 82 Acts, ch 1051, §3]

86 Acts, ch 1102, §3 – 8; 87 Acts, ch 115, §65; 91 Acts, ch 26, §48; 2001 Acts, ch 16, §11, 37; 2006 Acts, ch 1117, §113, 114; 2021 Acts, ch 76, §130; 2023 Acts, ch 36, §9, 10; 2023 Acts, ch 66, §126; 2024 Acts, ch 1043, §97

Referred to in §511.8(10)(d), 521A.5

521A.3 Acquisition of control of or merger with domestic insurer.

1. *Filing requirements.*

a. No person other than the issuer shall make a tender offer for or a request or invitation for tenders of, or enter into any agreement to exchange securities for, seek to acquire, or acquire, in the open market or otherwise, any voting security of a domestic insurer if, after the consummation thereof, such person would, directly or indirectly, or by conversion or by exercise of any right to acquire, be in control of such insurer, and no person shall enter into an agreement to merge with or otherwise to acquire control of a domestic insurer unless, at the time any such offer, request, or invitation is first made or any such agreement is entered into, or prior to the acquisition of such securities if no offer or agreement is involved, such person has first filed with the commissioner and has sent to such insurer, a statement containing the information required by this section and such offer, request, invitation, agreement, or acquisition has been approved by the commissioner in the manner hereinafter prescribed.

b. For purposes of this section, any controlling person of a domestic insurer seeking to divest its controlling interest in the domestic insurer, in any manner, shall file with the commissioner, with a copy to the insurer, confidential notice of its proposed divestiture at least thirty days prior to the cessation of control. The commissioner shall determine those instances in which the party seeking to divest or to acquire a controlling interest in an insurer, shall be required to file for and obtain approval of the transaction. The information shall remain confidential until the conclusion of the transaction unless the commissioner, in the commissioner's discretion, determines that confidential treatment will interfere with enforcement of this section. If the statement referred to in paragraph *"a"* is otherwise filed, this paragraph *"b"* shall not apply.

c. For purposes of this section a *"domestic insurer"* shall include any other person

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controlling a domestic insurer unless the other person is either directly or through its affiliates primarily engaged in business other than the business of insurance. However, for purposes of this section"*person*" does not include a securities broker holding, in the usual and customary broker's function, less than twenty percent of the voting securities of an insurance company or of a person which controls an insurance company.

2. *Content of statement.*

a. The statement to be filed with the commissioner under this section shall be made under oath or affirmation and shall contain the following:

(1) The name and address of each person by whom or on whose behalf the merger or other acquisition of control referred to in subsection 1 is to be effected, hereinafter called "acquiring party".

(a) If such person is an individual, the individual's principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations during the past ten years.

(b) If such person is not an individual, a report of the nature of its business operations during the past five years or for such lesser period as such person and any predecessors thereof shall have been in existence; an informative description of the business intended to be done by such person and such person's subsidiaries; and a list of all individuals who are or who have been selected to become directors or executive officers of such person, or who perform or will perform functions appropriate to such positions. Such list shall include for each such individual the information required by subparagraph division (a).

(2) The source, nature, and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction in which funds were or are to be obtained for any such purpose including a pledge of the insurer's stock, or the stock of any of its subsidiaries or controlling affiliates, and the identity of persons furnishing the consideration. However, if a source of the consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential, if the person filing the statement so requests.

(3) Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding five fiscal years of each such acquiring party, or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence, and similar unaudited information as of a date not earlier than ninety days prior to the filing of the statement.

(4) Any plans or proposals which each acquiring party may have to liquidate such insurer, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management.

(5) The number of shares of any security referred to in subsection 1 which each acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement, or acquisition referred to in subsection 1, and a statement as to the method by which the fairness of the proposal was arrived at.

(6) The amount of each class of any security referred to in subsection 1 which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party.

(7) A full description of any contracts, arrangements or understandings with respect to any security referred to in subsection 1 in which any acquiring party is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements or understandings have been entered into.

(8) A description of the purchase of any security referred to in subsection 1 during the twelve calendar months preceding the filing of the statement, by any acquiring party, including the dates of purchase, names of the purchasers, and consideration paid or agreed to be paid therefor.

(9) A description of any recommendations to purchase any security referred to in subsection 1 made during the twelve calendar months preceding the filing of the statement,

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by any acquiring party, or by anyone based upon interview or at the suggestion of such acquiring party.

(10) Copies of all tender offers for, requests or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities referred to in subsection 1, and, if distributed, of additional soliciting material relating thereto.

(11) The terms of any agreement, contract or understanding made with any broker-dealer as to solicitation of securities referred to in subsection 1 for tender, and the amount of any fees, commissions, or other compensation to be paid to broker-dealers with regard thereto.

(12) An agreement by the person required to file the statement referred to in subsection 1 that the person will provide the annual enterprise risk report specified in section 521A.4, subsection 12, for so long as control exists.

(13) An acknowledgment by the person required to file the statement referred to in subsection 1 that the person and all subsidiaries within its control in the insurance holding company system will provide information to the commissioner upon request as necessary to evaluate enterprise risk to the insurer.

(14) Additional information as the commissioner may by rule prescribe as necessary or appropriate for the protection of policyholders of the insurer or in the public interest.

b. If the person required to file the statement referred to in subsection 1 is a partnership, limited partnership, syndicate or other group, the commissioner may require that the information called for by paragraph "*a*", subparagraphs (1) through (14) shall be given with respect to each partner of such partnership or limited partnership, each member of such syndicate or group, and each person who controls such partner or member. If any such partner, member, or person is a corporation or the person required to file the statement referred to in subsection 1 is a corporation, the commissioner may require that the information called for by paragraph "*a*", subparagraphs (1) through (14) shall be given with respect to such corporation, each officer and director of such corporation, and each person who is directly or indirectly the beneficial owner of more than ten percent of the outstanding voting securities of such corporation. If any material change occurs in the facts set forth in the statement filed with the commissioner and sent to such insurer pursuant to this section, an amendment setting forth such change, together with copies of all documents and other material relevant to such change, shall be filed with the commissioner and sent to such insurer within two business days after the person learns of such change. Such insurer shall send such amendment to its shareholders.

3. *Alternative filing materials.* If any offer, request, invitation, agreement, or acquisition referred to in subsection 1 is proposed to be made by means of a registration statement under the Securities Act of 1933 or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934, or under a state law requiring similar registration, or disclosure, the person required to file the statement referred to in subsection 1 may utilize such documents in furnishing the information called for by that statement.

4. *Approval by the commissioner — hearings.*

a. The commissioner shall approve any merger or other acquisition of control referred to in subsection 1 if, after a public hearing on such merger or acquisition, the applicant has demonstrated to the commissioner all of the following:

(1) After the change of control the domestic insurer referred to in subsection 1 will be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed.

(2) The effect of the merger or other acquisition of control will not substantially lessen competition in insurance in this state.

(3) The financial condition of any acquiring party will not jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders.

(4) The plans or proposals which the acquiring party has to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are not unfair or unreasonable to policyholders of the insurer and are not contrary to the public interest.

(5) The competence, experience, and integrity of those persons who would control the

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operation of the insurer are sufficient to indicate that the interests of policyholders of the insurer and of the public will not be jeopardized by the merger or other acquisition of control.

(6) The merger or other acquisition of control is not likely to be hazardous or prejudicial to the insurance-buying public.

b. The public hearing referred to in paragraph *"a"* shall be held within thirty days after the commissioner has determined that the statement required by subsection 1 has been completed and contains all the required information set forth in subsection 2, and at least twenty days' notice of the public hearing shall be given by the commissioner to the person filing the statement and to the domestic insurer. Not less than seven days' notice of the public hearing shall be given by the person filing the statement to the insurer and to such other persons as may be designated by the commissioner. The commissioner shall make a determination within thirty days after the conclusion of the hearing. At the hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interests may be affected shall have the right to present evidence, examine and cross-examine witnesses, and offer oral and written arguments and in connection therewith shall be entitled to conduct discovery proceedings in the same manner as is presently allowed in the district court of this state. All discovery proceedings shall be concluded not later than three days prior to the commencement of the public hearing.

c. If the proposed merger or other acquisition of control will require the approval of more than one commissioner, the public hearing referred to in paragraph *"a"* may be held on a consolidated basis upon request of the person filing the statement referred to in subsection 1. Such person may file the statement referred to in subsection 1 with the national association of insurance commissioners within five days of making the request for a public hearing. The commissioner may opt out of a consolidated hearing, and shall provide notice to the applicant of the opt-out within ten days of the receipt of the statement referred to in subsection 1. A hearing conducted on a consolidated basis shall be public and shall be held within the United States before the commissioners of the states in which the insurers are domiciled. Such commissioners shall hear and receive evidence. The commissioner may attend such hearing in person or by telecommunication.

d. The commissioner may retain any attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff as may be reasonably necessary to assist the commissioner in reviewing the proposed merger or acquisition of control, the reasonable cost of which shall be paid by the acquiring party.

5. *Exemptions.* The provisions of this section shall not apply to any offer, request, invitation, agreement, or acquisition which the commissioner by order shall exempt therefrom for one of the following reasons:

a. It has not been made or entered into for the purpose and does not have the effect of changing or influencing the control of a domestic insurer.

b. It is otherwise not comprehended within the purposes of this section.

6. *Violations.* The following shall be violations of this section:

a. The failure to file any statement, amendment, or other material required to be filed pursuant to subsection 1 or 2.

b. The effectuation or any attempt to effectuate an acquisition of control of, or merger with, a domestic insurer unless the commissioner has given approval thereto.

7. *Jurisdiction — consent to service of process.* The district court is hereby vested with jurisdiction over a person that is not a resident, is not domiciled, or is not authorized to do business in this state that files a statement with the commissioner under this section, and over all actions involving the person arising out of violations of this section, and the person shall be deemed to have performed acts equivalent to and constituting an appointment by the person of the commissioner to be the person's true and lawful attorney upon whom may be made all lawful process, notice, or demand in any action, suit, or proceeding arising out of a

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violation of this section. A copy of all such lawful process, notice, or demand shall be made on the commissioner as the attorney for service of process as provided in section 505.30.

[C71, 73, 75, 77, 79, 81, §521A.3; 82 Acts, ch 1051, §4 – 6]

86 Acts, ch 1102, §9 – 11; 91 Acts, ch 26, §49, 50; 93 Acts, ch 88, §26; 97 Acts, ch 186, §26; 2012 Acts, ch 1023, §129; 2014 Acts, ch 1018, §3 – 9; 2018 Acts, ch 1018, §12; 2022 Acts, ch 1050, §3; 2023 Acts, ch 66, §127; 2024 Acts, ch 1043, §98, 99

Referred to in §505.23, 508B.13, 521.16, 521A.1, 521A.9, 521A.14

521A.4 Registration of insurers — enterprise risk report.

1. *Registration.* An insurer which is authorized to do business in this state and which is a member of an insurance holding company system shall register with the commissioner, except a foreign insurer subject to registration requirements and standards which are substantially similar to those contained in this section and section 521A.5, subsection 1, paragraph *"a"*, and are adopted by statute or regulation in the jurisdiction of its domicile. The insurer shall also file a copy of the summary of its registration statement as required by subsection 5 in each state in which that insurer is authorized to do business if requested to do so by the commissioner of that state. An insurer which is subject to registration under this section shall register within fifteen days after it becomes subject to registration and annually thereafter by March 31 of each year for the previous calendar year unless the commissioner for good cause shown extends the time for registration, and then within the extended time. The commissioner may require any authorized insurer which is a member of a holding company system which is not subject to registration under this section to furnish a copy of the registration statement or other information filed by the insurance company with the insurance regulatory authority of the company's domiciliary jurisdiction.

2. *Information and form required.* Every insurer subject to registration shall file a registration statement on a form prescribed by the commissioner, which may be a form provided by the national association of insurance commissioners, which shall contain current information about:

a. The capital structure, general financial condition, ownership and management of the insurer and any person controlling the insurer.

b. The identity and relationship of every member of the insurance holding company system.

c. The following agreements in force, relationships subsisting, and transactions currently outstanding or which have occurred during the last calendar year between the insurer and its affiliates:

(1) Loans, other investments, or purchases, sales, or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates.

(2) Purchases, sales, or exchanges of assets.

(3) Transactions not in the ordinary course of business.

(4) Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business.

(5) All management and service contracts and all cost-sharing arrangements, other than cost allocation arrangements based upon generally accepted accounting principles.

(6) Reinsurance agreements.

(7) Dividends and other distributions to shareholders.

(8) Consolidated tax allocation agreements.

d. A pledge of the insurer's stock, including stock of a subsidiary or controlling affiliate, for a loan made to a member of the insurance holding company system.

e. If requested by the commissioner, the insurer shall include financial statements of or within an insurance holding company system, including all affiliates. Financial statements may include but are not limited to annual audited financial statements filed with the United States securities and exchange commission pursuant to the federal Securities Act of 1933, as amended, or the federal Securities Exchange Act of 1934, as amended. An insurer required to file financial statements pursuant to this paragraph may satisfy the request by providing

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the commissioner with the most recently filed financial statements of the parent corporation that have been filed with the United States securities and exchange commission.

f. Statements that the insurer's board of directors oversees corporate governance and internal controls and that the insurer's officers or senior management have approved, implemented, and continue to maintain and monitor corporate governance and internal control procedures.

g. Other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in any registration forms adopted or approved by the commissioner.

h. Any other information required by the commissioner by rule or by regulation.

3. *Materiality.* Information need not be disclosed on the registration statement filed pursuant to subsection 2 if the information is not material for the purposes of subsections 1 through 12. Unless the commissioner by rule or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, or investments or guarantees involving one-half of one percent or less of an insurer's admitted assets as of the next preceding December 31, are not material for purposes of subsections 1 through 12.

4. *Reporting of dividends to shareholders.* Subject to section 521A.5, subsection 3, a registered insurer shall report to the commissioner all dividends and other distributions to shareholders within fifteen days following the declaration of the dividends or distributions.

5. *Summary of registration statement.* All registration statements shall contain a summary outlining all items in the current registration statement representing changes from the next preceding registration statement.

6. *Information of insurers.* Any person within an insurance holding company system subject to registration is required to provide complete and accurate information to an insurer if the information is reasonably necessary to enable the insurer to comply with this chapter.

7. *Termination of registration.* The commissioner shall terminate the registration of any insurer which demonstrates that it no longer is a member of an insurance holding company system.

8. *Consolidated filing.* The commissioner may require or allow two or more affiliated insurers subject to registration under subsection 1 to file a consolidated registration statement or consolidated reports amending their consolidated registration statement or their individual registration statements.

9. *Alternative registration.* The commissioner may allow an insurer which is authorized to do business in this state and which is part of an insurance holding company system to register on behalf of any affiliated insurer which is required to register under subsection 1 of this section and to file all information and material required to be filed under this section.

10. *Exemptions.* The provisions of this section shall not apply to any insurer, information, or transaction if and to the extent that the commissioner by rule, regulation, or order shall exempt the same from the provisions of this section.

11. *Disclaimer.* Any person may file with the commissioner a disclaimer of affiliation with any authorized insurer or such a disclaimer may be filed by such insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and basis for affiliation between such person and such insurer as well as the basis for disclaiming such affiliation. A disclaimer of affiliation shall be deemed to have been granted unless the commissioner, within thirty days following receipt of a complete disclaimer, notifies the filing party that the disclaimer is disallowed. In the event of disallowance, the disclaiming party may request an administrative hearing, which shall be granted. The disclaiming party shall be relieved of its duty to register under this section if approval of the disclaimer has been granted by the commissioner, or if the disclaimer is deemed to have been granted.

12. *Enterprise risk report.* The ultimate controlling person of every insurer subject to registration shall also file an annual enterprise risk report. The report shall, to the best of the ultimate controlling person's knowledge and belief, identify the material risks within the insurance holding company system that could pose enterprise risk to the insurer. The report shall be filed with the lead state commissioner of the insurance holding company system as determined by the procedures within the financial analysis handbook adopted by the NAIC.

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13. *Group capital calculation.*

a. The ultimate controlling person of every insurer subject to registration shall file an annual group capital calculation on or before June 30. The calculation must be completed in accordance with the group capital calculation instructions, and must be filed with the lead state commissioner of the insurance holding company system as determined by the procedures in the most recent financial analysis handbook published by the NAIC. As permitted by the group capital calculation instructions, the lead state commissioner may allow a controlling person, other than the ultimate controlling person, to file the group capital calculation. The following insurance holding company systems are exempt from filing the group capital calculation:

(1) An insurance holding company system that has only one insurer within its holding company structure, that only writes business and is only licensed in its domestic state, and that assumes no business from any other insurer.

(2) An insurance holding company system that is required to perform a group capital calculation specified by the federal reserve board, if the board is able to share the calculation with the lead state commissioner pursuant to the terms of applicable information sharing agreements. The exemption shall not apply if the board does not share the calculation with the lead state commissioner.

(3) An insurance holding company system whose non-United States group-wide supervisor is located within a reciprocal jurisdiction that recognizes the United States' state regulatory approach to group supervision and group capital.

(4) An insurance holding company system that meets all of the following criteria:

(a) The system provides information to a lead state that meets the requirements for accreditation under the NAIC financial standards and accreditation program, either directly or indirectly through the group-wide supervisor who has determined such information is satisfactory to allow the lead state to comply with the group supervision approach as detailed in the most recent financial analysis handbook published by the NAIC.

(b) The system's non-United States' group-wide supervisor that is not in a reciprocal jurisdiction recognizes and accepts, as established by the commissioner by rule, the group capital calculation as the world-wide group capital assessment for United States' insurance groups that operate in that jurisdiction.

b. Notwithstanding paragraph *"a"*, subparagraphs (3) and (4), a lead state commissioner, after any necessary consultation with appropriate supervisors or officials, shall require the United States' operations of any non-United States-based insurance holding company system to file a group capital calculation if the lead state commissioner deems it appropriate for prudential oversight and solvency monitoring purposes, or for ensuring the competitiveness of the insurance marketplace.

c. Notwithstanding paragraph *"a"*, the lead state commissioner shall have the discretion to exempt the ultimate controlling person of an insurer subject to registration from the annual group capital calculation filing requirement, or to allow a limited group capital filing or report in accordance with criteria as established by the commissioner by rule.

d. If the lead state commissioner determines that an insurance holding company system no longer satisfies the criteria for exemption under paragraph *"a"*, subparagraphs (1) through (4), the insurance holding company system shall file the group capital calculation at the next annual filing date, unless for reasonable grounds shown is granted an extension by the lead state commissioner.

14. *Liquidity stress test.*

a. The ultimate controlling person of every insurer subject to registration, and that meets the scope criteria, shall file the results of a liquidity stress test for each data year that the insurer is subject to the liquidity stress test framework. The filing shall be made to the lead state insurance commissioner of the insurance holding company system as determined by the procedures in the applicable financial analysis handbook published by the NAIC.

b. Any change to the NAIC liquidity stress test framework, or to the data year for which the scope criteria is to be measured, shall be effective on January 1 of the calendar year immediately following the calendar year that the change to the liquidity stress test framework or the data year is adopted by the NAIC.

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c. An insurer that meets at least one threshold of the scope criteria shall be subject to the liquidity stress test framework for the specified data year unless the lead state insurance commissioner, in consultation with the NAIC financial stability task force or its successor, determines that the insurer shall be exempt from the liquidity stress test framework for that data year. An insurer that does not meet at least one threshold of the scope criteria for a specified data year may be subject to the liquidity stress test framework if the lead state insurance commissioner, in consultation with the NAIC financial stability task force or its successor, determines that the insurer shall be subject to the liquidity stress test framework for that data year.

d. The performance of, and filing of the results from, a specific year's liquidity stress test shall comply with all the following:

(1) The liquidity stress test framework instructions and reporting template applicable to the corresponding data year.

(2) The determinations made by the lead state insurance commissioner, in conjunction with the NAIC's financial stability task force or its successor, that are provided within the liquidity stress test framework.

15. *Violations.* The failure to file a registration statement or a summary of the registration statement or an enterprise risk report required by this section within the time specified for the filing is a violation of this section.

[C71, 73, 75, 77, 79, 81, §521A.4]

86 Acts, ch 1102, §12 – 18; 87 Acts, ch 115, §66; 91 Acts, ch 26, §51 – 53; 2014 Acts, ch 1018, §10 – 13; 2022 Acts, ch 1050, §4, 5; 2023 Acts, ch 39, §1; 2023 Acts, ch 66, §128; 2024 Acts, ch 1043, §100

Referred to in §508.33A, 521A.1, 521A.3, 521A.5, 521A.6, 521A.6A, 521A.6B, 521A.7, 521A.7A, 521A.10, 521H.3

521A.5 Standards.

1. *Transactions within a holding company system affecting domestic insurers.*

a. Material transactions by registered insurers with their affiliates are subject to the following standards:

(1) The terms shall be fair and reasonable.

(2) Agreements for cost-sharing services and management shall include such provisions as required by rule issued by the commissioner.

(3) Charges or fees for services performed shall be reasonable.

(4) Expenses incurred and payment received shall be allocated to the insurer in conformity with customary and consistently applied insurance accounting practices.

(5) The books, accounts, and records of each party shall be so maintained as to clearly and accurately disclose the precise nature and details of the transactions.

(6) After any material transaction with an affiliate and after any dividends or distributions to shareholder affiliates, the insurer's surplus as regards policyholders shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

b. A domestic insurer and a person in its holding company system shall not enter into any of the following transactions between each other involving amounts equal to or exceeding the lesser of three percent of a nonlife insurer's admitted assets or twenty-five percent of the surplus as regards policyholders with respect to nonlife insurers, and equal to or exceeding three percent of the insurer's admitted assets with respect to life insurers, each as of the next preceding December 31, unless the domestic insurer notifies the commissioner in writing of its intention to enter into the transaction at least thirty days prior to entering into the transaction or within a shorter time permitted by the commissioner and the commissioner has not disapproved of the transaction within the time period:

(1) Sales.

(2) Purchases.

(3) Exchanges.

(4) Loans or extensions of credit.

(5) Investments.

(6) Loans or extensions of credit to a person who is not an affiliate, if the domestic insurer makes the loans or extensions of credit with the agreement or understanding that

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the proceeds of the transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, an affiliate of the domestic insurer making the loans or extensions of credit.

c. A domestic insurer and a person in its holding company system shall not enter into any of the following transactions, unless the domestic insurer notifies the commissioner in writing of its intention to enter into the transaction at least thirty days prior to entering into the transaction or within a shorter time permitted by the commissioner and the commissioner has not disapproved of the transaction within the time period:

(1) All reinsurance pooling agreements.

(2) All reinsurance agreements or modifications to such agreements in which the reinsurance premium or a change in the insurer's liabilities, or the projected reinsurance premium or a change in the insurer's liabilities in any of the next three years, equals or exceeds five percent of the insurer's surplus as regards policyholders, as of the next preceding December 31, including those agreements which may require as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and nonaffiliate that any portion of such assets will be transferred to one or more affiliates of the insurer.

(3) All management agreements, service contracts, tax allocation agreements, guarantees, and all other cost-sharing arrangements. A guarantee which is quantifiable as to amount is not subject to the notice requirements of this paragraph "*c*" unless it exceeds the lesser of one-half of one percent of the insurer's admitted assets or ten percent of surplus as regards policyholders as of the next preceding December 31. Further, all guarantees which are not quantifiable as to amount are subject to the notice requirements of this paragraph "*c*".

(4) Direct or indirect acquisitions or investments in a person that controls the insurer or in an affiliate of the insurer in an amount which, together with its present holdings in such investments, exceeds two and one-half percent of the insurer's surplus to policyholders. Direct or indirect acquisitions or investments in subsidiaries acquired pursuant to section 521A.2 or authorized under any other section of this chapter, or in nonsubsidiary insurance affiliates that are subject to the provisions of this chapter, are exempt from this subparagraph.

(5) Any material transactions specified by rule which the commissioner determines may adversely affect the interests of the domestic insurer's policyholders.

d. This subsection does not authorize or permit any transactions which in the case of an insurer would be otherwise contrary to law.

e. A domestic insurer shall not enter into transactions which are part of a plan or series of like transactions with a person or persons within the holding company system if the purpose of those separate transactions is to avoid the statutory threshold amount and thus avoid the review that would occur otherwise. If the commissioner determines that such separate transactions were entered into over a twelve-month period for that purpose, the commissioner may exercise the authority under section 521A.10.

f. The commissioner, in reviewing transactions pursuant to paragraphs "*b*" and "*c*", shall consider whether the transactions comply with the standards set forth in paragraph "*a*".

g. A domestic insurer shall notify the commissioner within thirty days of an investment of the insurer in a corporation if the total investment in the corporation by the insurance holding company system exceeds ten percent of the corporation's voting securities.

2. *Adequacy of surplus.* For purposes of this chapter in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors, among others, shall be considered:

a. The size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force and other appropriate criteria.

b. The extent to which the insurer's business is diversified among the several lines of insurance.

c. The number and size of risks insured in each line of business.

d. The extent of the geographical dispersion of the insurer's insured risks.

e. The nature and extent of the insurer's reinsurance program.

f. The quality, diversification, and liquidity of the insurer's investment portfolio.

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g. The recent past and projected future trend in the size of the insurer's surplus as regards policyholders.

h. The surplus as regards policyholders maintained by other comparable insurers.

i. The adequacy of the insurer's reserves.

j. The quality and liquidity of investments in subsidiaries made pursuant to section 521A.2. The commissioner may treat any such investment as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in the commissioner's judgment such investment so warrants.

k. The quality of the company's earnings and the extent to which the reported earnings include extraordinary items.

3. *Dividends and other distributions.*

a. (1) A domestic insurer may declare and pay dividends to its shareholders only from earned surplus.

(2) For the purposes of this paragraph, *"earned surplus"* means surplus as regards policyholders less paid-in and contributed surplus, and may include a fair revaluation of assets by the board of directors that is reasonable under the circumstances. Assets revalued by the board of directors cannot be included in earned surplus until thirty days after the commissioner has received notice of the revaluation and has approved the revaluation. The commissioner shall approve or disapprove the revaluation within thirty days after receiving notice of the revaluation unless for good cause the commissioner extends the approval period for an additional thirty days.

b. (1) A domestic insurer shall not pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until thirty days after the commissioner has received notice of the declaration of the dividend or distribution and has not disapproved such payment within the period, or until the time the commissioner has approved the payment within the thirty-day period.

(2) For purposes of this paragraph, an "*extraordinary dividend or distribution*" includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding twelve months exceeds the greater of the following:

(a) Ten percent of insurer's surplus as regards policyholders as of the thirty-first day of December next preceding.

(b) The net gain from operations of the insurer, if the insurer is a life insurer, or the net income, if the insurer is not a life insurer, for the twelve-month period ending the thirty-first day of December next preceding.

(3) An extraordinary dividend or distribution does not include pro rata distributions of any class of the insurer's own securities.

c. A domestic insurer subject to registration under section 521A.4 shall report to the commissioner all dividends to shareholders within five business days following the declaration of the dividends and not less than fourteen days prior to the payment of the dividends. This report shall also include a schedule setting forth all dividends or other distributions made within the previous twelve months.

d. Notwithstanding any other provision of law, a domestic insurer may declare an extraordinary dividend or distribution which is conditional upon the commissioner's approval of the dividend or distribution. Such declaration does not confer any rights upon shareholders until the commissioner has approved the payment of the dividend or distribution or the commissioner has not disapproved the payment within the thirty-day period as provided in paragraph *"b"*.

4. *Management of domestic insurers subject to registration.*

a. Notwithstanding the control of a domestic insurer by any person, the officers and directors of the insurer shall not thereby be relieved of any obligation or liability to which they would otherwise be subject by law, and the insurer shall be managed so as to assure its separate operating identity consistent with this chapter.

b. Nothing in this section shall preclude a domestic insurer from having or sharing a common management, or cooperative or joint use of personnel, property, or services with one or more other persons under arrangements meeting the standards of this section.

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c. Not less than one-third of the directors of a domestic insurer, and not less than one-third of the members of each committee of the board of directors of any domestic insurer, shall be persons who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or entity. At least one such person must be included in any quorum for the transaction of business at any meeting of the board of directors or any committee of the board of directors.

d. The board of directors of a domestic insurer shall establish one or more committees comprised solely of directors or other persons appointed by the board, the majority of whom are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and are not beneficial owners of a controlling interest in the voting stock of the insurer or any such entity. The committee or committees shall have responsibility for recommending or nominating candidates for director for election by shareholders or policyholders, evaluating the performance of officers deemed to be principal officers of the insurer, and recommending to the board of directors the selection and compensation of the principal officers.

e. The provisions of paragraphs "*c*" and "*d*" shall not apply to a domestic insurer if the person controlling the insurer, such as an insurer, a mutual insurance holding company, or a publicly held corporation, has a board of directors and committees of the board of directors that meet the requirements of paragraphs "*c*" and "*d*" with respect to such controlling entity.

f. An insurer may make application to the commissioner for a waiver from the requirements of this subsection if the insurer's annual direct written and assumed premium, excluding premiums reinsured with the federal crop insurance corporation and federal flood program, is less than three hundred million dollars. An insurer may also make application to the commissioner for a waiver from the requirements of this subsection based upon unique circumstances. The commissioner may consider various factors including but not limited to the type of business entity, volume of business written, availability of qualified board members, or the ownership or organizational structure of the entity.

[C71, 73, 75, 77, 79, 81, §521A.5]

86 Acts, ch 1102, §19, 20; 91 Acts, ch 26, §54; 92 Acts, ch 1117, §40, 43; 93 Acts, ch 88, §27 – 30; 94 Acts, ch 1006, §1; 94 Acts, ch 1023, §125; 2012 Acts, ch 1023, §157; 2014 Acts, ch 1018, §14 – 17; 2015 Acts, ch 128, §25, 50, 51; 2016 Acts, ch 1073, §157

Referred to in §508.33A, 521A.4, 521A.7, 521A.10

521A.6 Examination — penalties — expenses.

1. *Power of commissioner.* Subject to the limitation contained in this section and in addition to the powers which the commissioner has under chapter 507 relating to the examination of insurers, the commissioner shall have the power to examine any insurer registered under section 521A.4 and its affiliates to ascertain the financial condition of the insurer, including the enterprise risk to the insurer by the ultimate controlling party, or by any entity or combination of entities within the insurance holding company system, or by the insurance holding company system on a consolidated basis.

2. *Access to books and records — penalty.*

a. The commissioner may order an insurer registered under section 521A.4 to produce records, books, or other information papers in the possession of the insurer or its affiliates as reasonably necessary or to determine compliance with this chapter.

b. To determine compliance with this chapter, the commissioner may order any insurer registered under section 521A.4 to produce information not in the possession of the insurer if the insurer can obtain access to such information pursuant to a contractual relationship, statutory obligation, or other method. In the event the insurer cannot obtain the information requested by the commissioner, the insurer shall provide the commissioner a detailed explanation of the reason that the insurer cannot obtain the information and the identity of the holder of the information. Whenever it appears to the commissioner that the detailed explanation is without merit, the commissioner may require, after notice and hearing, the insurer to pay a penalty of five hundred dollars for each day's delay, or may suspend or revoke the insurer's certificate of authority.

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3. *Compelling production.* In the event the insurer fails to comply with an order, the commissioner shall have the power to examine the affiliates to obtain the information. The commissioner shall also have the power to issue subpoenas, to administer oaths, and to examine under oath any person for purposes of determining compliance with this section. Upon the failure or refusal of any person to obey a subpoena, the commissioner may petition a court of competent jurisdiction, and upon proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order shall be punishable as contempt of court. Every person shall be obliged to attend as a witness at the place specified in the subpoena, when subpoenaed, anywhere within the state. Such a person shall be entitled to the same fees and mileage, if claimed, as a witness in district court, which fees, mileage, and actual expense, if any, necessarily incurred in securing the attendance of witnesses, and their testimony, shall be itemized and charged against, and be paid by, the company being examined.

4. *Use of consultants.* The commissioner may retain at the registered insurer's expense such attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff as shall be reasonably necessary to assist in the conduct of the examination under subsection 1, 2, or 3. Any persons so retained shall be under the direction and control of the commissioner and shall act in a purely advisory capacity.

5. *Expenses.* Each registered insurer producing for examination records, books, and papers pursuant to subsection 1, 2, or 3 shall be liable for and shall pay the expense of such examination in accordance with section 507.7.

[C71, 73, 75, 77, 79, 81, §521A.6]

86 Acts, ch 1102, §21, 22; 2014 Acts, ch 1018, §18; 2024 Acts, ch 1043, §101

Referred to in §508.33A, 521A.6A, 521A.6B, 521A.7

521A.6A Supervisory colleges — assessment of insurers.

1. *Power of commissioner.* With respect to any insurer registered under section 521A.4 and in accordance with this section, the commissioner shall have the power to participate in a supervisory college for any domestic insurer that is part of an insurance holding company system with international operations in order to determine compliance by the insurer with this chapter. The powers of the commissioner with respect to supervisory colleges include but are not limited to the following:

a. Initiating the establishment of a supervisory college.

b. Clarifying the membership and participation of other supervisors in the supervisory college.

c. Clarifying the functions of the supervisory college and the role of other regulators, including the establishment of a group-wide supervisor.

d. Coordinating the ongoing activities of the supervisory college, including planning meetings, supervisory activities, and processes for information sharing.

e. Establishing a crisis management plan.

2. *Expenses — assessment.* Each registered insurer subject to this section shall be liable for and shall pay the reasonable expenses of the commissioner's participation in a supervisory college in accordance with subsection 3, including reasonable travel expenses. For purposes of this section, a supervisory college may be convened as either a temporary or permanent forum for communication and cooperation between the regulators charged with the supervision of the insurer or its affiliates, and the commissioner may establish a regular assessment to the insurer for the payment of these expenses.

3. *Supervisory college.* In order to assess the business strategy, financial position, legal and regulatory position, risk exposure, risk management and governance processes, and as part of the examination of individual insurers in accordance with section 521A.6, the commissioner may participate in a supervisory college with other regulators charged with supervision of an insurer or its affiliates, including other state, federal, and international regulatory agencies. The commissioner may enter into agreements in accordance with section 521A.7, subsection 3, providing the basis for cooperation between the commissioner and the other regulatory agencies, and the activities of the supervisory college. Nothing in

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this section shall delegate to the supervisory college the authority of the commissioner to regulate or supervise the insurer or its affiliates within the commissioner's jurisdiction.

2014 Acts, ch 1018, §19; 2016 Acts, ch 1122, §8, 9
Referred to in §521A.6B, 521A.7

521A.6B Group-wide supervision of internationally active insurance groups.

1. *a.* The commissioner may act as the group-wide supervisor of an internationally active insurance group in accordance with the provisions of this section. However, the commissioner may authorize another regulatory official to act as the group-wide supervisor where the internationally active insurance group meets any of the following conditions:

(1) Does not have substantial insurance operations in the United States.

(2) Has substantial insurance operations in the United States, but not in Iowa.

(3) Has substantial insurance operations in the United States and in Iowa, but the commissioner has determined pursuant to the factors set forth in subsections 2 and 6 that another regulatory official is the appropriate group-wide supervisor.

b. In response to a request from an insurance holding company system that does not otherwise qualify as an internationally active insurance group, the commissioner may make a determination of or acknowledge a group-wide supervisor for such an insurance holding company system pursuant to this section.

2. *a.* In cooperation with other state, federal, and international regulatory agencies, the commissioner shall identify a single group-wide supervisor for an internationally active insurance group. The commissioner may determine that the commissioner is the appropriate group-wide supervisor for an internationally active insurance group that conducts substantial insurance operations concentrated in this state, or the commissioner may acknowledge that a regulatory official from another jurisdiction is the appropriate group-wide supervisor for the internationally active insurance group. In making a determination or acknowledgment under this paragraph "*a*", the commissioner shall consider the following factors:

(1) The place of domicile of the insurers within the internationally active insurance group that hold the largest share of the group's written premiums, assets, or liabilities.

(2) The place of domicile of the top-tiered insurers in the insurance holding company system of the internationally active insurance group.

(3) The location of the executive offices or largest operational offices of the internationally active insurance group.

(4) Whether another regulatory official is acting as or is seeking to act as the group-wide supervisor of the internationally active insurance group under a regulatory system that the commissioner determines to be either of the following:

(a) Substantially similar to the system of regulation provided under the laws of this state.

(b) Otherwise sufficient in terms of providing for group-wide supervision, enterprise risk analysis, and cooperation with other regulatory officials.

(5) Whether another regulatory official acting as or seeking to act as the group-wide supervisor for the internationally active insurance group provides the commissioner with reasonably reciprocal recognition and cooperation.

b. Notwithstanding paragraph "*a*", even if the commissioner is identified pursuant to this subsection as the group-wide supervisor of an internationally active insurance group, the commissioner may determine that it is appropriate to acknowledge another regulatory official to serve as the group-wide supervisor of the internationally active insurance group.

c. The acknowledgment of a group-wide supervisor pursuant to this subsection shall be made after consideration of the factors listed in paragraph "*a*", subparagraphs (1) through (5), and shall be made in cooperation with and subject to the acknowledgment of other regulatory officials involved with supervision of members of the internationally active insurance group, and in consultation with the internationally active insurance group.

3. Notwithstanding any other provision of law, when another regulatory official is acting as the group-wide supervisor of an internationally active insurance group, the commissioner shall acknowledge that regulatory official as the group-wide supervisor of the internationally active insurance group. However, the commissioner shall make a new determination or acknowledgment as to the appropriate group-wide supervisor for the internationally active

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insurance group in the event that a material change in the internationally active insurance group results in either of the following:

a. The internationally active insurance group's insurers domiciled in Iowa holding the largest share of the group's premiums, assets, or liabilities.

b. Iowa being the place of domicile of the top-tiered insurers in the insurance holding company system of the internationally active insurance group.

4. Pursuant to section 521A.6, the commissioner is authorized to collect from any insurer registered pursuant to section 521A.4 all information necessary to determine whether it is appropriate for the commissioner to act as the group-wide supervisor of an internationally active insurance group or to acknowledge another regulatory official to act as the group-wide supervisor of the internationally active insurance group. Prior to issuing a determination or acknowledgment pursuant to this section, the commissioner shall notify the insurer registered pursuant to section 521A.4 and the ultimate controlling person within the internationally active insurance group of the pending determination or acknowledgment. The insurer and the internationally active insurance group shall have not less than thirty days to provide the commissioner with additional information pertinent to the commissioner's pending determination or acknowledgment. The commissioner shall publish the identity of the internationally active insurance groups that the commissioner has determined are subject to group-wide supervision by the commissioner.

5. If a determination is made that the commissioner is the appropriate group-wide supervisor for an internationally active insurance group, the commissioner is authorized to engage in any of the following group-wide supervision activities:

a. Assessing the enterprise risks within the internationally active insurance group to ensure all of the following:

(1) That the material financial condition and liquidity risks to members of the internationally active insurance group that are engaged in the business of insurance are identified by management.

(2) That reasonable and effective mitigation measures are in place.

b. Requesting, from any member of an internationally active insurance group subject to the commissioner's group-wide supervision, information necessary and appropriate to assess enterprise risk, including but not limited to information about the members of the internationally active insurance group regarding all of the following:

(1) Governance, risk assessment, and management.

(2) Capital adequacy.

(3) Material intercompany transactions.

c. Coordinating and, through the authority of the regulatory officials of the jurisdictions where members of the internationally active insurance group are domiciled, compelling the development and implementation of reasonable measures designed to ensure that the internationally active insurance group is able to timely recognize and mitigate enterprise risks to members of the internationally active insurance group that are engaged in the business of insurance.

d. Communicating with other state, federal, and international regulatory agencies for members within the internationally active insurance group and sharing relevant information, subject to the confidentiality provisions of section 521A.7, through supervisory colleges as set forth in section 521A.6A or otherwise.

e. Entering into agreements with or obtaining documentation from any insurer registered under section 521A.4, any member of an internationally active insurance group, and any other state, federal, or international regulatory agency for members of the internationally active insurance group, that provides the basis for or otherwise clarifies the commissioner's role as group-wide supervisor of an internationally active insurance group, including provisions for resolving disputes with other regulatory officials. Such agreements or documentation shall not serve as evidence in any proceeding that any insurer or person within an insurance holding company system not domiciled or incorporated in this state is doing business in this state or is otherwise subject to jurisdiction in this state.

f. Other activities of group-wide supervision, consistent with the authority and purposes set forth in this section, as considered necessary by the commissioner.

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6. If the commissioner acknowledges that another regulatory official from a jurisdiction that is not accredited by the national association of insurance commissioners is the group-wide supervisor of an internationally active insurance group, the commissioner may reasonably cooperate through a supervisory college or otherwise, with group-wide supervision undertaken by that regulatory official provided that all of the following occur:

a. The commissioner's cooperation is in compliance with the laws of this state.

b. The regulatory official acknowledged as the group-wide supervisor of the internationally active insurance group also recognizes and cooperates with the commissioner's activities as a group-wide supervisor for other internationally active insurance groups, where applicable. If such recognition and cooperation is not reasonably reciprocal, the commissioner may refuse recognition and cooperation to that regulatory official.

7. The commissioner is authorized to enter into agreements with or obtain documentation from any insurer registered under section 521A.4, any affiliate of the insurer, and any other state, federal, or international regulatory agency for members of the internationally active insurance group, that provides the basis for or otherwise clarifies another regulatory official's role as group-wide supervisor of an internationally active insurance group.

8. An insurer registered under section 521A.4 that is subject to this section shall be liable for and shall pay the reasonable expenses of the commissioner's participation in the administration of this section, including the engagement of attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff and all reasonable travel expenses. Any persons so retained shall be under the direction and control of the commissioner and shall act in a purely advisory capacity.

9. The commissioner shall adopt rules pursuant to chapter 17A to administer this section.

2016 Acts, ch 1122, §10; 2016 Acts, ch 1138, §26

Referred to in §521A.1, 521A.7

521A.7 Confidential treatment.

1. *a.* All information, documents, and copies thereof obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to section 521A.6 or 521A.6A, and all information reported or provided to the commissioner pursuant to sections 521A.4, 521A.5, 521A.6A, and 521A.6B, shall be considered a confidential record and be recognized and protected as a trade secret pursuant to section 22.7, shall not be subject to subpoena, shall not be subject to discovery or admissible in evidence in a private civil action, and shall not be made public by the commissioner or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer and its affiliates who would be affected thereby, notice and opportunity to be heard, determines that the interests of policyholders, shareholders, or the public will be served by the publication thereof, in which event the commissioner may publish all or any part thereof in such manner as the commissioner may deem appropriate. However, the commissioner is authorized to use the information, documents, or copies obtained by, disclosed to, or reported or provided to the commissioner as described in this subsection, in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties.

b. Notwithstanding paragraph *"a"*, the commissioner shall maintain the confidentiality and shall not publish any of the following submitted to the commissioner pursuant to section 521A.4, subsection 13:

(1) Group capital calculations.

(2) Group capital ratios produced within the group capital calculation.

(3) Any group capital information received from an insurance holding company supervised by the federal reserve board or any United States' group-wide supervisor.

c. Notwithstanding paragraph *"a"*, the commissioner shall maintain the confidentiality and shall not publish any of the following submitted to the commissioner pursuant to section 521A.4, subsection 14:

(1) Liquidity stress test results and supporting documentation.

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(2) Any liquidity stress test information received from an insurance holding company supervised by the federal reserve board or any non-United States' group-wide supervisor.

2. Neither the commissioner nor any person who received documents, materials, or other information while acting under the authority of the commissioner or with whom such documents, materials, or other information are shared pursuant to this chapter shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or other information subject to subsection 1.

3. In order to assist in the performance of the commissioner's duties, the commissioner:

a. May share documents, materials, or other information, including confidential, privileged, and trade secret documents, materials, or information subject to subsection 1, with other state, federal, and international regulatory agencies, the NAIC, any third-party consultants designated by the commissioner, state, federal, and international law enforcement authorities, including members of any supervisory college described in section 521A.6A, if the recipient provides a written attestation that states all of the following:

(1) That the recipient shall maintain the confidentiality, privileged, or trade secret status of the document, material, or other information.

(2) That the recipient has the legal authority to maintain the confidentiality, privileged, or trade secret status of the document, material, or other information.

b. Notwithstanding paragraph *"a"*, the commissioner may only share confidential and privileged documents, materials, or information filed or submitted pursuant to section 521A.4, subsection 12, with the commissioner of a state that has statutes or regulations substantially similar if the commissioner provides a written attestation that the documents, material, or information shall not be disclosed.

c. May receive documents, materials, or information, including otherwise confidential, privileged, proprietary, or trade secret documents, materials, or information from the NAIC and its affiliates and subsidiaries, regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential, privileged, proprietary, or trade secret any document, material, or information received with either notice or the understanding that it is confidential, privileged, proprietary, or trade secret under the laws of the jurisdiction that is the source of the document, material, or information.

d. Shall enter into a written agreement with the NAIC, and any third-party consultant designated by the commissioner, that governs sharing and the use of information provided pursuant to this chapter, that is consistent with this subsection, and that does all the following:

(1) Specifies procedures and protocols regarding the confidentiality and security of information shared pursuant to this chapter with the NAIC or a third-party consultant designated by the commissioner, including procedures and protocols for the NAIC sharing the information with other state, federal, or international regulators. The agreement must provide that the recipient of the information shared by the NAIC or a third-party consultant designated by the commissioner shall provide a written attestation that states all of the following:

(a) That the recipient shall maintain the confidentiality, privileged, or trade secret status of the information.

(b) That the recipient has the legal authority to maintain the confidentiality, privileged, or trade secret status of the information.

(2) Specifies that ownership of all information shared pursuant to this chapter with the NAIC or a third-party consultant designated by the commissioner remains with the commissioner, and the NAIC's or third-party consultant's use of the information is subject to the direction of the commissioner.

(3) Prohibits the NAIC or a third-party consultant designated by the commissioner from storing the information shared pursuant to this chapter in a permanent database after the underlying analysis is completed. This prohibition shall not apply to filings and supporting documentation made pursuant to section 521A.4, subsection 13.

(4) Requires prompt notice be given by the NAIC or a third-party consultant designated by the commissioner to an insurer whose confidential information is the possession of the NAIC or the consultant pursuant to this chapter and that is subject to a request or subpoena to the NAIC or the consultant for disclosure or production.

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(5) Requires the NAIC or a third-party consultant designated by the commissioner to consent to intervention by an insurer in any judicial or administrative action in which the NAIC or the consultant may be required to disclose confidential information about the insurer that had been shared with the NAIC or consultant pursuant to this chapter.

(6) Requires notification to an insurer of the identity of a third-party consultant designated by the commissioner that is in possession of the results of the insurer's liquidity stress test or any supporting documentation filed pursuant to section 521A.4, subsection 14.

4. The sharing of information by the commissioner pursuant to this chapter shall not constitute a delegation of regulatory authority or rulemaking, and the commissioner is solely responsible for the administration, execution, and enforcement of the provisions of this chapter.

5. No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subsection 3.

6. Documents, materials, or other information in the possession or control of the NAIC or a third-party consultant designated by the commissioner pursuant to this chapter shall be confidential by law and privileged, shall not be subject to chapter 22, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action.

[C71, 73, 75, 77, 79, 81, §521A.7]

93 Acts, ch 88, §31; 2014 Acts, ch 1018, §20; 2016 Acts, ch 1122, §11; 2022 Acts, ch 1050, §6 – 8

Referred to in §521A.6A, 521A.6B

521A.7A Announcements to the public — prohibition.

1. *a.* The group capital calculation and all supporting documentation filed pursuant to section 521A.4, subsection 13, and the liquidity stress test results and all supporting documentation filed pursuant to section 521A.4, subsection 14, shall be designated as regulatory tools utilized for the purpose of assessing group risks, and capital adequacy and group liquidity risks, respectively, and shall not be construed as a means to rank insurers or insurance holding company systems.

b. Except as otherwise required under this chapter, an insurer, broker, or other person engaged in the business of insurance shall be prohibited from making an announcement to the public. For purposes of this subsection, *"announcement to the public"* means the use, directly or indirectly, of any print media, broadcast media, electronic media, subscription internet site, internet site available to the public, or any other means to make a representation or statement related to any of the following:

(1) (a) An insurer's or an insurer group's filings made under section 521A.4, subsection 13, including a group capital calculation and any supporting documentation.

(b) Any component derived from an insurer's or an insurer group's group capital calculation or supporting documentation filed under subparagraph division (a).

(c) Any comparison of an insurer's or an insurer group's group capital calculation, group capital ratio, or other metric calculated or derived from the insurer's or insurer group's filings under subparagraph division (a).

(2) (a) An insurer's or an insurer group's filings made under section 521A.4, subsection 14, including the result of the liquidity stress test and any supporting documentation.

(b) Any component derived from the results of an insurer's or an insurer group's group liquidity stress test or supporting documentation filed under subparagraph division (a).

(c) Any comparison of an insurer's or an insurer group's liquidity stress test or other metric calculated or derived from the insurer's or insurer group's filings under subparagraph division (a).

2. If an insurer or an insurer group is able to demonstrate to the commissioner with substantial proof the material falsity or inappropriateness of an announcement made to the public under subsection 1, paragraph *"b"*, by an insurer, broker, or other person engaged in the business of insurance, the insurer or insurer group may publish an announcement in a written publication if the sole purpose of the announcement is to rebut the materially false

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or inappropriate announcement made to the public by the insurer, broker, or other person engaged in the business of insurance.

2022 Acts, ch 1050, §9

521A.8 Rules.

The commissioner may, upon notice and opportunity for all interested persons to be heard, issue such rules and orders as shall be necessary to carry out the provisions of this chapter.

[C71, 73, 75, 77, 79, 81, §521A.8]

521A.9 Injunctions — prohibitions against voting securities — sequestration of voting securities.

1. *Injunctions.* Whenever it appears to the commissioner that any insurer or any director, officer, employee, or agent thereof has committed or is about to commit a violation of this chapter or any rule, regulation, or order issued by the commissioner under this chapter, the commissioner may apply to the district court of the county in which the principal office of the insurer is located or if such insurer has no such office in this state then to the district court of Polk county for an order enjoining such insurer or such director, officer, employee, or agent thereof from violating or continuing to violate this chapter or any such rule, regulation, or order, and for such other equitable relief as the nature of the case and the interests of the insurer's policyholders, creditors, and shareholders or the public may require.

2. *Voting of securities — when prohibited.* No security which is the subject of any agreement or arrangement regarding acquisition, or which is acquired or to be acquired, in contravention of the provisions of this chapter or of any rule, regulation, or order issued by the commissioner under this chapter may be voted at any shareholders' meeting, or may be counted for quorum purposes, and any action of shareholders requiring the affirmative vote of a percentage of shares may be taken as though such securities were not issued and outstanding; but no action taken at any such meeting shall be invalidated by the voting of such securities, unless the action would materially affect control of the insurer or unless the district court has so ordered. If any insurer or the commissioner has reason to believe that any security of the insurer has been or is about to be acquired in contravention of the provisions of this chapter or of any rule, regulation, or order issued by the commissioner under this chapter the insurer or the commissioner may apply to the district court of Polk county or to the district court for the county in which the insurer has its principal place of business to enjoin any offer, request, invitation, agreement, or acquisition made in contravention of section 521A.3 or any rule, regulation, or order issued by the commissioner under section 521A.3 to enjoin the voting of any security so acquired, to void any vote of such security already cast at any meeting of shareholders, and for such other equitable relief as the nature of the case and the interests of the insurer's policyholders, creditors, and shareholders or the public may require.

3. *Sequestration of voting securities.* In any case where a person has acquired or is proposing to acquire any voting securities in violation of this chapter or any rule, regulation, or order issued by the commissioner under this chapter, the district court of Polk county or the district court for the county in which the insurer has its principal place of business may, on such notice as the court deems appropriate, upon the application of the insurer or the commissioner seize or sequester any voting securities of the insurer owned directly or indirectly by such person, and issue such orders with respect thereto as may be appropriate to effectuate the provisions of this chapter. Notwithstanding any other provisions of law, for the purposes of this chapter the situs of the ownership of the securities of domestic insurers shall be deemed to be in this state.

[C71, 73, 75, 77, 79, 81, §521A.9]

2023 Acts, ch 66, §129

521A.10 Sanctions and penalties.

1. If the commissioner finds after notice and hearing that a person subject to registration under section 521A.4 failed without just cause to file a registration statement as required in this chapter, the person shall be required to pay a penalty of one thousand dollars for each

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day's delay. The penalty shall be recovered by the commissioner and deposited as provided in section 505.7. The maximum penalty under this section is ten thousand dollars. The commissioner may reduce the penalty if the person demonstrates that the imposition of the penalty would constitute a financial hardship to the person.

2. *a.* A director or officer of an insurance holding company system who does any of the following is subject to the civil penalty imposed under paragraph *"b"*:

(1) Knowingly participates in or assents to transactions or investments which have not been properly reported or submitted pursuant to section 521A.4 or section 521A.5, subsection 1, paragraph *"b"*.

(2) Knowingly permits any of the officers or agents of an insurer to engage in transactions or make investments which have not been properly reported or submitted pursuant to section 521A.4 or section 521A.5, subsection 1, paragraph *"b"*.

(3) Knowingly violates any other provision of this chapter.

b. An officer or director of an insurance holding company system who commits any of the acts or omissions listed in paragraph *"a"* shall pay, in the person's individual capacity, a civil penalty of not more than one thousand dollars per violation, after notice and hearing before the commissioner. In determining the amount of the civil penalty, the commissioner shall take into account the appropriateness of the penalty with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

3. If it appears to the commissioner that an insurer subject to this chapter has engaged in a transaction or entered into a contract which is subject to section 521A.5 and which would not have been approved had approval been requested, the commissioner may order the insurer to immediately cease and desist any further activity under that transaction or contract. After notice and hearing, the commissioner may also order the insurer to void any contracts and restore the status quo if the commissioner finds that action is in the best interest of the policyholders, creditors, or the public.

4. If it appears to the commissioner that an insurer or a director, officer, agent, or employee of an insurer has committed a willful violation of this chapter, the commissioner may institute criminal proceedings against the insurer or the responsible director, officer, agent, or employee in the district court for the county in which the principal office of the insurer is located, or if the insurer has no office in this state, then in the district court for Polk county. An insurer or individual who willfully violates this chapter is guilty of a class "D" felony.

5. A director or officer, or employee of an insurance holding company system who willfully and knowingly subscribes to or makes or causes to be made any false statements, false reports, or false filings with the intent to deceive the commissioner in the performance of the commissioner's duties under this chapter is guilty of a class "D" felony. Any fines imposed shall be paid by the director, officer, or employee in the person's individual capacity.

[C71, 73, 75, 77, 79, 81, §521A.10]

86 Acts, ch 1102, §23; 91 Acts, ch 26, §55, 56; 2009 Acts, ch 181, §88

Referred to in §521A.5

521A.11 Receivership.

Whenever it appears to the commissioner that any person has committed a violation of this chapter which so impairs the financial condition of a domestic insurer as to threaten insolvency or make the further transaction of business by it hazardous to its policyholders, creditors, shareholders or the public, then the commissioner may proceed as provided in section 505.9 to take possession of the property of such domestic insurer and to conduct the business thereof.

[C71, 73, 75, 77, 79, 81, §521A.11]

521A.11A Recovery.

1. Subject to subsections 2 through 4, if an order for liquidation, conservation, or rehabilitation of a domestic insurer has been entered, the receiver appointed under the order may recover on behalf of the insurer either of the following if made within one year preceding the filing of the petition for liquidation, conservation, or rehabilitation:

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a. From a parent corporation, holding company, affiliate, or other person who otherwise controlled the insurer, the amount of distributions, other than distributions of shares of the same class of stock, paid by the insurer on its capital stock.

b. Any payment in the form of a bonus, termination settlement, or extraordinary lump sum salary adjustment made by the insurer or a subsidiary of the insurer to a director, officer, agent, or employee.

2. A distribution is not recoverable if the parent holding company, affiliate, or other person shows that when the distribution was paid it was lawful and reasonable, and that the insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

3. A parent corporation, holding company, affiliate, or other person who otherwise controlled the insurer or affiliate at the time the distributions were paid is liable only up to the amount of distributions or payments under subsection 1 that the person received. A person who otherwise controlled the insurer at the time the distributions were declared is liable only up to the amount of distributions the person would have received if the person had been paid immediately. If two or more persons are liable with respect to the same distributions, each shall be separately liable for their distributive share.

4. The maximum amount recoverable under this section shall be the amount needed in excess of all other available assets of the impaired or insolvent insurer to pay the contractual obligations of the impaired or insolvent insurer and to reimburse any guaranty funds.

5. To the extent that a person liable under subsection 3 is insolvent or otherwise fails to pay claims due from the person pursuant to this section, the person's parent corporation, holding company, affiliate, or other person who otherwise controlled it at the time the distribution was paid, is separately liable for its share of any resulting deficiency in the amount recovered from the parent corporation, holding company, affiliate, or other person who otherwise controlled it.

86 Acts, ch 1102, §24; 87 Acts, ch 115, §67

521A.12 Revocation, suspension, or nonrenewal of insurer's license.

Whenever it appears to the commissioner that any person has committed a violation of this chapter which makes the continued operation of an insurer contrary to the interest of policyholders or the public, the commissioner may, after giving notice and an opportunity to be heard, determine to suspend, revoke or refuse to renew such insurer's license or authority to do business in this state for such period as the commissioner finds is required for the protection of policyholders or the public. Any such determination shall be accompanied by specific findings of fact and conclusions of law.

[C71, 73, 75, 77, 79, 81, §521A.12]

521A.13 Judicial review.

Judicial review of the actions of the commissioner may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

[C71, 73, 75, 77, 79, 81, §521A.13]

2003 Acts, ch 44, §114

MUTUAL INSURANCE HOLDING COMPANIES

521A.14 Mutual insurance holding companies.

1. *a.* For purposes of this section, "*domestic mutual insurance company*" includes a company qualified and licensed in this state pursuant to chapter 518 or 518A. A domestic mutual insurance company, upon approval of the commissioner, may reorganize by forming an insurance holding company based upon a mutual plan and continuing the corporate existence of the reorganizing insurance company as a stock insurance company. The reorganized insurance company may continue to use the word "mutual" in the company's name provided that the company's name also includes the words "stock insurer", or the abbreviation "SI". The commissioner, after a public hearing as provided in section 521A.3,

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subsection 4, paragraph *"b"*, if satisfied that the interests of the policyholders are properly protected and that the plan of reorganization is fair and equitable to the policyholders, may approve the proposed plan of reorganization and may require as a condition of approval such modifications of the proposed plan of reorganization as the commissioner finds necessary for the protection of the policyholders' interests. The commissioner may retain consultants as provided in section 521A.3, subsection 4, paragraph *"d"*. A reorganization pursuant to this section is subject to section 521A.3, subsections 1, 2, and 3. The commissioner shall retain jurisdiction over a mutual insurance holding company organized pursuant to this section to assure that policyholder interests are protected.

b. All of the initial shares of the capital stock of the reorganized insurance company shall be issued to the mutual insurance holding company. The membership interests of the policyholders of the reorganized insurance company shall become membership interests in the mutual insurance holding company. Policyholders of the reorganized insurance company shall be members of the mutual insurance holding company in accordance with the articles of incorporation and bylaws of the mutual insurance holding company. The mutual insurance holding company shall at all times own a majority of the voting shares of the capital stock of the reorganized insurance company.

2. *a.* A domestic mutual insurance company, upon the approval of the commissioner, may reorganize by merging its policyholders' membership interests into a mutual insurance holding company formed pursuant to subsection 1 and continuing the corporate existence of the reorganizing insurance company as a stock insurance company subsidiary of the mutual insurance holding company. The reorganized insurance company may continue to use the word "mutual" in the company's name provided that the company's name also includes the words "stock insurer", or the abbreviation "SI". The commissioner, after a public hearing as provided in section 521A.3, subsection 4, paragraph *"b"*, if satisfied that the interests of the policyholders are properly protected and that the merger is fair and equitable to the policyholders, may approve the proposed merger and may require as a condition of approval such modifications of the proposed merger as the commissioner finds necessary for the protection of the policyholders' interests. The commissioner may retain consultants as provided in section 521A.3, subsection 4, paragraph *"d"*. A merger pursuant to this section is subject to section 521A.3, subsections 1, 2, and 3. The commissioner shall retain jurisdiction over the mutual insurance holding company organized pursuant to this section to assure that policyholder interests are protected.

b. All of the initial shares of the capital stock of the reorganized insurance company shall be issued to the mutual insurance holding company. The membership interests of the policyholders of the reorganized insurance company shall become membership interests in the mutual insurance holding company. Policyholders of the reorganized insurance company shall be members of the mutual insurance holding company in accordance with the articles of incorporation and bylaws of the mutual insurance holding company. The mutual insurance holding company shall at all times own a majority of the voting shares of the capital stock of the reorganized insurance company. A merger of policyholders' membership interests in a mutual insurance company into a mutual insurance holding company shall be deemed to be a merger of insurance companies pursuant to chapter 521 and chapter 521 is also applicable.

c. A foreign mutual insurance company, or a foreign health service corporation, which if a domestic corporation would be organized under chapter 514, may reorganize upon the approval of the commissioner and in compliance with the requirements of any law or regulation which is applicable to the foreign mutual insurance company or foreign health service corporation by merging its policyholders' or subscribers' membership interests into a mutual insurance holding company formed pursuant to subsection 1 and continuing the corporate existence of the reorganizing foreign mutual insurance company or reorganizing foreign health service corporation as a foreign stock insurance company subsidiary of the mutual insurance holding company. The commissioner, after a public hearing as provided in section 521A.3, subsection 4, paragraph *"b"*, may approve the proposed merger. The commissioner may retain consultants as provided in section 521A.3, subsection 4, paragraph *"d"*. A merger pursuant to this paragraph is subject to section 521A.3, subsections 1, 2,

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and 3. The reorganizing foreign mutual insurance company or reorganizing foreign health service corporation may remain a foreign company or foreign corporation after the merger, and may be admitted to do business in this state. A foreign mutual insurance company or foreign mutual health service corporation which is a party to the merger may at the same time redomesticate in this state by complying with the applicable requirements of this state and its state of domicile. The provisions of paragraph *"b"* shall apply to a merger authorized under this paragraph, except that a reference to policyholders in that paragraph is also deemed to include subscribers in the case of a health service corporation.

3. A mutual insurance holding company resulting from the reorganization of a domestic mutual insurance company organized under chapter 491 shall be incorporated pursuant to chapter 491. This requirement shall supersede any conflicting provisions of section 491.1. The articles of incorporation and any amendments to such articles of the mutual insurance holding company shall be subject to approval of the commissioner in the same manner as those of an insurance company.

4. A mutual insurance holding company is deemed to be an insurer subject to chapter 507C and shall automatically be a party to any proceeding under chapter 507C involving an insurance company which as a result of a reorganization pursuant to subsection 1 or 2 is a subsidiary of the mutual insurance holding company. In any proceeding under chapter 507C involving the reorganized insurance company, the assets of the mutual insurance holding company are deemed to be assets of the estate of the reorganized insurance company for purposes of satisfying the claims of the reorganized insurance company's policyholders. A mutual insurance holding company shall not dissolve or liquidate without the approval of the commissioner or as ordered by the district court pursuant to chapter 507C.

5. *a.* Chapters 508B and 515G are not applicable to a reorganization or merger pursuant to this section.

b. Chapter 508B is applicable to demutualization of a mutual insurance holding company which resulted from the reorganization of a domestic mutual life insurance company organized under chapter 508 as if it were a mutual life insurance company.

c. Chapter 515G is applicable to demutualization of a mutual insurance holding company which resulted from the reorganization of a domestic mutual property and casualty insurance company organized under chapter 515 as if it were a mutual property and casualty insurance company.

6. A membership interest in a domestic mutual insurance holding company shall not constitute a security as defined in section 502.102.

7. *a.* The majority of the voting shares of the capital stock of the reorganized insurance company, which is required by this section to be at all times owned by a mutual insurance holding company, shall not be conveyed, transferred, assigned, pledged, subjected to a security interest or lien, encumbered, or otherwise hypothecated or alienated by the mutual insurance holding company or intermediate holding company. Any conveyance, transfer, assignment, pledge, security interest, lien, encumbrance, or hypothecation or alienation of, in or on the majority of the voting shares of the reorganized insurance company which is required by this section to be at all times owned by a mutual insurance holding company, is in violation of this section and shall be void in inverse chronological order of the date of such conveyance, transfer, assignment, pledge, security interest, lien, encumbrance, or hypothecation or alienation, as to the shares necessary to constitute a majority of such voting shares. The majority of the voting shares of the capital stock of the reorganized insurance company which is required by this section to be at all times owned by a mutual insurance holding company shall not be subject to execution and levy as provided in chapter 626. The shares of the capital stock of the surviving or new company resulting from a merger or consolidation of two or more reorganized insurance companies or two or more intermediate holding companies which were subsidiaries of the same mutual insurance holding company are subject to the same requirements, restrictions, and limitations as provided in this section to which the shares of the merging or consolidating reorganized insurance companies or intermediate holding companies were subject by this section prior to the merger or consolidation.

b. As used in this section, *"majority of the voting shares of the capital stock of the*

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reorganized insurance company" means shares of the capital stock of the reorganized insurance company which carry the right to cast a majority of the votes entitled to be cast by all of the outstanding shares of the capital stock of the reorganized insurance company for the election of directors and on all other matters submitted to a vote of the shareholders of the reorganized insurance company. The ownership of a majority of the voting shares of the capital stock of the reorganized insurance company which are required by this section to be at all times owned by a parent mutual insurance holding company includes indirect ownership through one or more intermediate holding companies in a corporate structure approved by the commissioner. However, indirect ownership through one or more intermediate holding companies shall not result in the mutual insurance holding company owning less than the equivalent of a majority of the voting shares of the capital stock of the reorganized insurance company. The commissioner shall have jurisdiction over an intermediate holding company as if it were a mutual insurance holding company. As used in this section, "*intermediate holding company*" means a holding company which is a subsidiary of a mutual insurance holding company, and which either directly or through a subsidiary intermediate holding company has one or more subsidiary reorganized insurance companies of which a majority of the voting shares of the capital stock would otherwise have been required by this section to be at all times owned by the mutual insurance holding company.

95 Acts, ch 185, §44, 48; 96 Acts, ch 1014, §1, 2; 2009 Acts, ch 145, §52; 2012 Acts, ch 1023, §157; 2024 Acts, ch 1021, §1, 2; 2024 Acts, ch 1116, §6; 2024 Acts, ch 1154, §17

Referred to in §505.23, 521.1, 521I.1

CHAPTER 521B

CREDIT FOR REINSURANCE

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 518.17, 518A.44, 521J.14, 669.14, 670.7

521B.1 through 521B.5 Repealed by 2013 Acts, ch 39, §7, 8, 11.
521B.101 Purpose — legislative intent.
521B.101A Definitions.
521B.102 Credit allowed certain domestic ceding insurers.
521B.103 Limited credit allowed other domestic ceding insurers.
521B.104 Qualified United States financial institutions.
521B.105 Rules.
521B.106 Applicability.
521B.107 Service of process made on the commissioner as the agent for service of process.

521B.1 through 521B.5 Repealed by 2013 Acts, ch 39, §7, 8, 11.

521B.101 Purpose — legislative intent.

1. The purpose of this chapter is to protect the interests of insureds, claimants, ceding insurers, assuming insurers, and the public generally.

2. The general assembly declares its intent to ensure adequate regulation of insurers and reinsurers and adequate protection for those to whom insurers and reinsurers owe obligations.

3. The general assembly declares that the matters contained in this chapter are fundamental to the business of insurance in accordance with 15 U.S.C. §1011 – 1012.

2013 Acts, ch 39, §1, 11

521B.101A Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. "*Commissioner*" means the commissioner of insurance.

2. "*NAIC*" means the national association of insurance commissioners.

2020 Acts, ch 1008, §1, 27

Section applies to all cessions under reinsurance agreements that have an inception, anniversary, or renewal date on or after July 1, 2020; 2020 Acts, ch 1008, §27

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521B.102 Credit allowed certain domestic ceding insurers.

Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a reduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of subsection 1, 2, 3, 4, 5, 6, or 7. The commissioner may adopt rules pursuant to section 521B.105 specifying additional requirements related to the valuation of assets or reserve credits, the amount and forms of security supporting reinsurance arrangements described in section 521B.105, and the circumstances pursuant to which credit shall be reduced or eliminated. Credit shall be allowed under subsection 1, 2, or 3 only respecting cessions of those kinds or classes of business which the assuming insurer is licensed or otherwise permitted to write or assume in the assuming insurer's state of domicile or, in the case of a United States branch of an alien assuming insurer, in the state through which the alien assuming insurer is entered and licensed to transact insurance or reinsurance. Credit shall be allowed under subsection 3 or 4 only if the applicable requirements of subsection 8 have been satisfied.

1. Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is licensed to transact insurance or reinsurance in this state.

2. Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is accredited by the commissioner as a reinsurer in this state. In order to be eligible for accreditation, an assuming insurer must do all of the following:

a. File with the commissioner evidence of the assuming insurer's submission to this state's jurisdiction.

b. Submit to this state's authority to examine the assuming insurer's books and records.

c. Be licensed to transact insurance or reinsurance in at least one state, or in the case of a United States branch of an alien assuming insurer, be entered through and licensed to transact insurance or reinsurance in at least one state.

d. File annually with the commissioner a copy of the assuming insurer's annual statement filed with the insurance department of the assuming insurer's state of domicile and a copy of the assuming insurer's most recent audited financial statement.

e. Demonstrate to the satisfaction of the commissioner that the assuming insurer has adequate financial capacity to meet the assuming insurer's reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. An assuming insurer is deemed to meet this requirement as of the time of the assuming insurer's application if the assuming insurer maintains a surplus as regards policyholders in an amount of not less than twenty million dollars and the assuming insurer's accreditation has not been denied by the commissioner within ninety calendar days after submission of the assuming insurer's application.

3. *a.* Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is domiciled in, or in the case of a United States branch of an alien assuming insurer is entered through, a state that employs standards regarding credit for reinsurance that are substantially similar to those applicable under this chapter and the assuming insurer or United States branch of an alien assuming insurer does all of the following:

(1) Maintains a surplus as regards policyholders in an amount of not less than twenty million dollars.

(2) Submits to the authority of this state to examine the assuming insurer's books and records.

b. The requirement of paragraph "*a*", subparagraph (1), does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

4. *a.* Credit shall be allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined in section 521B.104, subsection 2, for payment of the valid claims of the assuming insurer's United States ceding insurers, their assigns, and successors in interest. To enable the commissioner to determine the sufficiency of the trust fund, the assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported by licensed insurers on the NAIC annual statement form. The assuming insurer shall submit to

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examination of the assuming insurer's books and records by the commissioner and bear the expense of examination.

b. Credit for reinsurance shall not be granted under this subsection unless all of the following conditions are satisfied:

(1) The form of the trust and any amendments to the trust have been approved by either of the following:

(a) The commissioner of the state where the trust is domiciled.

(b) The commissioner of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

(2) The form of the trust and any trust amendments are filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that contested claims are valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to the trust's assets in its trustees for the benefit of the assuming insurer's United States ceding insurers, their assigns, and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the commissioner.

(3) The trust remains in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. No later than February 28 of each year, the trustee of the trust shall report to the commissioner in writing the balance of the trust and list the trust's investments at the preceding year-end, and shall certify the date of termination of the trust, if so planned, or certify that the trust will not expire prior to the following December 31.

c. The following requirements apply to the following categories of assuming insurer:

(1) The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers, and in addition, the assuming insurer shall maintain a trusteed surplus of not less than twenty million dollars, except as provided in subparagraph (2).

(2) At any time after an assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trusteed surplus, but only after a finding, based on an assessment of the risk, that the new required trusteed surplus level is adequate for the protection of United States ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including, when applicable, the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trusteed surplus shall not be reduced to an amount less than thirty percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.

(3) In the case of a group including incorporated and individual unincorporated underwriters, all of the following requirements are met:

(a) For reinsurance ceded under reinsurance agreements with an inception, amendment, or renewal date on or after January 1, 1993, the trust shall consist of a trusteed account in an amount not less than the respective underwriters' several liabilities attributable to business ceded by United States domiciled ceding insurers to any underwriter of the group.

(b) For reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of this chapter, the trust shall consist of a trusteed account in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States.

(c) In addition to the trusts described in subparagraph divisions (a) and (b), the group shall maintain in trust a trusteed surplus of which one hundred million dollars shall be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account.

(d) The incorporated members of the group shall not be engaged in any business

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other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members of the group.

(e) Within ninety calendar days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the commissioner an annual certification by the group's domiciliary regulator of the solvency of each underwriter member, or if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the group.

(4) In the case of a group of incorporated underwriters under common administration, the group shall meet all of the following requirements:

(a) Have continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation.

(b) Maintain aggregate policyholders' surplus of at least ten billion dollars.

(c) Maintain a trust fund in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of the group.

(d) In addition, maintain a joint trusteed surplus of which one hundred million dollars shall be held jointly for the benefit of United States domiciled ceding insurers of any member of the group as additional security for these liabilities.

(e) Within ninety calendar days after the group's financial statements are due to be filed with the group's domiciliary regulator, make available to the commissioner an annual certification of each underwriter member's solvency by the member's domiciliary regulator and financial statements of each underwriter member of the group prepared by the group's independent public accountant.

5. Credit shall be allowed when the reinsurance is ceded to an assuming insurer that has been certified by the commissioner as a reinsurer in this state and the assuming reinsurer secures its obligations in accordance with the following requirements:

a. In order to be eligible for certification, the assuming insurer shall meet all of the following requirements:

(1) The assuming insurer shall be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the commissioner pursuant to paragraph "*c*".

(2) The assuming insurer shall maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the commissioner pursuant to rule.

(3) The assuming insurer shall maintain financial strength ratings from two or more rating agencies deemed acceptable by the commissioner pursuant to rule.

(4) The assuming insurer shall agree to submit to the jurisdiction of this state, to appoint the commissioner as the assuming insurer's agent for service of process in this state, and to provide security for one hundred percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers, if the assuming insurer resists enforcement of a final United States judgment.

(5) The assuming insurer shall agree to meet applicable information filing requirements as determined by the commissioner, both with respect to an initial application for certification and on an ongoing basis.

(6) The assuming insurer shall satisfy any other requirements for certification deemed relevant by the commissioner.

b. An association including incorporated and individual unincorporated underwriters may be a certified reinsurer. In order to be eligible for certification, the association shall satisfy the requirements of paragraph "*a*" and in addition satisfy all of the following requirements:

(1) The association shall satisfy the association's minimum capital and surplus requirements through the capital and surplus equivalents, net of liabilities, of the association and its members, which shall include a joint central fund that may be applied to any unsatisfied obligation of the association or any of its members, in an amount determined by the commissioner to provide adequate protection.

(2) The incorporated members of the association shall not be engaged in any business other than underwriting as a member of the association and shall be subject to the same

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level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members of the association.

(3) Within ninety calendar days after the association's financial statements are due to be filed with the association's domiciliary regulator, the association shall provide to the commissioner an annual certification by the association's domiciliary regulator of the solvency of each underwriter member, or if a certification is unavailable, financial statements, prepared by an independent public accountant, of each underwriter member of the association.

c. The commissioner shall create and publish a list of qualified jurisdictions under which an assuming insurer licensed and domiciled in such jurisdiction is eligible to be considered for certification by the commissioner as a certified reinsurer.

(1) In order to determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the commissioner shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits, and the extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States. In order to be recognized as a qualified jurisdiction, a jurisdiction must agree to share information and to cooperate with the commissioner with respect to all certified reinsurers domiciled within that jurisdiction. A jurisdiction shall not be recognized as a qualified jurisdiction if the commissioner has determined that the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards. Additional factors may be considered in the discretion of the commissioner.

(2) A list of qualified jurisdictions shall be published through the NAIC committee process. The commissioner shall consider this list in determining qualified jurisdictions. If the commissioner recognizes a jurisdiction as qualified that does not appear on the NAIC list of qualified jurisdictions, the commissioner shall provide thoroughly documented justification for the recognition in accordance with criteria as specified in rules adopted by the commissioner.

(3) United States jurisdictions that meet the requirements for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.

(4) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the commissioner may, in the commissioner's discretion, suspend the reinsurer's certification indefinitely, in lieu of revocation.

d. The commissioner shall assign a rating to each certified reinsurer, giving due consideration to the financial strength ratings that have been assigned by rating agencies deemed acceptable to the commissioner pursuant to rule. The commissioner shall publish a list of all certified reinsurers and their ratings.

e. A certified reinsurer shall secure obligations assumed from United States ceding insurers under this subsection at a level consistent with the certified reinsurer's rating, as specified in rules adopted by the commissioner.

(1) In order for a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the commissioner and consistent with the provisions of section 521B.103, or in a multibeneficiary trust in accordance with subsection 4, except as otherwise provided in this subsection.

(2) If a certified reinsurer maintains a trust to fully secure its obligations subject to subsection 4, and chooses to secure its obligations incurred as a certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this subsection or comparable laws of other United States jurisdictions and for its obligations subject to subsection 4. It shall be a condition to the grant of certification under this subsection that the certified reinsurer shall bind itself, by the language of the trust and by agreement with the commissioner which has principal regulatory oversight of each such trust account, to fund, upon termination of any

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such trust account, any deficiency of any other trust account out of the remaining surplus of the terminated trust account.

(3) The minimum trusteed surplus requirements provided in subsection 4 are not applicable with respect to a multibeneficiary trust maintained by a certified reinsurer for the purpose of securing obligations under this subsection, except that such a multibeneficiary trust shall maintain a minimum trusteed surplus of ten million dollars.

(4) With respect to obligations incurred by a certified reinsurer under this subsection, if the security is insufficient, the commissioner shall reduce the allowable credit by an amount proportionate to the deficiency, and the commissioner has the discretion to impose further reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

(5) For purposes of this subsection, a certified reinsurer whose certification has been terminated for any reason shall be treated as a certified reinsurer required to secure all of its obligations.

(a) As used in this subsection, the term *"terminated"* includes revocation, suspension, voluntary surrender, and inactive status.

(b) If the commissioner continues to assign a higher rating to a certified reinsurer as permitted by other provisions of this section, this requirement does not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended.

f. If an assuming insurer applying for certification as a reinsurer in this state has been certified as a reinsurer in another jurisdiction accredited by the NAIC, the commissioner has the discretion to defer to that jurisdiction's certification, and has the discretion to defer to the rating assigned by that jurisdiction, and the assuming insurer shall be considered to be a certified reinsurer in this state.

g. A certified reinsurer that ceases to assume new business in this state may request to maintain the reinsurer's certification in inactive status in order to qualify for a reduction in the amount of security required for the reinsurer's in-force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of this subsection, and the commissioner shall assign the reinsurer a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.

6. *a.* Credit shall be allowed when the reinsurance is ceded to an assuming insurer that meets all of the following conditions:

(1) The assuming insurer must have its head office located in or be domiciled in, as applicable, and be licensed in, a reciprocal jurisdiction. For purposes of this subsection, a *"reciprocal jurisdiction"* is a jurisdiction that meets at least one of the following requirements:

(a) A non-United States jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and the European Union, is a member state of the European Union. For purposes of this subsection, a *"covered agreement"* is an agreement entered into pursuant to Tit. V, §502(a)(3), 31 U.S.C. §313-314, of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, that is currently in effect or in a period of provisional application and that addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance.

(b) A United States jurisdiction that meets the requirements for accreditation under the NAIC financial regulation standards and accreditation program.

(c) A qualified jurisdiction, as determined by the commissioner pursuant to subsection 5, paragraph *"c"*, which is not otherwise described in this paragraph or paragraph *"b"*, and that meets certain additional requirements consistent with the terms and conditions of an in-force covered agreement as specified in rules adopted by the commissioner.

(2) The assuming insurer must have and maintain, on an ongoing basis, minimum capital and surplus, or its equivalent, calculated according to the methodology of the assuming insurer's domiciliary jurisdiction, in an amount specified in rules adopted by the commissioner. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, the assuming insurer must have and maintain, on

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an ongoing basis, minimum capital and surplus equivalents, net of liabilities, calculated according to the methodology applicable in the assuming insurer's domiciliary jurisdiction, and a central fund containing a balance in an amount as specified in rules adopted by the commissioner.

(3) The assuming insurer must have and maintain, on an ongoing basis, a minimum solvency or capital ratio, as applicable, as specified in rules adopted by the commissioner. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, the assuming insurer must have and maintain, on an ongoing basis, a minimum solvency or capital ratio in the reciprocal jurisdiction where the assuming insurer has its head office or is domiciled, as applicable, and where the assuming insurer is also licensed.

(4) The assuming insurer must agree and shall provide to the commissioner, in the form and manner specified by the commissioner, adequate assurance of all of the following:

(a) Prompt written notice and explanation if the assuming insurer falls below the minimum requirements set forth in subparagraph (2) or (3) of this paragraph, or if any regulatory action is taken against the assuming insurer for serious noncompliance with any applicable law.

(b) Written consent that the assuming insurer shall submit to the jurisdiction of the courts of this state and to the appointment of the commissioner as agent for service of process. The commissioner may also require that consent for service of process be included in each reinsurance agreement entered into by the assuming insurer. This subparagraph division shall not limit or alter the capacity of the parties to a reinsurance agreement to agree to alternative dispute resolution, except to the extent such alternative dispute resolution is unenforceable under applicable insolvency or delinquency laws.

(c) Written agreement that the assuming insurer shall pay all final judgments, wherever enforcement is sought, obtained against the assuming insurer by a ceding insurer, or the ceding insurer's legal successor, that have been declared enforceable in the jurisdiction in which the final judgment is obtained.

(d) Each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to one hundred percent of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that reinsurance agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which the final judgment is obtained or under an enforceable arbitration award, whether obtained by the ceding insurer or by the ceding insurer's legal successor on behalf of the ceding insurer's resolution estate.

(e) Written confirmation that the assuming insurer is not presently participating in any solvent scheme of arrangement which involves this state's ceding insurers, and written agreement that the assuming insurer shall notify the ceding insurer and the commissioner and shall provide security in an amount equal to one hundred percent of the assuming insurer's liabilities to the ceding insurer, should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions of subsection 5, and section 521B.103.

(5) The assuming insurer or the assuming insurer's legal successor shall provide to the commissioner, on behalf of itself and any legal predecessors, any documentation required pursuant to rules adopted by the commissioner.

(6) Pursuant to rules adopted by the commissioner, the assuming insurer shall maintain prompt payment of claims under all reinsurance agreements.

(7) The assuming insurer's supervisory authority shall annually confirm to the commissioner that as of the preceding December 31, or as of the annual date otherwise statutorily reported to the reciprocal jurisdiction, the assuming insurer complies with the requirements set forth in subparagraphs (2) and (3) of this paragraph.

(8) An assuming insurer shall not be precluded from voluntarily providing any information to the commissioner.

b. The commissioner shall timely create and publish a list of reciprocal jurisdictions.

(1) The commissioner's list shall include any reciprocal jurisdiction as defined under paragraph *"a"*, subparagraph (1), subparagraph divisions (a) and (b), and the commissioner

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shall consider any other reciprocal jurisdiction included on the list of reciprocal jurisdictions published through the NAIC committee process. Pursuant to criteria established by rules adopted by the commissioner, the commissioner may approve a jurisdiction that does not appear on the NAIC list of reciprocal jurisdictions.

(2) The commissioner may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets the requirements of a reciprocal jurisdiction, pursuant to a process established by rules adopted by the commissioner, except that the commissioner shall not remove a reciprocal jurisdiction as defined under paragraph *"a"*, subparagraph (1), subparagraph divisions (a) and (b). Upon removal of a reciprocal jurisdiction from the list of reciprocal jurisdictions, credit for reinsurance ceded to an assuming insurer which has its home office in or is domiciled in that reciprocal jurisdiction shall be allowed if otherwise allowed pursuant to this chapter.

c. The commissioner shall timely create and publish a list of assuming insurers that have satisfied the conditions in this subsection and to which cessions shall be granted credit pursuant to this subsection. The commissioner may add an assuming insurer to the list if a NAIC accredited jurisdiction has added the assuming insurer to the NAIC accredited jurisdiction's list of assuming insurers or if, upon initial eligibility, the assuming insurer submits the information required under paragraph *"a"*, subparagraph (4), to the commissioner and complies with any additional requirements pursuant to rules adopted by the commissioner, except to the extent that any of those rules conflict with an applicable covered agreement.

d. If the commissioner determines that an assuming insurer no longer meets one or more of the requirements under this subsection, the commissioner may revoke or suspend the eligibility of the assuming insurer for recognition under this subsection in accordance with procedures established by rules adopted by the commissioner.

(1) While an assuming insurer's eligibility is suspended, any reinsurance agreement issued, amended, or renewed after the effective date of the suspension does not qualify for credit except to the extent that the assuming insurer's obligations under the reinsurance agreement are secured in accordance with section 521B.103.

(2) If an assuming insurer's eligibility is revoked, credit for reinsurance shall not be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior to the date of revocation, except to the extent that the assuming insurer's obligations under the reinsurance agreement are secured in a form acceptable to the commissioner and consistent with the provisions of section 521B.103.

e. If subject to a legal process of rehabilitation, liquidation, or conservation, as applicable, the ceding insurer or the ceding insurer's representative may seek, and if determined appropriate by the court in which such legal process is pending, may obtain an order requiring that the assuming insurer post security for all outstanding ceded liabilities.

f. This subsection shall not limit or alter the capacity of the parties to a reinsurance agreement to agree on requirements for security or other terms in the reinsurance agreement, except as expressly prohibited by this chapter or any other applicable law or regulation.

g. (1) Credit may be taken under this subsection only for reinsurance agreements entered into, amended, or renewed on or after July 1, 2020, and only with respect to losses incurred and reserves reported on or after the later of the date on which the assuming insurer has met all eligibility requirements pursuant to this subsection, and the effective date of the new reinsurance agreement, amendment, or renewal.

(2) This paragraph shall not alter or impair a ceding insurer's right to take credit for reinsurance, to the extent that credit is not available under this subsection, as long as the reinsurance qualifies for credit under any other applicable provision of this chapter.

h. This subsection shall not authorize an assuming insurer to withdraw or reduce the security provided under any reinsurance agreement except as permitted by the terms of the reinsurance agreement.

i. This subsection shall not limit or alter the capacity of parties to any reinsurance agreement to renegotiate the reinsurance agreement.

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7. Credit shall be allowed when reinsurance is ceded to an assuming insurer that does not meet the requirements of subsection 1, 2, 3, 4, 5, or 6, but only as to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.

8. *a.* If the assuming insurer is not licensed, accredited, or certified to transact insurance or reinsurance in this state, the credit permitted by subsections 3 and 4 shall not be allowed unless the assuming insurer agrees in the reinsurance agreement to do all of the following:

(1) In the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, shall comply with all requirements necessary to give the court jurisdiction, and shall abide by the final decision of the court or of any appellate court in the event of any appeal, concerning such failure.

(2) The assuming insurer shall designate the commissioner or a designated attorney as its true and lawful attorney to receive lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding insurer.

b. This subsection is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate a dispute if the obligation for the parties to arbitrate disputes is created in the reinsurance agreement.

9. If the assuming insurer does not meet the requirements of subsection 1, 2, 3, or 6, the credit permitted by subsection 4 or 5 shall not be allowed unless the assuming insurer agrees in a trust agreement to satisfy the following conditions:

a. Notwithstanding any other provisions contained in the trust instrument, if the trust fund is inadequate because the trust fund contains an amount less than the amount required by subsection 4, paragraph *"c"*, or if the grantor of the trust has been declared insolvent or has been placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of the trust's state or country of domicile, the trustee shall comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer all of the assets of the trust fund to the commissioner with regulatory oversight over the trust.

b. The assets of the trust shall be distributed, and claims shall be filed and valued, by the commissioner with regulatory oversight over the trust in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies.

c. If the commissioner with regulatory oversight over the trust determines that the assets of the trust fund or any part of the trust fund are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets of the trust or any part of those assets shall be returned by the commissioner with regulatory oversight over the trust to the trustee for distribution in accordance with the trust agreement.

d. The grantor shall waive any right otherwise available to the grantor under United States law that is inconsistent with the provisions of this subsection.

10. If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification pursuant to this section, the commissioner may suspend or revoke the reinsurer's accreditation or certification.

a. The commissioner shall give the reinsurer notice and opportunity for hearing prior to such suspension or revocation. The suspension or revocation shall not take effect until after the commissioner's order on hearing unless one of the following applies:

(1) The reinsurer waives its right to hearing.

(2) The commissioner's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or by the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in the reinsurer's domiciliary jurisdiction or in the primary certifying state of the reinsurer under subsection 5, paragraph *"f"*.

(3) The commissioner finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the commissioner's action.

b. While a reinsurer's accreditation or certification is suspended, a reinsurance contract issued or renewed after the effective date of the suspension does not qualify for credit except

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to the extent that the reinsurer's obligations under the reinsurance contract are secured in accordance with section 521B.103. If a reinsurer's accreditation or certification is revoked, credit for reinsurance shall not be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the reinsurance contract are secured in accordance with subsection 5, paragraph *"e"*, or section 521B.103.

11. *a.* A domestic ceding insurer shall take steps to manage its reinsurance recoverables proportionate to its own book of business. A domestic ceding insurer shall notify the commissioner within thirty calendar days after reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, exceeds fifty percent of the domestic ceding insurer's last reported surplus to policyholders, or after the domestic ceding insurer has determined that reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

b. A domestic ceding insurer shall take steps to diversify its reinsurance program. A domestic ceding insurer shall notify the commissioner within thirty calendar days after ceding to any single assuming insurer, or group of affiliated assuming insurers, more than twenty percent of the domestic ceding insurer's gross written premium in the prior calendar year, or after the domestic ceding insurer has determined that the reinsurance ceded to any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

2013 Acts, ch 39, §2, 11; 2014 Acts, ch 1026, §116; 2017 Acts, ch 7, §5; 2020 Acts, ch 1008, §2 – 19, 27

Referred to in §508.33A, 521A.1, 521B.103, 521B.105, 521J.107

2020 amendments to section apply to all cessions under reinsurance agreements that have an inception, anniversary, or renewal date on or after July 1, 2020; 2020 Acts, ch 1008, §27

521B.103 Limited credit allowed other domestic ceding insurers.

1. An asset or a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of section 521B.102, shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer. The commissioner may adopt rules pursuant to section 521B.105 specifying requirements related to the valuation of assets or reserve credits, the amount and forms of security supporting reinsurance arrangements described in section 521B.105, and the circumstances pursuant to which credit shall be reduced or eliminated. The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations under the reinsurance contract, if the security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer, or in the case of a trust, held in a qualified United States financial institution as defined in section 521B.104, subsection 2.

2. The security may be in the form of any of the following:

a. Cash.

b. A security listed by the securities valuation office of the NAIC, including those securities deemed exempt from filing as defined by the purposes and procedures manual of the securities valuation office and those securities qualifying as admitted assets.

c. (1) Clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified United States financial institution, as defined in section 521B.104, subsection 1, effective no later than December 31 of the year for which the filing is being made, and in the possession of, or in trust for, the ceding insurer on or before the filing date of the ceding insurer's annual statement.

(2) A letter of credit meeting applicable standards of issuer acceptability as of the date of the issuance or confirmation of the letter of credit shall, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until the expiration, extension, renewal, modification, or amendment of the letter of credit, whichever occurs first.

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d. Any other form of security acceptable to the commissioner.

2013 Acts, ch 39, §3, 11; 2017 Acts, ch 7, §6; 2020 Acts, ch 1008, §20, 27

Referred to in §521B.102, 521B.104

2020 amendment applies to all cessions under reinsurance agreements that have an inception, anniversary, or renewal date on or after July 1, 2020; 2020 Acts, ch 1008, §27

521B.104 Qualified United States financial institutions.

1. For purposes of section 521B.103, subsection 2, paragraph *"c"*, a *"qualified United States financial institution"* means an institution that meets all of the following requirements:

a. Is organized, or in the case of a United States office of a foreign banking organization is licensed, under the laws of the United States or of any state of the United States.

b. Is regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks and trust companies.

c. Has been determined by either the commissioner or the securities valuation office of the NAIC to meet the standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

2. For purposes of those provisions of this chapter specifying the institutions that are eligible to act as a fiduciary of a trust, a *"qualified United States financial institution"* means an institution that meets all of the following requirements:

a. Is organized, or in the case of a United States branch or agency office of a foreign banking organization is licensed, under the laws of the United States or of any state of the United States, and has been granted authority to operate with fiduciary powers.

b. Is regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks and trust companies.

2013 Acts, ch 39, §4, 11; 2014 Acts, ch 1092, §118; 2020 Acts, ch 1008, §21, 27

Referred to in §515E.3A, 521B.102, 521B.103, 521J.101

2020 amendment to subsection 1, paragraph c applies to all cessions under reinsurance agreements that have an inception, anniversary, or renewal date on or after July 1, 2020; 2020 Acts, ch 1008, §27

521B.105 Rules.

1. The commissioner may adopt rules pursuant to chapter 17A as necessary or convenient to administer this chapter.

2. The commissioner is further authorized to adopt rules pursuant to chapter 17A that are applicable to reinsurance arrangements as follows:

a. A rule adopted pursuant to this subsection is applicable only to reinsurance arrangements relating to any of the following:

(1) Life insurance policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits.

(2) Universal life insurance policies with provisions allowing a policyholder to keep a policy in force over a secondary guarantee period.

(3) Variable annuities with guaranteed death or living benefits.

(4) Long-term care insurance policies.

(5) Other life and health insurance and annuity products as to which the NAIC adopts model regulatory requirements with respect to credit for reinsurance.

b. A rule adopted pursuant to paragraph *"a"*, and applicable to policies described in paragraph *"a"*, subparagraph (1) or (2), is applicable to any reinsurance contract containing either of the following:

(1) Policies issued on or after January 1, 2015.

(2) Policies issued prior to January 1, 2015, if risk pertaining to such policies is ceded in connection with the reinsurance contract, in whole or in part, on or after January 1, 2015.

c. A rule adopted pursuant to this subsection may require the ceding insurer, in calculating the amounts or forms of security required to be held under rules adopted under this subsection, to use the valuation manual as defined in section 508.36, including all amendments adopted by the NAIC and in effect on the date as of which the calculation is made, to the extent applicable.

3. A rule adopted pursuant to this section is not applicable to cessions to an assuming insurer that meets any of the following requirements:

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a. Meets the conditions set forth in section 521B.102, subsection 7.

b. Is certified in Iowa.

c. Maintains at least two hundred fifty million dollars in capital and surplus when determined in accordance with the accounting practices and procedures manual of the NAIC, including all amendments adopted by the NAIC, but excluding the impact of any permitted or prescribed practices; and meets either of the following requirements:

(1) Is licensed in at least twenty-six states.

(2) Is licensed in at least ten states, and is licensed or accredited in a total of at least thirty-five states.

4. The commissioner's authority to adopt rules pursuant to subsection 2 does not limit the commissioner's general authority to adopt rules pursuant to subsection 1.

2013 Acts, ch 39, §5, 11; 2017 Acts, ch 7, §7, 8; 2020 Acts, ch 1008, §22 – 27

Referred to in §521B.102, 521B.103

2017 amendment to section applies retroactively to January 1, 2015, as to specified reinsurance contracts described in subsection 2, paragraph b; 2017 Acts, ch 7, §8

2020 amendments to section apply to all cessions under reinsurance agreements that have an inception, anniversary, or renewal date on or after July 1, 2020; 2020 Acts, ch 1008, §27

521B.106 Applicability.

This chapter applies to all cessions under reinsurance agreements that occur on or after January 1, 2014.

2013 Acts, ch 39, §6, 11

521B.107 Service of process made on the commissioner as the agent for service of process.

Service of process made on the commissioner as the agent for service of process shall be made as provided in section 505.30.

2018 Acts, ch 1018, §13

CHAPTER 521C

REINSURANCE INTERMEDIARIES

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

521C.1 Short title.
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521C.10 Examination authority.
521C.11 Penalties and liabilities.
521C.12 Rules.
521C.13 Service of process made on the commissioner as the agent for service of process.

521C.1 Short title.

This chapter shall be known and may be cited as the *"Reinsurance Intermediary Model Act."*

91 Acts, ch 26, §19

521C.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Actuary"* means a person who is a member in good standing of the American academy of actuaries.

2. *"Controlling person"* means a person who directly or indirectly has the power to direct or cause to be directed, the management, control, or activities of the reinsurance intermediary.

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3. *"Insurer"* means a person licensed to transact the business of insurance in this state.

4. *"Licensed producer"* means an agent, broker, or reinsurance intermediary licensed pursuant to the applicable provision of the insurance law of any jurisdiction.

5. *"Qualified United States financial institution"* means an institution that satisfies all of the following conditions:

a. The financial institution is organized or licensed under the laws of the United States or any state of the United States.

b. The financial institution is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies.

c. The financial institution has been determined by either the commissioner, or the securities valuation office of the national association of insurance commissioners, to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

6. *"Reinsurance intermediary"* means a reinsurance intermediary-broker or a reinsurance intermediary-manager.

7. *"Reinsurance intermediary-broker"* means a person, other than an officer or employee of the ceding insurer, who solicits, negotiates, or places reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority or power to bind reinsurance on behalf of the ceding insurer.

8. *"Reinsurance intermediary-manager"* means a person who has authority to bind or manage all or part of the assumed reinsurance business of a reinsurer, including the management of a separate division, department, or underwriting office, and acts as an agent for the reinsurer whether known as a reinsurance intermediary-manager or manager, or known by any other similar term or title. However, for the purposes of this chapter, the following persons shall not be considered a reinsurance intermediary-manager, with respect to the reinsurer:

a. An employee of the reinsurer.

b. A manager of a United States branch of an alien reinsurer who resides in this country.

c. An underwriting manager who, pursuant to contract, manages all or part of the reinsurance operations of the reinsurer, who is under common control with the reinsurer, subject to chapter 521A relating to the regulation of insurance holding company systems, and who is not compensated based upon the volume of premiums written.

d. The manager of a group, association, pool, or organization of insurers who engages in joint underwriting or joint reinsurance and who is subject to examination by the insurance commissioner of the state in which the manager's principal business office is located.

9. *"Reinsurer"* means a person licensed in this state as a reinsurer with the authority to assume reinsurance.

10. *"To be in violation"* means that the reinsurance intermediary, insurer, or reinsurer for whom the reinsurance intermediary was acting failed to substantially comply with the provisions of this chapter.

91 Acts, ch 26, §20; 94 Acts, ch 1176, §14
Referred to in §521C.7

521C.3 Licensure.

1. A person shall not act as a reinsurance intermediary-broker in this state if the person maintains an office in this state or another state individually or as a member or employee of a firm or association, or as an officer, director, or employee of a corporation, unless the person is a licensed producer in this state or another state having a law substantially similar to this law, or the person is licensed in this state as a nonresident reinsurance intermediary.

2. A person shall not act as a reinsurance intermediary-manager in any of the following circumstances:

a. Where the reinsurer is domiciled in this state, unless the person is a licensed producer in this state.

b. Where the person maintains an office in this state individually or as a member or

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employee of a firm or association, or as an officer, director, or employee of a corporation in this state, unless the person is a licensed producer in this state.

c. Where the person would be acting in another state for a nondomestic insurer, unless the person is a licensed producer in this state or in another state having a law substantially similar to this law, or is licensed in this state as a nonresident reinsurance intermediary.

3. The commissioner may require a reinsurance intermediary-manager subject to subsection 2 to do one or more of the following:

a. File a bond in an amount determined by the commissioner from an insurer acceptable to the commissioner for the protection of each reinsurer represented by the reinsurance intermediary-manager.

b. Maintain an errors and omissions policy in an amount acceptable to the commissioner.

4. *a.* The commissioner may issue a reinsurance intermediary license to a person who has complied with the requirements of this chapter. Any such license issued to a firm or association will authorize all the members of the firm or association and any designated employees to act as reinsurance intermediaries under the license, and all such persons shall be named in the application and any supplements to the application. A license issued to a corporation shall authorize all of the officers, and any designated employees and directors of the corporation to act as reinsurance intermediaries on behalf of the corporation, and all such persons shall be named in the application and any supplements to the application.

b. A reinsurance intermediary license applicant, as a condition precedent to receiving or holding a license, shall designate the commissioner as agent for service of process, and also shall furnish the commissioner with the name and address of a resident of this state upon whom notices or orders of the commissioner or process affecting such nonresident reinsurance intermediary may be served. The licensee shall promptly notify the commissioner in writing of a change of the designated agent for service of process, and the change becomes effective upon acknowledgment by the commissioner.

5. *a.* The commissioner may refuse to issue a reinsurance intermediary license if, in the commissioner's judgment, any of the following conditions are present:

(1) The applicant, anyone named in the application, or any member, principal, officer, or director of the applicant, is not trustworthy.

(2) A controlling person of such applicant is not trustworthy to act as a reinsurance intermediary.

(3) Conditions present in subparagraph (1) or (2) have given cause for revocation or suspension of a license, or a person referred to in subparagraph (1) or (2) has failed to comply with any prerequisite for the issuance of a license.

b. Upon written request, the commissioner shall furnish a written summary of the basis for refusal to issue a license, which document is privileged and not subject to disclosure under chapter 22.

6. A licensed attorney in this state when acting in a professional capacity as an attorney is exempt from the requirements of this section.

91 Acts, ch 26, §21; 2003 Acts, ch 91, §49; 2012 Acts, ch 1023, §132
Referred to in §521C.6, 521C.9

521C.4 Required contract provisions — reinsurance intermediary-brokers.

Transactions between a reinsurance intermediary-broker and the insurer that the reinsurance intermediary-broker represents in such capacity shall only be entered into pursuant to a written authorization, specifying the responsibilities of each party. The authorization shall, at a minimum, contain provisions that satisfy all of the following requirements:

1. The insurer may terminate the authority of the reinsurance intermediary-broker at any time.

2. The reinsurance intermediary-broker shall render accounts to the insurer accurately detailing all material transactions, including information necessary to support all commissions, charges, and other fees received by or owing to the reinsurance intermediary-broker, and shall remit all funds due to the insurer within thirty days of receipt.

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3. All funds collected for the account of the insurer shall be held by the reinsurance intermediary-broker in a fiduciary capacity in a bank, as defined in section 524.103.

4. The reinsurance intermediary-broker shall comply with section 521C.5.

5. The reinsurance intermediary-broker shall comply with the written standards established by the insurer for the cession or retrocession of all risks.

6. The reinsurance intermediary-broker shall disclose to the insurer any relationship with any reinsurer to which business will be ceded or retroceded.

91 Acts, ch 26, §22

521C.5 Books and records — reinsurance intermediary-brokers.

1. For a minimum of ten years after expiration of each contract of reinsurance transacted by the reinsurance intermediary-broker, the reinsurance intermediary-broker shall keep a complete record for each transaction showing all of the following:

a. The type of contract, limits, underwriting restrictions, classes or risks, and territory.

b. The period of coverage, including effective and expiration dates, cancellation provisions, and notice required of cancellation.

c. The reporting and settlement requirements of balances.

d. The rate used to compute the reinsurance premium.

e. The names and addresses of assuming reinsurers.

f. The rates of all reinsurance commissions, including the commissions on any retrocessions handled by the reinsurance intermediary-broker.

g. All related correspondence and memoranda.

h. Proof of placement.

i. The details regarding retrocessions handled by the reinsurance intermediary-broker including the identity of retrocessionaires and percentage of each contract assumed or ceded.

j. Financial records, including but not limited to premium and loss accounts.

k. If the reinsurance intermediary-broker procures a reinsurance contract on behalf of a licensed ceding insurer one or both of the following shall be included in the record:

(1) Directly from any assuming reinsurer, written evidence that the assuming reinsurer has agreed to assume the risk.

(2) If placed through a representative of the assuming reinsurer, other than an employee, written evidence that the assuming reinsurer has delegated binding authority to the representative.

2. The insurer has a right of access and the right to copy and audit all accounts and records maintained by the reinsurance intermediary-broker related to its business in a form usable by the insurer.

91 Acts, ch 26, §23

Referred to in §521C.4

521C.6 Duties of insurers utilizing the services of a reinsurance intermediary-broker.

1. An insurer shall not engage the services of a person, firm, association, or corporation to act as a reinsurance intermediary-broker on its behalf unless the person is licensed as required by section 521C.3, subsection 1.

2. An insurer shall not employ an individual who is employed by a reinsurance intermediary-broker with which the insurer transacts business, unless such reinsurance intermediary-broker is under common control with the insurer and subject to chapter 521A relating to the regulation of insurance company holding systems.

3. The insurer shall annually obtain a copy of statements of the financial condition of each reinsurance intermediary-broker with which the insurer transacts business.

91 Acts, ch 26, §24

521C.7 Required contract provisions — reinsurance intermediary-managers.

Transactions between a reinsurance intermediary-manager and the reinsurer that the reinsurance intermediary-manager represents in such capacity shall only be entered into pursuant to a written contract, specifying the responsibilities of each party, which shall be approved by the reinsurer's board of directors. At least thirty days before the reinsurer

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assumes or cedes business through a reinsurance intermediary-manager, a true copy of the approved contract shall be filed with the commissioner for approval by the commissioner. The contract, at a minimum, shall contain the following provisions:

1. The reinsurer may terminate the contract for cause upon written notice to the reinsurance intermediary-manager. The reinsurer may suspend the authority of the reinsurance intermediary-manager to assume or cede business during the pendency of any dispute regarding the cause for termination.

2. The reinsurance intermediary-manager shall render accounts to the reinsurer accurately detailing all material transactions, including information necessary to support all commissions, charges, and other fees received by, or owing to the reinsurance intermediary-manager, and shall remit all funds due under the contract to the reinsurer on not less than a monthly basis.

3. All funds collected for the reinsurer's account shall be held by the reinsurance intermediary-manager in a fiduciary capacity in a bank which is a qualified United States financial institution, as defined in section 521C.2. The reinsurance intermediary-manager may retain no more than three months' estimated claims payments and allocated loss adjustment expenses. The reinsurance intermediary-manager shall maintain a separate bank account for each reinsurer that the reinsurance intermediary-manager represents.

4. For at least ten years after expiration of each contract of reinsurance transacted by the reinsurance intermediary-manager, the reinsurance intermediary-manager shall keep a complete record for each transaction showing all of the following:

a. The type of contract, limits, underwriting restrictions, classes or risks, and territory.

b. The period of coverage, including effective and expiration dates, cancellation provisions and notice required of cancellation, and disposition of outstanding reserves on covered risks.

c. The reporting and settlement requirements of balances.

d. The rate used to compute the reinsurance premium.

e. The names and addresses of reinsurers.

f. The rates of all reinsurance commissions, including the commissions on any retrocessions handled by the reinsurance intermediary-manager.

g. Any related correspondence and memoranda.

h. Proof of placement.

i. The details regarding retrocessions handled by the reinsurance intermediary-manager, as permitted by section 521C.9, subsection 4, including the identity of retrocessionaires and percentage of each contract assumed or ceded.

j. Financial records, including but not limited to premium and loss accounts.

k. If the reinsurance intermediary-manager places a reinsurance contract on behalf of a ceding insurer one or both of the following shall be included in the record:

(1) Directly from any assuming reinsurer, written evidence that the assuming reinsurer has agreed to assume the risk.

(2) If placed through a representative of the assuming reinsurer, other than an employee, written evidence that the assuming reinsurer has delegated binding authority to the representative.

5. The reinsurer has a right of access and the right to copy all accounts and records maintained by the reinsurance intermediary-manager related to its business in a form usable by the reinsurer.

6. The contract cannot be assigned in whole or in part by the reinsurance intermediary-manager.

7. The reinsurance intermediary-manager shall comply with the written underwriting and rating standards established by the insurer for the acceptance, rejection, or cession of all risks.

8. The contract shall set forth the rates, terms, and purposes of commissions, charges, and other fees which the reinsurance intermediary-manager may levy against the reinsurer.

9. If the contract permits the reinsurance intermediary-manager to settle claims on behalf of the reinsurer, all of the following apply:

a. All claims shall be reported to the reinsurer in a timely manner.

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b. A copy of the claim file shall be sent to the reinsurer at its request or as soon as it becomes known that the claim meets any or all of the following conditions:

(1) The claim has the potential to exceed the lesser of an amount determined by the commissioner or the limit set by the reinsurer.

(2) The claim involves a coverage dispute.

(3) The claim may exceed the claims settlement authority of the reinsurance intermediary-manager.

(4) The claim is open for more than six months.

(5) The claim is closed by payment of the lesser of an amount set by the commissioner or an amount set by the reinsurer.

c. All claim files shall be the joint property of the reinsurer and reinsurance intermediary-manager. However, upon an order of liquidation of the reinsurer the files shall become the sole property of the reinsurer or its estate. The reinsurance intermediary-manager shall have reasonable access to and the right to copy the files on a timely basis.

d. Any settlement authority granted to the reinsurance intermediary-manager may be terminated for cause upon the reinsurer's written notice to the reinsurance intermediary-manager or upon the termination of the contract. The reinsurer may suspend the settlement authority during the pendency of the dispute regarding the cause of termination.

10. If the contract provides for a sharing of interim profits by the reinsurance intermediary-manager, interim profits shall not be paid until one year after the end of each underwriting period for property insurance business and five years after the end of each underwriting period for casualty insurance business, or a later period as determined by the commissioner for each type of insurance, but in no case until the adequacy of reserves on remaining claims has been verified pursuant to section 521C.9, subsection 3.

11. The reinsurance intermediary-manager shall annually provide the reinsurer with a statement of its financial condition prepared by an independent certified accountant.

12. The reinsurer shall periodically, but not less than semiannually, conduct an on-site review of the underwriting and claims processing operations of the reinsurance intermediary-manager.

13. The reinsurance intermediary-manager shall disclose to the reinsurer any relationship the reinsurance intermediary-manager has with any insurer prior to ceding or assuming any business with the insurer pursuant to this contract.

14. The acts of the reinsurance intermediary-manager are deemed to be the acts of the reinsurer on whose behalf the reinsurance intermediary-manager is acting.

91 Acts, ch 26, §25

521C.8 Prohibited acts.

The reinsurance intermediary-manager shall not do any of the following:

1. Bind retrocessions on behalf of the reinsurer, except that the reinsurance intermediary-manager may bind facultative retrocessions pursuant to obligatory facultative agreements if the contract with the reinsurer contains reinsurance underwriting guidelines for such retrocessions. The guidelines shall include a list of reinsurers with which the automatic agreements are in effect, and for each reinsurer, the coverages and amounts or percentages that may be reinsured, and commission schedules.

2. Commit the reinsurer to participate in reinsurance syndicates.

3. Appoint any producer without assuring that the producer is licensed to transact the type of reinsurance for which the producer is appointed.

4. Without prior approval of the reinsurer, pay or commit the reinsurer to pay a claim, or a net amount of retrocessions, that exceeds the lesser of an amount specified by the reinsurer or one percent of the reinsurer's policyholder's surplus as of December 31 of the last complete calendar year.

5. Collect any payment from a retrocessionaire or commit the reinsurer to any claim settlement with a retrocessionaire, without prior approval of the reinsurer. If prior approval is given, a report must be promptly forwarded to the reinsurer.

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6. Jointly employ an individual who is employed by the reinsurer.
7. Appoint an agent of a reinsurance intermediary-manager.

91 Acts, ch 26, §26

521C.9 Duties of reinsurers utilizing the services of a reinsurance intermediary-manager.

1. A reinsurer shall not engage the services of a person to act as a reinsurance intermediary-manager on its behalf unless the person is licensed as required by section 521C.3, subsection 2.

2. The reinsurer shall annually obtain a copy of statements of the financial condition of each reinsurance intermediary-manager whom the reinsurer has engaged pursuant to subsection 1. The statements of financial condition shall be prepared by an independent certified accountant in a form acceptable to the commissioner.

3. If a reinsurance intermediary-manager establishes loss reserves, the reinsurer shall annually obtain the opinion of an actuary attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by the reinsurance intermediary-manager. This opinion shall be in addition to any other required loss reserve certification.

4. Binding authority for all retrocessional contracts or participation in reinsurance syndicates shall rest with an officer of the reinsurer who shall not be affiliated with the reinsurance intermediary-manager.

5. Within thirty days of termination of a contract with a reinsurance intermediary-manager, the reinsurer shall provide written notification of the termination to the commissioner.

6. A reinsurer shall not appoint to its board of directors any officer, director, employee, controlling shareholder, or an agent of a producer of its reinsurance intermediary-manager. This subsection shall not apply to relationships governed by chapter 521A relating to the regulation of insurance company holding systems or, if applicable, governed by chapter 510A relating to the regulation of producer controlled property and casualty insurers.

91 Acts, ch 26, §27
Referred to in §521C.7

521C.10 Examination authority.

1. A reinsurance intermediary is subject to examination by the commissioner. The commissioner shall have access to all books, bank accounts, and records of the reinsurance intermediary in a form usable to the commissioner.

2. A reinsurance intermediary-manager may be examined as if it were the reinsurer.

91 Acts, ch 26, §28

521C.11 Penalties and liabilities.

1. *a.* A reinsurance intermediary or other person found by the commissioner, after a hearing conducted in accordance with chapter 17A, to have not materially complied with a provision of this chapter is subject to one or more of the following:

(1) For each separate violation, a civil penalty in an amount not exceeding five thousand dollars.

(2) Revocation or suspension of the license of the reinsurance intermediary.

b. If the commissioner finds that such noncompliance has resulted in a loss or damage to the insurer or reinsurer, the commissioner may bring a civil action on behalf of the insurer or reinsurer, and the policyholders and creditors of the insurer or reinsurer, seeking the recovery of compensatory damages for the benefit of the insurer or reinsurer, and the policyholders and creditors of the insurer or reinsurer, or seeking other relief as appropriate.

c. If an order of rehabilitation or liquidation has been entered pursuant to chapter 507C, and the receiver appointed under the order determines that the reinsurance intermediary or any other person has not materially complied with a provision of this chapter and such noncompliance has resulted in a loss or damage to the insurer or reinsurer, the receiver may

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bring a civil action on behalf of the insurer or reinsurer seeking the recovery of damages for the benefit of the insurer or reinsurer, or seeking other appropriate sanction or relief.

2. A decision, determination, or order of the commissioner made or entered pursuant to subsection 1 is subject to judicial review pursuant to chapter 17A.

3. This section does not affect the right of the commissioner to impose any other penalties provided in this subtitle.

4. This chapter shall not in any manner limit or restrict the rights of policyholders, claimants, creditors, or other third parties, or confer any rights to such persons.

91 Acts, ch 26, §29; 91 Acts, ch 213, §31; 94 Acts, ch 1176, §15; 2012 Acts, ch 1023, §157

521C.12 Rules.

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

91 Acts, ch 26, §30

521C.13 Service of process made on the commissioner as the agent for service of process.

Service of process made on the commissioner as the agent for service of process shall be made as provided in section 505.30.

2018 Acts, ch 1018, §14

CHAPTER 521D

DISCLOSURE OF MATERIAL TRANSACTIONS

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

521D.1 Title.
521D.2 Report.
521D.3 Report of acquisition and disposition of assets — information required — scope.
521D.4 Report of nonrenewal, cancellation, revision of ceded reinsurance agreements — information required — scope.

521D.1 Title.

This chapter shall be known and may be cited as the *"Disclosure of Material Transactions Act"*.

94 Acts, ch 1176, §16

521D.2 Report.

1. An insurer domiciled in this state shall file a report with the commissioner disclosing material acquisitions and dispositions of assets, or material nonrenewals, cancellations, or revisions of ceded reinsurance agreements unless such acquisitions and dispositions of assets, or material nonrenewals, cancellations, or revisions of ceded reinsurance agreements have been submitted to the commissioner for review, approval, or information purposes pursuant to other provisions of this subtitle or pursuant to other requirements. The report shall be filed not later than fifteen days after the end of the calendar year in which the material acquisition or disposition of assets, or material nonrenewal, cancellation, or revision of ceded reinsurance agreements occurs.

2. The insurer shall also file a copy of the report required to be filed with the commissioner pursuant to subsection 1, including any exhibits or other attachments filed as part of the report, with the national association of insurance commissioners.

3. *a.* All reports obtained by or disclosed to the commissioner and the national association of insurance commissioners pursuant to this chapter are confidential and shall not be subject to subpoena and shall not be made public by the commissioner, the national association of insurance commissioners, or any other person without the prior written consent of the insurer to which it pertains, unless the commissioner, after giving such insurer notice and providing an opportunity to be heard, determines that the interest of policyholders, shareholders, or

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the public will be served by the publication or disclosure of the report, in which event the commissioner may publish or disclose all or any part of the report as deemed appropriate.

b. Notwithstanding this subsection, the commissioner or the national association of insurance commissioners may provide the report to the insurance regulatory agencies of other states.

94 Acts, ch 1176, §17; 2012 Acts, ch 1023, §157
Referred to in §521D.3, 521D.4

521D.3 Report of acquisition and disposition of assets — information required — scope.

1. An acquisition or disposition of assets need not be reported pursuant to section 521D.2 if the acquisition or disposition is not material. For purposes of this chapter, a material acquisition, or the aggregate of any series of related acquisitions, or a disposition, or the aggregate of any series of related dispositions, during any thirty-day period, is one that is nonrecurring, is not in the ordinary course of business, and involves more than five percent of the reporting insurer's total admitted assets as reported in its most recent statutory statement filed with the insurance division of the insurer's state of domicile.

2. For purposes of this chapter, an asset acquisition includes every purchase, lease, exchange, merger, consolidation, succession, or other acquisition, other than the construction or development of real property by or for the reporting insurer or the acquisition of materials for such purpose. For purposes of this chapter, an asset disposition includes every sale, lease, exchange, merger, consolidation, mortgage, hypothecation, assignment, whether for the benefit of creditors or otherwise, abandonment, destruction, or other disposition.

3. A report of a material acquisition or disposition of assets shall include all of the following:

a. Date of the transaction.

b. Manner of the acquisition or disposition.

c. Description of the assets involved.

d. Nature and amount of the consideration given or received.

e. Purpose of, or reason for, the transaction.

f. Manner by which the amount of consideration was determined.

g. Gain or loss recognized or realized as a result of the transaction.

h. Name or names of the person or persons from whom the assets were acquired or to whom they were disposed.

4. An insurer is required to report material acquisitions and dispositions on a nonconsolidated basis unless the insurer is part of a consolidated group of insurers which utilizes a pooling arrangement or one hundred percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves, and such insurer ceded substantially all of its direct and assumed business to the pool. An insurer is deemed to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than one million dollars total direct plus assumed written premiums during a calendar year that are not subject to a pooling arrangement, and the net income of the business not subject to the pooling arrangement represents less than five percent of the insurer's capital and surplus.

94 Acts, ch 1176, §18

521D.4 Report of nonrenewal, cancellation, revision of ceded reinsurance agreements — information required — scope.

1. A nonrenewal, cancellation, or revision of a ceded reinsurance agreement need not be reported pursuant to section 521D.2 if the nonrenewal, cancellation, or revision is not material. For purposes of this chapter, a material nonrenewal, cancellation, or revision of a ceded reinsurance agreement is one that does the following:

a. For property and casualty business including accident and health business when written as such, affects more than fifty percent of an insurer's ceded written premium on an annualized basis as indicated in the insurer's most recently filed statutory statement.

b. For life, annuity, and accident and health business, affects more than fifty percent of the total reserve credit taken for business ceded on an annualized basis as indicated in the insurer's most recently filed statutory statement.

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2. Notwithstanding subsection 1, a filing is not required if the insurer's ceded written premium represents, on an annualized basis, less than ten percent of direct plus assumed written premium, or the total reserve credit taken for business ceded represents, on an annualized basis, less than ten percent of the statutory reserve requirement prior to any cession.

3. *a.* A report required to be filed pursuant to this chapter is to be filed regardless of who has initiated the nonrenewal, cancellation, or revision of the ceded reinsurance agreement whenever one or more of the following conditions exist:

(1) The entire cession has been canceled, nonrenewed, or revised and ceded indemnity and loss adjustment expense reserves, after any nonrenewal, cancellation, or revision, represent less than fifty percent of the comparable reserves that would have been ceded had the nonrenewal, cancellation, or revision not occurred.

(2) An authorized or accredited reinsurer has been replaced on an existing cession by an unauthorized reinsurer.

(3) Collateral requirements previously established for unauthorized reinsurers have been reduced.

b. Subject to the materiality criteria, for purposes of paragraph "*a*", subparagraphs (2) and (3), a report shall be filed if the result of the revision affects more than ten percent of the cession.

4. A report of a material nonrenewal, cancellation, or revision of a ceded reinsurance agreement required to be filed shall include all of the following:

a. The effective date of the nonrenewal, cancellation, or revision.

b. The description of the transaction including the identification of the initiator of the transaction.

c. The purpose of, or reason for, the transaction.

d. The identity of the replacement reinsurers, if applicable.

5. Insurers are required to report all material nonrenewals, cancellations, or revisions of ceded reinsurance agreements on a nonconsolidated basis unless the insurer is part of a consolidated group of insurers which utilizes an intercompany pooling agreement or arrangement or a one hundred percent reinsurance agreement under which the ceding company has ceded substantially one hundred percent of its direct and assumed business to a pool. An insurer is deemed to have ceded substantially one hundred percent of its direct and assumed business to a pool if the insurer has less than one million dollars of total direct plus assumed written premiums during a calendar year that are not subject to the pooling agreement or arrangement and the net income of the business not subject to the pooling agreement or arrangement represents less than five percent of the insurer's capital and surplus. If a group of insurers reports on a consolidated basis, the report shall identify the individual insurers that are members of the group.

94 Acts, ch 1176, §19; 2012 Acts, ch 1023, §133

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CHAPTER 521E

RISK-BASED CAPITAL REQUIREMENTS FOR INSURERS

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 508.5, 508.9, 508.33A, 515.8, 515.12A, 515.69, 515.74, 515E.3A, 515I.4, 515I.4A, 520.9, 521F.2, 521J.105, 669.14, 670.7

521E.1 Definitions.
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521E.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Adjusted risk-based capital report"* means a risk-based capital report adjusted by the commissioner pursuant to section 521E.2, subsection 5.

2. *"Commissioner"* means the commissioner of insurance.

3. *"Corrective order"* means an order issued by the commissioner of insurance specifying corrective actions which the commissioner has determined are required.

4. *"Domestic insurer"* means an insurance company domiciled in this state and licensed to transact the business of insurance under chapter 508, 512B, 515, or 520, except that it shall not include any of the following:

a. An agency, authority, or instrumentality 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. A nonprofit medical, hospital, or dental service corporation organized under chapter 514.

c. A county mutual insurance association organized under chapter 518.

d. A state mutual insurance association organized under chapter 518A.

e. A health maintenance organization organized under chapter 514B.

5. *"Filing date"* means March 1 of each year.

6. *"Foreign insurer"* means an insurance company not domiciled in this state which is licensed to transact the business of insurance in this state under chapter 508, 512B, 515, or 520.

7. *"Life and health insurer"* means an insurance company licensed under chapter 508, a fraternal benefit society organized under chapter 512B, or a licensed property and casualty insurer writing only accident and health insurance under chapter 515.

8. *"Negative trend"* means a negative trend over a period of time as determined in accordance with the trend test calculation included in the risk-based capital instructions.

9. *"Property and casualty insurer"* means an insurance company licensed under chapter 515 but does not include monoline mortgage guaranty insurers, financial guaranty insurers, or title insurers.

10. *"Revised risk-based capital plan"* is a risk-based capital plan which has been rejected by the commissioner and has been revised by the insurer, with or without the commissioner's recommendation.

11. *"Risk-based capital instructions"* means the instructions included in the risk-based capital report as adopted by the national association of insurance commissioners, as such risk-based capital instructions may be amended by the national association of insurance commissioners from time to time in accordance with the procedures adopted by the national association of insurance commissioners.

12. *"Risk-based capital level"* means an insurer's company-action-level risk-based capital, regulatory-action-level risk-based capital, authorized-control-level risk-based capital, or mandatory-control-level risk-based capital as follows:

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a. *"Company-action-level risk-based capital"* means, with respect to any insurer, the product of two and the insurer's authorized-control-level risk-based capital.

b. *"Regulatory-action-level risk-based capital"* means the product of one and one-half and the insurer's authorized-control-level risk-based capital.

c. *"Authorized-control-level risk-based capital"* means the number determined under the risk-based capital formula in accordance with the risk-based capital instructions.

d. *"Mandatory-control-level risk-based capital"* means the product of seven-tenths and the insurer's authorized-control-level risk-based capital.

13. *"Risk-based capital plan"* means a comprehensive financial plan containing the elements identified in section 521E.3, subsection 2.

14. *"Risk-based capital report"* means the report required to be prepared and submitted to the commissioner pursuant to section 521E.2.

15. *"Total adjusted capital"* means the sum of the following:

a. An insurer's statutory capital and surplus.

b. Such other items, if any, as identified in the risk-based capital instructions.

96 Acts, ch 1046, §9; 2000 Acts, ch 1023, §56; 2013 Acts, ch 124, §25 – 27

521E.2 Risk-based capital reports.

1. A domestic insurer, on or prior to the filing date, shall prepare and submit to the commissioner a report of the insurer's risk-based capital level as of the end of the calendar year immediately preceding the filing date, in a form and containing the information required by the risk-based capital instructions. A domestic insurer shall also file its risk-based capital report with both of the following:

a. The national association of insurance commissioners.

b. The insurance commissioner in each state in which the insurer is authorized to do business, if such insurance commissioner has notified the insurer of its request in writing. Upon receipt of the written request, the insurer shall file its risk-based capital report with the requesting commissioner by no later than the later of the following:

(1) Fifteen days from the receipt of the written request.

(2) The filing date.

2. A life and health insurer's risk-based capital shall be determined pursuant to the formula set forth in the risk-based capital instructions. The formula shall take into account all of the following, and may be adjusted, as deemed appropriate by the commissioner, for the covariance between the following:

a. The risk with respect to the insurer's assets.

b. The risk of adverse insurance experience with respect to the insurer's liabilities and obligations.

c. The interest rate risk with respect to the insurer's business.

d. All other business risks and other relevant risks as identified in the risk-based capital instructions, determined in each case by applying the factors in the manner provided for in the risk-based capital instructions.

3. A property and casualty insurer's risk-based capital shall be determined pursuant to the formula set forth in the risk-based capital instructions. The formula shall take into account all of the following, and may be adjusted, as deemed appropriate by the commissioner, for the covariance between the following:

a. Asset risk.

b. Credit risk.

c. Underwriting risk.

d. All other business risks and other relevant risks as identified in the risk-based capital instructions, determined in each case by applying the factors in the manner provided for in the risk-based capital instructions.

4. An insurer shall seek to maintain capital above the risk-based capital levels required by this chapter.

5. A risk-based capital report filed by a domestic insurer which in the judgment of the commissioner is inaccurate, shall be adjusted by the commissioner to correct the inaccuracy.

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The commissioner shall notify the insurer of the adjustment. The notice shall contain a statement of the reason for the adjustment.

96 Acts, ch 1046, §10
Referred to in §521E.1, 521E.10

521E.3 Company-action-level event.

1. *"Company-action-level event"* means any of the following:

a. The filing of a risk-based capital report by an insurer which indicates any of the following:

(1) For an insurer other than a life and health insurer, the insurer's total adjusted capital is greater than or equal to its regulatory-action-level risk-based capital but less than its company-action-level risk-based capital.

(2) For a life and health insurer, the insurer's total adjusted capital is greater than or equal to its company-action-level risk-based capital but less than the product of its authorized-control-level risk-based capital and three, and has a negative trend.

(3) For a property and casualty insurer, the insurer's total adjusted capital is greater than or equal to its company-action-level risk-based capital but less than the product of its authorized-control-level risk-based capital and three and triggers the trend test determined in accordance with the trend test calculation included in the property and casualty risk-based capital instructions.

b. Notification by the commissioner to the insurer of an adjusted risk-based capital report that indicates an event in paragraph *"a"*, provided the insurer does not challenge the adjusted risk-based capital report and request a hearing pursuant to section 521E.7.

c. If a hearing is requested pursuant to section 521E.7, notification by the commissioner to the insurer after the hearing that the commissioner has rejected the insurer's challenge of the adjusted risk-based capital report indicating an event in paragraph *"a"*.

2. Upon the occurrence of a company-action-level event, the insurer shall prepare and submit to the commissioner a risk-based capital plan which shall include all of the following:

a. Identification of the conditions which contributed to the company-action-level event.

b. Proposed corrective actions which the insurer intends to implement and which are expected to result in the elimination of the company-action-level event.

c. Projections of the insurer's financial results for the current year and at least the four succeeding years, including projections of statutory operating income, net income, capital, and surplus. Projections shall be provided assuming the absence of the proposed corrective actions and assuming the implementation of the proposed corrective actions. The projections for both new and renewal business may include separate projections for each major line of business and separately identify each significant income, expense, and benefit component.

d. Identification of the primary assumptions impacting the insurer's projections and the sensitivity of the projections to the assumptions.

e. Identification of the quality of, and problems associated with, the insurer's business, including but not limited to its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and use of reinsurance, if any, in each case.

3. The risk-based capital plan shall be submitted within forty-five days of the company-action-level event, or, if the insurer requests a hearing pursuant to section 521E.7 for the purpose of challenging the adjusted risk-based capital report, within forty-five days after notification to the insurer that the commissioner, after hearing, has rejected the insurer's challenge.

4. Within sixty days after the submission by an insurer of a risk-based capital plan to the commissioner, the commissioner shall notify the insurer whether the risk-based capital plan shall be implemented or, in the judgment of the commissioner, is unsatisfactory. If the commissioner determines the risk-based capital plan is unsatisfactory, the notification to the insurer shall set forth the reasons for the determination, and may set forth proposed revisions which in the judgment of the commissioner will render the risk-based capital plan satisfactory. Upon the receipt of notification from the commissioner pursuant to this subsection, the insurer shall prepare a revised risk-based capital plan, which may

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incorporate by reference any revisions proposed by the commissioner, and submit the revised risk-based capital plan to the commissioner within forty-five days of the receipt of notification from the commissioner of the commissioner's determination that the risk-based capital plan is unsatisfactory, or, if the insurer requests a hearing pursuant to section 521E.7 for the purpose of challenging the commissioner's determination, within forty-five days after notification to the insurer that the commissioner, after hearing, has rejected the insurer's challenge.

5. After notification of the insurer by the commissioner that the insurer's risk-based capital plan or revised risk-based capital plan is unsatisfactory, the commissioner, at the commissioner's discretion and subject to the insurer's right to a hearing pursuant to section 521E.7, may specify in the notification that the notification constitutes a regulatory-action-level event.

6. A domestic insurer that files a risk-based capital plan or revised risk-based capital plan with the commissioner shall file a copy of the risk-based capital plan or revised risk-based capital plan with the insurance commissioner in a state in which the insurer is authorized to do business if both of the following apply:

a. The other state has a provision substantially similar to section 521E.8, subsection 1, with respect to the confidentiality and availability of such plans.

b. The insurance commissioner of that state has notified the insurer in writing of its request to receive a copy of the risk-based capital plan or revised risk-based capital plan. Upon receipt of the written request, the insurer shall file a copy of the risk-based capital plan or revised risk-based capital plan with the requesting commissioner by no later than the later of the following:

(1) Fifteen days from the receipt of the written request.

(2) The date on which the risk-based capital plan or revised risk-based capital plan is filed pursuant to subsection 3 or 4, as applicable.

96 Acts, ch 1046, §11; 2011 Acts, ch 70, §42, 43; 2013 Acts, ch 124, §28
Referred to in §521A.1, 521E.1, 521E.4, 522.6

521E.4 Regulatory-action-level event.

1. *"Regulatory-action-level event"* means any of the following:

a. The filing of a risk-based capital report by the insurer which indicates that the insurer's total adjusted capital is greater than or equal to its authorized-control-level risk-based capital but less than its regulatory-action-level risk-based capital.

b. Notification by the commissioner to an insurer of an adjusted risk-based capital report that indicates the event in paragraph *"a"*, provided the insurer does not challenge the adjusted risk-based capital report and request a hearing pursuant to section 521E.7.

c. After a hearing pursuant to section 521E.7, notification by the commissioner to the insurer that the commissioner has rejected the insurer's challenge of the adjusted risk-based capital report indicating the event in paragraph *"a"*.

d. Failure of the insurer to file a risk-based capital report by the filing date, unless the insurer has provided an explanation for the failure which is satisfactory to the commissioner and has cured the failure within ten days after the filing date.

e. Failure of the insurer to submit a risk-based capital plan to the commissioner within the time period set forth in section 521E.3, subsection 3.

f. Notification by the commissioner to the insurer of both of the following:

(1) The risk-based capital plan or revised risk-based capital plan submitted by the insurer, in the judgment of the commissioner, is unsatisfactory.

(2) Notification pursuant to this paragraph constitutes a regulatory-action-level event with respect to the insurer, provided the insurer has not challenged the determination pursuant to section 521E.7.

g. After a hearing pursuant to section 521E.7, notification by the commissioner to the insurer that the commissioner has rejected the insurer's challenge of the determination made by the commissioner pursuant to paragraph *"f"*.

h. Notification by the commissioner to the insurer that the insurer has failed to adhere to the insurer's risk-based capital plan or revised risk-based capital plan, but only if

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the failure has a substantial adverse effect on the ability of the insurer to eliminate the company-action-level event pursuant to the insurer's risk-based capital plan or revised risk-based capital plan and the commissioner has so stated in the notification. However, notification by the commissioner pursuant to this paragraph does not constitute a company-action-level event if the insurer has challenged the determination of the commissioner pursuant to section 521E.7.

i. After a hearing pursuant to section 521E.7, notification by the commissioner to the insurer that the commissioner has rejected the insurer's challenge of the commissioner's determination pursuant to paragraph *"h"*.

2. In the event of a regulatory-action-level event the commissioner shall do all of the following:

a. Require the insurer to prepare and submit a risk-based capital plan or a revised risk-based capital plan, as applicable.

b. Perform an examination or analysis of the assets, liabilities, and operations of the insurer, including a review of its risk-based capital plan or revised risk-based capital plan, as deemed necessary by the commissioner.

c. Subsequent to the examination or analysis pursuant to paragraph *"b"*, issue a corrective order.

3. In determining the corrective actions to be specified, the commissioner shall take into account factors the commissioner deems to be relevant with respect to the insurer based upon the commissioner's examination or analysis of the assets, liabilities, and operations of the insurer, including, but not limited to, the results of any sensitivity tests undertaken pursuant to the risk-based capital instructions. The risk-based capital plan or revised risk-based capital plan shall be submitted within forty-five days after the occurrence of the regulatory-action-level event, except as follows:

a. If the insurer challenges an adjusted risk-based capital report pursuant to section 521E.7, and in the judgment of the commissioner the challenge is not frivolous, within forty-five days after the notification to the insurer that the commissioner, after a hearing pursuant to section 521E.7, has rejected the insurer's challenge.

b. If the insurer challenges a revised risk-based capital plan pursuant to section 521E.7, and in the judgment of the commissioner the challenge is not frivolous, within forty-five days after the notification to the insurer that the commissioner, after a hearing pursuant to section 521E.7, has rejected the insurer's challenge.

4. The commissioner may retain actuaries, investment experts, and other consultants as deemed necessary by the commissioner to review the insurer's risk-based capital plan or revised risk-based capital plan; examine or analyze the assets, liabilities, and operations of the insurer; and assist in the formulation of the corrective order with respect to the insurer. Fees of the actuaries, investment experts, or other consultants retained by the commissioner shall be paid by the insurer subject to the review or examination.

96 Acts, ch 1046, §12
Referred to in §521E.5

521E.5 Authorized-control-level event.

1. *"Authorized-control-level event"* means any of the following:

a. The filing of a risk-based capital report by the insurer which indicates that the insurer's total adjusted capital is greater than or equal to its mandatory-control-level risk-based capital but less than its authorized-control-level risk-based capital.

b. Notification by the commissioner to an insurer of an adjusted risk-based capital report that indicates the event in paragraph *"a"*, provided the insurer does not challenge the adjusted risk-based capital report and request a hearing pursuant to section 521E.7.

c. After a hearing pursuant to section 521E.7, notification by the commissioner to the insurer that the commissioner has rejected the insurer's challenge of the adjusted risk-based capital report indicating the event in paragraph *"a"*.

d. Failure of the insurer to respond to a corrective order in a manner satisfactory to the commissioner, unless the insurer has challenged the corrective order pursuant to section 521E.7.

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e. Failure of the insurer to respond to the corrective order in a manner satisfactory to the commissioner after the insurer has challenged the corrective order pursuant to section 521E.7, and the commissioner, after a hearing pursuant to section 521E.7, has rejected the challenge or modified the corrective order.

2. In the event of an authorized-control-level event the commissioner shall do either of the following:

a. Take action as required pursuant to section 521E.4 in the same manner as if a regulatory-action-level event has occurred.

b. Take action as necessary to cause the insurer to be placed under supervision or other regulatory control under chapter 507C, if the commissioner deems such action to be in the best interests of the policyholders and creditors of the insurer and of the public. If the commissioner takes action pursuant to this paragraph, the authorized-control-level event is deemed sufficient grounds for the commissioner to take action pursuant to chapter 507C, and the commissioner has the rights, powers, and duties with respect to the insurer as set forth in chapter 507C. If the commissioner takes action under this paragraph pursuant to an adjusted risk-based capital report, the insurer is entitled to the protections afforded to insurers under the provisions of chapter 17A relating to summary proceedings.

96 Acts, ch 1046, §13

521E.6 Mandatory-control-level event.

1. *"Mandatory-control-level event"* means any of the following events:

a. The filing of a risk-based capital report which indicates that an insurer's total adjusted capital is less than its mandatory-control-level risk-based capital.

b. Notification by the commissioner to an insurer of an adjusted risk-based capital report that indicates the event in paragraph *"a"*, provided the insurer does not challenge the adjusted risk-based capital report and request a hearing pursuant to section 521E.7.

c. After a hearing pursuant to section 521E.7, notification by the commissioner to the insurer that the commissioner has rejected the insurer's challenge of the adjusted risk-based capital report indicating the event in paragraph *"a"*.

2. In the event of a mandatory-control-level event the commissioner shall do the following:

a. With respect to a life insurer, take action as necessary to place the insurer under supervision or other regulatory control under chapter 507C. If the commissioner takes action pursuant to this paragraph, the mandatory-control-level event is deemed sufficient grounds for the commissioner to take action pursuant to chapter 507C, and the commissioner shall have the rights, powers, and duties with respect to the insurer as set forth in chapter 507C. If the commissioner takes action pursuant to an adjusted risk-based capital report, the insurer is entitled to the protections of chapter 17A pertaining to summary proceedings. Notwithstanding the provisions of this paragraph, the commissioner may forego any action pursuant to this paragraph for up to ninety days after the mandatory-control-level event if the commissioner finds a reasonable expectation exists that the mandatory-control-level event may be eliminated within the ninety-day period.

b. With respect to a property and casualty insurer, take action as necessary to place the insurer under supervision or other regulatory control under chapter 507C, or, in the case of an insurer which is no longer writing business and which is running off its existing business, the commissioner may allow the insurer to continue its run-off under the supervision of the commissioner. In either event, the mandatory-control-level event is deemed sufficient grounds for the commissioner to take action under chapter 507C and the commissioner shall have the rights, powers, and duties with respect to the insurer as set forth in chapter 507C. If the commissioner takes action pursuant to an adjusted risk-based capital report, the insurer is entitled to the protections of chapter 17A pertaining to summary proceedings. Notwithstanding the provisions of this paragraph, the commissioner may forego action for up to ninety days after the mandatory-control-level event if the commissioner finds a reasonable expectation exists that the mandatory-control-level event may be eliminated within the ninety-day period.

96 Acts, ch 1046, §14

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521E.7 Confidential hearings.

1. An insurer shall notify the commissioner of the insurer's request for a confidential hearing within five days after the occurrence of any of the following:

a. Notification to an insurer by the commissioner of an adjusted risk-based capital report.

b. Notification to an insurer by the commissioner of both of the following:

(1) The insurer's risk-based capital plan or revised risk-based capital plan is unsatisfactory.

(2) That the notification pursuant to this paragraph constitutes a regulatory-action-level event with respect to the insurer.

c. Notification to an insurer by the commissioner that the insurer has failed to adhere to its risk-based capital plan or revised risk-based capital plan and that the failure has a substantial adverse effect on the ability of the insurer to eliminate the company-action-level event in accordance with its risk-based capital plan or revised risk-based capital plan.

d. Notification to an insurer by the commissioner of a corrective order with respect to the insurer.

2. An insurer receiving a notification pursuant to subsection 1 is entitled to a confidential hearing before the insurance division, at which the insurer may challenge a determination or action by the commissioner. Upon receipt of the insurer's request for a hearing, the commissioner shall set a date for the hearing, which shall be not less than ten or more than thirty days after the date of the insurer's request.

96 Acts, ch 1046, §15

Referred to in §521E.3, 521E.4, 521E.5, 521E.6

521E.8 Confidentiality — use of reports and information — prohibition on announcements — prohibition on use in ratemaking.

1. A risk-based capital report, to the extent the information in the report is not required to be set forth in a publicly available annual statement schedule, or a risk-based capital plan, including the results or report of any examination or analysis of an insurer performed pursuant to this chapter, and any corrective order issued by the commissioner pursuant to an examination or analysis, with respect to a domestic insurer or foreign insurer, which are filed with the commissioner, are deemed not to be public records under chapter 22 and are privileged and confidential. This information shall not be made public and is not subject to subpoena, other than by the commissioner, and then only for the purpose of enforcement actions taken by the commissioner pursuant to this chapter or any other provision of the insurance laws of this state.

2. The comparison of an insurer's total adjusted capital to any of its risk-based capital levels is a regulatory tool which may indicate the need for possible corrective action with respect to the insurer, and is not to be used as a means to rank insurers generally.

3. Except as otherwise required under this chapter or as required of a publicly held company by the United States securities and exchange commission or other regulatory agency, the publication or dissemination in any manner of an announcement or statement which contains an assertion, representation, or statement with regard to the risk-based capital levels of an insurer, or of a component derived in the calculation, by an insurer, agent, broker, or other person engaged in any manner in the business of insurance which would be misleading, is prohibited. However, if a materially false statement comparing an insurer's total adjusted capital to its risk-based capital levels or a misleading comparison of any other amount to the insurer's risk-based capital levels is published or disseminated in any manner and if the insurer is able to demonstrate to the commissioner with substantial proof that the statement is false, misleading, or inappropriate, as the case may be, the insurer may publish an announcement in a written publication for the sole purpose of rebutting the materially false, misleading, or inappropriate statement.

4. The risk-based capital instructions, risk-based capital reports, adjusted risk-based capital reports, risk-based capital plans, and revised risk-based capital plans shall be solely used by the commissioner in monitoring the solvency of insurers and the need for possible corrective action with respect to insurers. The risk-based capital instructions, risk-based capital reports, adjusted risk-based capital reports, risk-based capital plans, and revised

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risk-based capital plans shall not be used by the commissioner for ratemaking and shall not be considered or introduced as evidence in any rate proceeding or used by the commissioner to calculate or derive any elements of an appropriate premium level or rate of return for any line of insurance which an insurer or any affiliate is authorized to write.

5. A violation of this section by an insurer, agent, broker, or other person engaged in any manner in the business of insurance constitutes an unfair trade practice under chapter 507B.

96 Acts, ch 1046, §16
Referred to in §521E.3

521E.9 Supplemental provisions — rules — exemption.

1. The provisions of this chapter are supplemental to any other provisions of the laws of this state, and shall not preclude or limit any other powers or duties of the commissioner under such laws, including, but not limited to, chapter 507C.

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

3. The commissioner may exempt from the application of this chapter any domestic property and casualty insurer which satisfies all of the following:

a. Writes direct business only in this state.

b. Writes direct annual premiums of one million dollars or less.

c. Does not assume reinsurance in excess of five percent of direct premiums written.

96 Acts, ch 1046, §17

521E.10 Foreign insurers.

1. *a.* A foreign insurer, upon the written request of the commissioner, shall submit to the commissioner a risk-based capital report as of the end of the calendar year just ended by the later of the following:

(1) The filing date.

(2) Fifteen days after the request is received by the foreign insurer.

b. A foreign insurer, upon the written request of the commissioner, shall promptly submit to the commissioner a copy of any risk-based capital plan that is filed with the insurance commissioner of any other state.

2. In the event of a company-action-level event, regulatory-action-level event, or authorized-control-level event with respect to a foreign insurer as determined under the risk-based capital statute applicable in the state of domicile of the insurer, or, if no risk-based capital statute is in force in that state, under the provisions of this chapter, and if the insurance commissioner of the state of domicile of the foreign insurer fails to require the foreign insurer to file a risk-based capital plan in the manner specified under that state's risk-based capital statute, or, if no risk-based capital statute is in force in that state, pursuant to section 521E.2, the commissioner may require the foreign insurer to file a risk-based capital plan with the commissioner. The failure of the foreign insurer to file a risk-based capital plan with the commissioner shall be sufficient grounds for the commissioner to order the insurer to cease and desist from writing new insurance business in this state.

3. In the event of a mandatory-control-level event with respect to a foreign insurer, if a domiciliary receiver has not been appointed with respect to the foreign insurer under the rehabilitation and liquidation statute applicable in the state of domicile of the foreign insurer, the commissioner may make application to the district court as permitted under chapter 507C with respect to the liquidation of property of foreign insurers found in this state, and the occurrence of the mandatory-control-level event shall be considered adequate grounds for the application.

96 Acts, ch 1046, §18; 2012 Acts, ch 1023, §157

521E.11 Immunity.

No liability shall arise on the part of, and no cause of action shall arise against, the commissioner or the insurance division or its employees or agents for an action taken in the exercise of powers or performance of duties under this chapter.

96 Acts, ch 1046, §19

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521E.12 Effect of notices.

Notice by the commissioner to an insurer which may result in regulatory action under this chapter is effective upon being sent if transmitted by certified mail, or in the case of any other transmission is effective upon the insurer's receipt of the notice.

96 Acts, ch 1046, §20

CHAPTER 521F

RISK-BASED CAPITAL REQUIREMENTS FOR HEALTH ORGANIZATIONS

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

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521F.1 Purpose.

The purpose of this chapter is to establish minimum capital requirements for health organizations that will provide protection related to the risks to which an individual health organization may be subject including, but not limited to, the health organization's assets risk, underwriting risk, credit risk, and other business risk.

2000 Acts, ch 1050, §1

521F.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Adjusted risk-based capital report"* means a risk-based capital report adjusted by the commissioner pursuant to section 521F.3, subsection 4.
2. *"Commissioner"* means the commissioner of insurance.
3. *"Corrective order"* means an order issued by the commissioner specifying corrective actions which the commissioner has determined are required.
4. *"Domestic health organization"* means a health organization domiciled in this state.
5. *"Filing date"* means March 1 of each year.
6. *"Foreign health organization"* means a health organization that is not domiciled in this state.
7. *"Health organization"* means a health maintenance organization, limited service organization, dental or vision plan, hospital, medical and dental indemnity or service corporation or other managed care organization licensed under chapter 514 or 514B, or any other entity engaged in the business of insurance, risk transfer, or risk retention, that is subject to the jurisdiction of the commissioner of insurance. *"Health organization"* does not include an insurance company licensed to transact the business of insurance under chapter 508, 515, or 520, and which is otherwise subject to chapter 521E.
8. *"Revised risk-based capital plan"* means a risk-based capital plan that has been rejected by the commissioner and has been revised by the health organization, with or without the commissioner's recommendation.
9. *"Risk-based capital instructions"* means the instructions included in the risk-based capital report as adopted by the national association of insurance commissioners, as such risk-based capital instructions may be amended by the national association of insurance commissioners from time to time in accordance with the procedures adopted by the national association of insurance commissioners.

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10. *"Risk-based capital level"* means a health organization's company-action-level risk-based capital, regulatory-action-level risk-based capital, authorized-control-level risk-based capital, or mandatory-control-level risk-based capital as follows:

a. "Company-action-level risk-based capital" means the product of two and the health organization's authorized-control-level risk-based capital.

b. "Regulatory-action-level risk-based capital" means the product of one and one-half and the health organization's authorized-control-level risk-based capital.

c. "Authorized-control-level risk-based capital" means the number determined under the risk-based capital formula in accordance with the risk-based capital instructions.

d. "Mandatory-control-level risk-based capital" means the product of seven-tenths and the health organization's authorized-control-level risk-based capital.

11. *"Risk-based capital plan"* means a comprehensive financial plan containing the elements identified in section 521F.4, subsection 2.

12. *"Risk-based capital report"* means the report required in section 521F.3.

13. *"Total adjusted capital"* means the sum of the following:

a. A health organization's statutory capital and surplus.

b. Such other items, if any, as identified in the risk-based capital instructions.

2000 Acts, ch 1050, §2; 2017 Acts, ch 148, §99

521F.3 Risk-based capital reports.

1. A domestic health organization, on or prior to the filing date, shall prepare and submit to the commissioner a report of the health organization's risk-based capital levels as of the end of the calendar year immediately preceding the filing date, in a form and containing the information required by the risk-based capital instructions. A domestic health organization shall also file its risk-based capital report with the insurance commissioner in each state in which the health organization is authorized to do business, if such insurance commissioner has notified the health organization of its request in writing. Upon receipt of the written request, the health organization shall file its risk-based capital report with the requesting commissioner by no later than the later of the following:

a. Fifteen days from the receipt of the written request.

b. The filing date.

2. *a.* A health organization's risk-based capital shall be determined pursuant to the formula set forth in the risk-based capital instructions. The formula shall take into account all of the following, and may be adjusted, as deemed appropriate by the commissioner, for the covariance between the following:

(1) Assets risk.

(2) Credit risk.

(3) Underwriting risk.

(4) All other business risks and other relevant risks as identified in the risk-based capital instructions.

b. The risk factors shall be applied in the manner set forth in the risk-based capital instructions.

3. A health organization shall seek to maintain capital above the risk-based capital levels required by this chapter.

4. A risk-based capital report filed by a domestic health organization which in the judgment of the commissioner is inaccurate shall be adjusted by the commissioner to correct the inaccuracy. The commissioner shall notify the health organization of the adjustment. The notice shall contain a statement of the reason for the adjustment.

2000 Acts, ch 1050, §3; 2000 Acts, ch 1232, §79

Referred to in §521F.2

521F.4 Company-action-level event.

1. *"Company-action-level event"* means any of the following:

a. The filing of a risk-based capital report by a health organization which indicates that the health organization's total adjusted capital is greater than or equal to its

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regulatory-action-level risk-based capital but less than its company-action-level risk-based capital.

b. The filing of a risk-based capital report by a health organization which indicates that the health organization has total adjusted capital which is greater than or equal to its company-action-level risk-based capital but less than the product of its authorized-control-level risk-based capital and three and triggers the trend test determined in accordance with the trend test calculation included in the health risk-based capital instructions.

c. Notification by the commissioner to a health organization of an adjusted risk-based capital report that indicates an event in paragraph *"a"* or *"b"*, provided the health organization does not challenge the adjusted risk-based capital report and request a hearing pursuant to section 521F.8.

d. If a hearing is requested pursuant to section 521F.8, notification by the commissioner to the health organization after the hearing that the commissioner has rejected the health organization's challenge of the adjusted risk-based capital report indicating the event in paragraph *"a"* or *"b"*.

2. Upon the occurrence of a company-action-level event, the health organization shall prepare and submit to the commissioner a risk-based capital plan that includes all of the following:

a. Identification of the conditions which contributed to the company-action-level event.

b. Proposed corrective actions which the health organization intends to implement and which are expected to result in the elimination of the company-action-level event.

c. Projections of the health organization's financial results for the current year and at least the two succeeding years, including projections of statutory balance sheets, operating income, net income, capital and surplus, and risk-based capital levels. Projections shall be provided assuming the absence of the proposed corrective actions and assuming the implementation of the proposed corrective actions. Projections shall be provided for each major line of business and separately identify each significant income, expense, and benefit component.

d. Identification of the primary assumptions impacting the health organization's projections and the sensitivity of the projections to the assumptions.

e. Identification of the quality of, and problems associated with, the health organization's business, including but not limited to its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and use of reinsurance, if any, in each case.

3. The risk-based capital plan shall be filed within forty-five days of the company-action-level event, or, if the health organization requests a hearing pursuant to section 521F.8 for the purpose of challenging the adjusted risk-based capital report, within forty-five days after notification to the health organization that the commissioner, after hearing, has rejected the health organization's challenge.

4. Within sixty days after the submission by a health organization of a risk-based capital plan to the commissioner, the commissioner shall notify the health organization whether the risk-based capital plan shall be implemented or, in the judgment of the commissioner, is unsatisfactory. If the commissioner determines the risk-based capital plan is unsatisfactory, the notification to the health organization shall set forth the reasons for the determination, and may set forth proposed revisions which in the judgment of the commissioner will render the risk-based capital plan satisfactory. Upon the receipt of the notification from the commissioner, the health organization shall prepare a revised risk-based capital plan, which may incorporate by reference any revisions proposed by the commissioner, and file the revised risk-based capital plan with the commissioner.

5. The revised risk-based capital plan shall be filed within forty-five days of the receipt of notification from the commissioner of the commissioner's determination that the risk-based capital plan is unsatisfactory, or, if the health organization requests a hearing pursuant to section 521F.8 for the purpose of challenging the commissioner's determination, within forty-five days after notification to the health organization that the commissioner, after hearing, has rejected the health organization's challenge.

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6. After notification of the health organization by the commissioner that the health organization's risk-based capital plan or revised risk-based capital plan is unsatisfactory, the commissioner, pursuant to section 521F.8, may specify in the notification that the notification constitutes a regulatory-action-level event.

7. *a.* A domestic health organization that files a risk-based capital plan or revised risk-based capital plan with the commissioner shall file a copy of the risk-based capital plan or revised risk-based capital plan with the insurance commissioner in a state in which the health organization is authorized to do business if both of the following apply:

(1) The other state has a risk-based capital provision substantially similar to section 521F.9, with respect to the confidentiality and availability of such plans.

(2) The insurance commissioner of that state has notified the health organization in writing of its request to receive a copy of the risk-based capital plan or revised risk-based capital plan.

b. Upon receipt of the written request under paragraph "*a*", subparagraph (2), the health organization shall file a copy of the risk-based capital plan or revised risk-based capital plan with the requesting commissioner by no later than the later of the following:

(1) Fifteen days after the receipt of the written request.

(2) The date on which the risk-based capital plan or revised risk-based capital plan is filed under subsection 3 or 5, as applicable.

2000 Acts, ch 1050, §4; 2000 Acts, ch 1232, §80; 2011 Acts, ch 70, §44; 2011 Acts, ch 131, §72, 158

Referred to in §521A.1, 521F.2, 521F.5, 522.6

521F.5 Regulatory-action-level event.

1. "*Regulatory-action-level event*" means any of the following:

a. The filing of a risk-based capital report by the health organization that indicates that the health organization's total adjusted capital is greater than or equal to its authorized-control-level risk-based capital but less than its regulatory-action-level risk-based capital.

b. Notification by the commissioner to a health organization of an adjusted risk-based capital report that indicates the event in paragraph "*a*", provided the health organization does not challenge the adjusted risk-based capital report and request a hearing pursuant to section 521F.8.

c. After a hearing pursuant to section 521F.8, notification by the commissioner to the health organization that the commissioner has rejected the health organization's challenge of the adjusted risk-based capital report indicating the event in paragraph "*a*".

d. Failure of the health organization to file a risk-based capital report by the filing date, unless the health organization has provided an explanation for the failure which is satisfactory to the commissioner and has cured the failure within ten days after the filing date.

e. Failure of the health organization to submit a risk-based capital plan to the commissioner within the time period set forth in section 521F.4, subsection 3.

f. Notification by the commissioner to the health organization of both of the following:

(1) The risk-based capital plan or revised risk-based capital plan filed by the health organization, in the judgment of the commissioner, is unsatisfactory.

(2) Notification pursuant to this paragraph constitutes a regulatory-action-level event with respect to the health organization, provided the health organization has not challenged the determination pursuant to section 521F.8.

g. After a hearing pursuant to section 521F.8, notification by the commissioner to the health organization that the commissioner has rejected the health organization's challenge of the determination made by the commissioner pursuant to paragraph "*f*".

h. Notification by the commissioner to the health organization that the health organization has failed to adhere to its risk-based capital plan or revised risk-based capital plan, but only if the failure has a substantial adverse effect on the ability of the health organization to eliminate the company-action-level event pursuant to the health organization's risk-based capital plan or revised risk-based capital plan and the commissioner has so stated in the notification.

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However, notification by the commissioner pursuant to this paragraph does not constitute a company-action-level event if the health organization has challenged the determination of the commissioner pursuant to section 521F.8.

i. After a hearing pursuant to section 521F.8, notification by the commissioner to the health organization that the commissioner rejected the health organization's challenge of the commissioner's determination pursuant to paragraph *"h"*.

2. Upon the occurrence of a regulatory-action-level event, the commissioner shall do all of the following:

a. Require the health organization to prepare and submit a risk-based capital plan or revised risk-based capital plan, as applicable.

b. Perform an examination or analysis of the assets, liabilities, and operations of the health organization, including a review of its risk-based capital plan or revised risk-based capital plan.

c. Subsequent to the examination or analysis pursuant to paragraph *"b"*, issue a corrective order.

3. The commissioner, in determining the corrective actions to be ordered, may take into account factors the commissioner deems relevant with respect to the health organization based upon the commissioner's examination or analysis of the assets, liabilities, and operations of the health organization, including, but not limited to, the results of any sensitivity tests undertaken pursuant to the risk-based capital instructions. The risk-based capital plan or revised risk-based capital plan shall be submitted within forty-five days after the occurrence of the regulatory-action-level event, except as follows:

a. If the health organization challenges a risk-based capital report pursuant to section 521F.8, and in the judgment of the commissioner the challenge is not frivolous, within forty-five days after the notification to the health organization that the commissioner, after a hearing pursuant to section 521F.8, has rejected the health organization's challenge.

b. If the health organization challenges a revised risk-based capital plan pursuant to section 521F.8, and in the judgment of the commissioner the challenge is not frivolous, within forty-five days after the notification to the health organization that the commissioner, after a hearing pursuant to section 521F.8, has rejected the health organization's challenge.

4. The commissioner may retain actuaries, investment experts, and other consultants as deemed necessary by the commissioner to review the health organization's risk-based capital plan or revised risk-based capital plan; examine or analyze the assets, liabilities, and operations of the health organization; and assist in the formulation of the corrective order with respect to the health organization. Fees of the actuaries, investment experts, or other consultants retained by the commissioner shall be paid by the health organization subject to the review or examination.

2000 Acts, ch 1050, §5
Referred to in §521F.6

521F.6 Authorized-control-level event.

1. *"Authorized-control-level event"* means any of the following:

a. The filing of a risk-based capital report by the health organization which indicates that the health organization's total adjusted capital is greater than or equal to its mandatory-control-level risk-based capital but less than its authorized-control-level risk-based capital.

b. Notification by the commissioner to a health organization of an adjusted risk-based capital report that indicates the event in paragraph *"a"*, provided the health organization does not challenge the adjusted risk-based capital report and request a hearing pursuant to section 521F.8.

c. After a hearing pursuant to section 521F.8, notification by the commissioner to the health organization that the commissioner has rejected the health organization's challenge of the adjusted risk-based capital report indicating the event in paragraph *"a"*.

d. Failure of the health organization to respond to a corrective order in a manner satisfactory to the commissioner, unless the health organization has challenged the corrective order pursuant to section 521F.8.

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e. Failure of the health organization to respond to a corrective order in a manner satisfactory to the commissioner after the health organization has challenged the corrective order pursuant to section 521F.8, and the commissioner, after a hearing pursuant to section 521F.8, has rejected the challenge or modified the corrective order.

2. In the event of an authorized-control-level event, the commissioner shall do either of the following:

a. Take action as required pursuant to section 521F.5 in the same manner as if a regulatory-action-level event has occurred.

b. Take action as necessary to cause the health organization to be placed under supervision or other regulatory control under chapter 507C, if the commissioner deems such action to be in the best interests of the policyholders and creditors of the health organization and of the public. If the commissioner takes such action pursuant to this paragraph, the authorized-control-level event is deemed sufficient grounds for the commissioner to take action pursuant to chapter 507C and the commissioner has the rights, powers, and duties with respect to the health organization as set forth in chapter 507C. If the commissioner takes action under this paragraph pursuant to an adjusted risk-based capital report, the health organization is entitled to the protections of chapter 17A pertaining to summary proceedings.

2000 Acts, ch 1050, §6

521F.7 Mandatory-control-level event.

1. *"Mandatory-control-level event"* means any of the following:

a. The filing of a risk-based capital report which indicates that a health organization's total adjusted capital is less than its mandatory-control-level risk-based capital.

b. Notification by the commissioner to a health organization of an adjusted risk-based capital report that indicates the event in paragraph *"a"*, provided the health organization does not challenge the adjusted risk-based capital report and request a hearing pursuant to section 521F.8.

c. After a hearing pursuant to section 521F.8, notification by the commissioner to the health organization that the commissioner has rejected the health organization's challenge of the adjusted risk-based capital report indicating the event in paragraph *"a"*.

2. In the event of a mandatory-control-level event, the commissioner shall take action as necessary to place the health organization under supervision or other regulatory control pursuant to chapter 507C. If the commissioner takes action pursuant to this subsection, the mandatory-control-level event is deemed sufficient grounds for the commissioner to take action pursuant to chapter 507C, and the commissioner has the rights, powers, and duties with respect to the health organization as are set forth in chapter 507C. If the commissioner takes action pursuant to an adjusted risk-based capital report, the health organization is entitled to the protections of chapter 17A pertaining to summary proceedings. Notwithstanding this subsection, the commissioner may forego action for up to ninety days after the mandatory-control-level event if the commissioner finds a reasonable expectation exists that the mandatory-control-level event may be eliminated within the ninety-day period.

2000 Acts, ch 1050, §7

521F.8 Confidential hearings.

1. A health organization receiving a notification pursuant to subsection 2 is entitled to a confidential hearing before the insurance division, at which the health organization may challenge a determination or action by the commissioner. Upon receipt of the health organization's request for a hearing, the commissioner shall set a date for the hearing, which shall be not less than ten and not more than thirty days after the date of the health organization's request.

2. A health organization shall notify the commissioner of the health organization's request for a confidential hearing within five days after the occurrence of any of the following:

a. Notification to a health organization by the commissioner of an adjusted risk-based capital report.

b. Notification to a health organization by the commissioner of both of the following:

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(1) That the health organization's risk-based capital plan or revised risk-based capital plan is unsatisfactory.

(2) That the notification pursuant to this paragraph constitutes a regulatory-action-level event with respect to the health organization.

c. Notification to a health organization by the commissioner that the health organization has failed to adhere to its risk-based capital plan or revised risk-based capital plan and that the failure has a substantial adverse effect on the ability of the health organization to eliminate the company-action-level event in accordance with its risk-based capital plan or revised risk-based capital plan.

d. Notification to a health organization by the commissioner of a corrective order with respect to the health organization.

2000 Acts, ch 1050, §8; 2000 Acts, ch 1232, §81
Referred to in §521F.4, 521F.5, 521F.6, 521F.7

521F.9 Confidentiality — use of reports and information — prohibition on announcements — prohibition on use in ratemaking.

1. A risk-based capital report, to the extent the information in the report is not required to be set forth in a publicly available annual statement schedule, a risk-based capital plan, including the results or report of any examination or analysis of a health organization performed pursuant to this chapter, and any corrective order issued by the commissioner pursuant to an examination or analysis, which are filed with the commissioner, are deemed not to be public records under chapter 22 and are privileged and confidential. This information shall not be made public and is not subject to subpoena, other than by the commissioner, and then only for the purpose of enforcement actions taken by the commissioner pursuant to this chapter or any other provision of the insurance laws of this state.

2. The comparison of a health organization's total adjusted capital to any of its risk-based capital levels is a regulatory tool which may indicate the need for possible corrective action with respect to the health organization, and is not to be used as a means to rank health organizations generally.

3. Except as otherwise required under this chapter, the publication or dissemination in any manner of an announcement or statement which contains an assertion, representation, or statement with regard to the risk-based capital levels of a health organization, or of a component derived in the calculation, by a health organization, agent, broker, or other person engaged in any manner in the business of insurance, is prohibited. However, if a materially false statement comparing a health organization's total adjusted capital to its risk-based capital levels or a misleading comparison of any other amount to the health organization's risk-based capital levels is published or disseminated in any manner and if the health organization is able to demonstrate to the commissioner with substantial proof that the statement is false, misleading, or inappropriate, as the case may be, the health organization may publish an announcement in a written publication for the sole purpose of rebutting the materially false, misleading, or inappropriate statement.

4. The risk-based capital instructions, risk-based capital reports, adjusted risk-based capital reports, risk-based capital plans, and revised risk-based capital plans shall be solely used by the commissioner in monitoring the solvency of health organizations and the need for possible corrective action with respect to health organizations. The risk-based capital instructions, risk-based capital reports, adjusted risk-based capital reports, risk-based capital plans, and revised risk-based capital plans shall not be used by the commissioner for ratemaking and shall not be considered or introduced as evidence in any rate proceeding or used by the commissioner to calculate or derive any elements of an appropriate premium level or rate of return for any line of insurance which a health organization or any affiliate is authorized to write.

2000 Acts, ch 1050, §9
Referred to in §521F.4

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521F.10 Supplemental provisions — rules — exemption.

1. This chapter shall not preclude or limit any other powers or duties of the commissioner under insurance laws including but not limited to chapter 507C.

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

3. The commissioner may exempt from filing a risk-based capital report a domestic health organization which writes direct business only in this state and satisfies any of the following:

a. Writes direct annual premiums of one hundred thousand dollars or less, and does not assume reinsurance in excess of five percent of direct annual premiums written.

b. Is authorized to do business pursuant to chapter 514 and writes direct annual premiums of one hundred thousand dollars or less.

c. Is a limited health service organization that covers fewer than five hundred lives.

2000 Acts, ch 1050, §10

521F.11 Foreign health organizations.

1. A foreign health organization, upon the written request of the commissioner, shall submit to the commissioner a risk-based capital report for the previous calendar year just ended by the later of the following:

a. The filing date.

b. Fifteen days after the request is received by the foreign health organization.

2. A foreign health organization, upon the written request of the commissioner, shall promptly submit to the commissioner a copy of any risk-based capital plan that is filed with the insurance commissioner of any other state.

3. The commissioner may require a foreign health organization to file a risk-based capital plan under either of the following circumstances:

a. In the event of a company-action-level event, regulatory-action-level event, or authorized-control-level event as determined under the risk-based capital statute applicable in the state of domicile of the foreign health organization, or, if no risk-based capital statute is in force in that state, under this chapter.

b. The insurance commissioner of the state of domicile of the foreign health organization fails to require the foreign health organization to file a risk-based capital plan in the manner specified under that state's risk-based capital statute, or, if no risk-based capital statute is in force in that state, pursuant to this chapter.

4. The failure of the foreign health organization to file a risk-based capital plan is sufficient grounds to order the health organization to cease and desist from writing new insurance business in this state.

5. In the event of a mandatory-control-level event with respect to a foreign health organization, if a domiciliary receiver has not been appointed with respect to the foreign health organization under the rehabilitation and liquidation statute applicable in the state of domicile of the foreign health organization, the commissioner may make application to the district court as permitted under chapter 507C with respect to the liquidation of property of foreign health organizations found in this state, and the occurrence of the mandatory-control-level event shall be considered adequate grounds for the application.

2000 Acts, ch 1050, §11

521F.12 Immunity.

Liability shall not arise on the part of and a cause of action shall not arise against the commissioner or the insurance division or its employees or agents for an action taken in the exercise of powers or performance of duties under this chapter.

2000 Acts, ch 1050, §12

521F.13 Notices.

Notice by the commissioner to a health organization which may result in regulatory action under this chapter is effective upon being sent if transmitted by certified mail, or, in the case of any other transmission, is effective upon the health organization's receipt of the notice.

2000 Acts, ch 1050, §13

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CHAPTER 521G

PROTECTED CELL COMPANIES

Chapter repealed effective January 1, 2025; 2023 Acts, ch 107, §30

CHAPTER 521H

CORPORATE GOVERNANCE ANNUAL DISCLOSURE

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

521H.1	Purpose and scope.	521H.5	Contents of corporate governance annual disclosure.
521H.2	Definitions.	521H.6	Confidentiality.
521H.3	Corporate governance annual disclosure requirement.	521H.7	Penalties.
521H.4	Rules.	521H.8	Severability.

521H.1 Purpose and scope.

1. The purpose of this chapter is to do all of the following:

a. Provide the commissioner with a summary of an insurer's or insurance group's corporate governance structure, policies, and practices to permit the commissioner to gain and maintain an understanding of the insurer's or insurance group's corporate governance framework.

b. Outline the requirements for an insurer or insurance group to complete a corporate governance annual disclosure for submission to the commissioner.

c. Provide for the confidential treatment of the corporate governance annual disclosure and related information that contains confidential and sensitive information related to an insurer's or insurance group's internal operations and proprietary and trade secret information which, if made public, could potentially cause the insurer or insurance group competitive harm or disadvantage.

2. Nothing in this chapter shall be construed to prescribe or impose corporate governance standards or internal procedures beyond those which are required under applicable state corporate law. In addition, nothing in this chapter shall be construed to limit the commissioner's authority under chapter 507, or the rights or obligations of third parties thereunder.

3. The requirements of this chapter shall apply to all insurers domiciled in this state.

2015 Acts, ch 27, §1, 9

521H.2 Definitions.

1. *"Commissioner"* means the commissioner of insurance.

2. *"Corporate governance annual disclosure"* or *"disclosure"* means a confidential report filed by an insurer or insurance group pursuant to the requirements of this chapter.

3. *"Insurance group"* means those insurers and affiliates included within an insurance holding company system.

4. *"Insurance holding company system"* means the same as defined in section 521A.1.

5. *"Insurer"* means the same as defined in section 521A.1.

2015 Acts, ch 27, §2, 9

521H.3 Corporate governance annual disclosure requirement.

1. An insurer, or the insurance group of which the insurer is a member, shall, no later than June 1 of each calendar year, submit to the commissioner a corporate governance annual disclosure that contains the information described in section 521H.5. Notwithstanding any request from the commissioner made pursuant to subsection 2, if an insurer is a member of an insurance group, the insurer shall submit the disclosure required by this section to the commissioner of insurance of the lead state of the insurance group of which the insurer is a member, in accordance with the laws of the lead state, as determined by procedures

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contained in the financial analysis handbook adopted by the national association of insurance commissioners.

2. An insurer or insurance group that is not required to submit a corporate governance annual disclosure under this section shall do so upon the commissioner's request.

3. Review of the corporate governance annual disclosure and any additional requests for information shall be made through the lead state as determined by procedures contained in the financial analysis handbook adopted by the national association of insurance commissioners.

4. Insurers or insurance groups that provide information substantially similar to the information required by this chapter in other documents provided to the commissioner, including proxy statements filed in conjunction with the form B insurance holding company system annual registration statement requirements as provided in section 521A.4, or other state or federal filings provided to the commissioner, are not required to duplicate that information in the corporate governance annual disclosure, but shall cross reference the document in which the information is included.

2015 Acts, ch 27, §3, 9

521H.4 Rules.

The commissioner shall adopt rules pursuant to chapter 17A to administer this chapter.

2015 Acts, ch 27, §4, 9

521H.5 Contents of corporate governance annual disclosure.

1. An insurer, or the insurance group of which the insurer is a member, shall have discretion over the responses to corporate governance annual disclosure inquiries, provided the corporate governance annual disclosure contains the material information necessary to permit the commissioner to gain an understanding of the insurer's or insurance group's corporate governance structure, policies, and practices. The commissioner may request additional information that the commissioner deems material and necessary to provide a clear understanding of the insurer's or insurance group's corporate governance policies, reporting or information systems, or the controls implementing such policies or systems.

2. The corporate governance annual disclosure shall be prepared consistent with rules adopted by the commissioner pursuant to chapter 17A. Documentation and supporting information prepared pursuant to this chapter and related rules shall be maintained and made available upon examination by or upon request of the commissioner.

3. The corporate governance annual disclosure shall include the signature of the insurer's or insurance group's chief executive officer or corporate secretary, attesting that to the best of that individual's belief and knowledge the insurer or the insurance group has implemented the corporate governance practices described in the disclosure and that a copy of the disclosure has been provided to the insurer's or the insurance group's board of directors or the appropriate committee of the board.

4. *a.* For purposes of completing a corporate governance annual disclosure, an insurer or insurance group may report information regarding corporate governance at the ultimate controlling parent level, at an intermediate holding company level, or at the individual legal entity level, depending upon how the insurer or insurance group has structured its system of corporate governance.

b. An insurer or insurance group is encouraged to report information in the corporate governance annual disclosure at the level at which the insurer's or insurance group's risk tolerance is determined; at the level at which the earnings, capital, liquidity, operations, and reputation of the insurer or insurance group are overseen collectively and the level at which the supervision of these factors is coordinated and exercised; or at the level at which legal liability for failure of general corporate governance duties would be placed. If an insurer or insurance group determines the level of reporting based upon the criteria set forth in this paragraph, the insurer or insurance group shall indicate which of the three criteria was used

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to determine the level of reporting and explain any subsequent changes that are made in the level of reporting.

2015 Acts, ch 27, §5, 9
Referred to in §521H.3

521H.6 Confidentiality.

1. Documents, materials, or other information, including a corporate governance annual disclosure, in the possession or control of the insurance division of the department of insurance and financial services, that is obtained by, created by, or disclosed to the commissioner or to any other person pursuant to this chapter, is recognized in this state as being proprietary and containing trade secrets. All such documents, materials, or other information, including the disclosure, shall be confidential and privileged, shall not be subject to chapter 22, shall be considered confidential under chapter 507, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use such documents, materials, or other information, including the disclosure, in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties. The commissioner shall not otherwise make the documents, materials, or other information, including the disclosure, public without the prior written consent of the insurer or insurance group that provided the documents, materials, or other information, including the disclosure. Nothing in this section shall be construed to require written consent of the insurer or insurance group before the commissioner may share or receive confidential documents, materials, or other information related to governance of an insurer or insurance group pursuant to subsection 3 to assist in the performance of the commissioner's regular duties.

2. The commissioner or any other person who received documents, materials, or other information related to corporate governance, through examination or otherwise, while acting under the authority of the commissioner or with whom such documents, materials, or other information is shared pursuant to this chapter, shall not be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information, including disclosures, subject to subsection 1.

3. In order to assist in the performance of the commissioner's regulatory duties, the commissioner may do any of the following:

a. Upon request, share documents, materials, or corporate governance annual disclosure-related information, including the confidential and privileged documents, materials, or information subject to subsection 1, and including proprietary and trade secret documents, materials, or information, with other state, federal, or international financial regulatory agencies, including members of any supervisory college as defined in section 521A.1, with the national association of insurance commissioners, or with any third-party consultants designated by the commissioner pursuant to subsection 4, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the documents, materials, or other corporate governance annual disclosure-related information and verifies in writing the legal authority to maintain such confidentiality and privilege.

b. Receive documents, materials, or other corporate governance annual disclosure-related information, including otherwise confidential and privileged documents, materials, or information, and proprietary and trade secret documents, materials, and information, from regulatory officials of other state, federal, or international regulatory agencies, including members of any supervisory college as defined in section 521A.1, and from the national association of insurance commissioners, and shall maintain as confidential or privileged any documents, materials, or information received with notice or the understanding that the documents, materials, or other information received is confidential and privileged under the laws of the jurisdiction that is the source of the documents, materials, or information.

4. In order to assist in the performance of the commissioner's regulatory duties under this chapter the commissioner may retain, at the insurer's or insurance group's expense, third-party consultants, including attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff, as may be reasonably necessary to assist the commissioner in reviewing a disclosure and related information submitted under this

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chapter or ensuring compliance of an insurer or insurance group with the requirements of this chapter.

a. Any persons retained under this subsection shall be under the direction and control of the commissioner and shall act in a purely advisory capacity.

b. As part of the retention process, a third-party consultant shall verify to the commissioner, with notice to the insurer, that the third-party consultant is free of any conflict of interest and that the third-party consultant has internal procedures in place to monitor compliance if a conflict arises and to ensure compliance with the confidentiality standards and requirements of this chapter.

5. A written agreement entered into by the commissioner with the national association of insurance commissioners or with a third-party consultant governing the sharing and use of information provided pursuant to this chapter shall expressly require the written consent of the insurer prior to making public information provided under this chapter and shall contain a provision that does each of the following:

a. Expressly provides that the national association of insurance commissioners and any third-party consultants retained are subject to the same confidentiality standards and requirements governing the sharing and use of information provided pursuant to this chapter as the commissioner.

b. Specifies procedures and protocols regarding the confidentiality and security of information related to a corporate governance annual disclosure that is shared with the national association of insurance commissioners or with a third-party consultant pursuant to this chapter and specifies procedures and protocols for sharing information by the national association of insurance commissioners only with other state insurance regulators from states in which an insurance group has domiciled insurers. The agreement shall require that the recipient of such information must agree in writing to maintain the confidentiality and privileged status of the documents, materials, or other information related to the corporate governance annual disclosure and verify in writing the legal authority to maintain confidentiality and privilege.

c. Specifies that ownership of information shared with the national association of insurance commissioners or with a third-party consultant pursuant to this chapter remains with the commissioner and that use of the information by the national association of insurance commissioners or by a third-party consultant is subject to the direction of the commissioner.

d. Prohibits the national association of insurance commissioners or a third-party consultant from storing the information shared pursuant to this chapter in a permanent database after the underlying analysis is completed.

e. Requires the national association of insurance commissioners or a third-party consultant to give prompt notice to the commissioner and to an insurer or insurance group whose confidential information is in the possession of the national association of insurance commissioners or a third-party consultant pursuant to this chapter, that the information is subject to a request or subpoena to the national association of insurance commissioners or the third-party consultant for disclosure or production.

f. Requires the national association of insurance commissioners or a third-party consultant to consent to intervention by an insurer or insurance group in any judicial or administrative action in which the national association of insurance commissioners or the third-party consultant may be required to disclose confidential information about the insurer or insurance group that was shared with the association or consultant pursuant to this chapter.

6. The sharing of documents, materials, or information by the commissioner pursuant to this chapter shall not constitute a delegation of regulatory authority or rulemaking, and the commissioner is solely responsible for the administration, execution, and enforcement of the provisions of this chapter.

7. No waiver of any applicable privilege or claim of confidentiality in the documents, proprietary and trade secret materials, or other corporate governance annual disclosure-related information shall occur as a result of the disclosure of such documents,

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materials, or information to the commissioner under this section or as a result of sharing those documents, materials, or information as authorized in this chapter.

2015 Acts, ch 27, §6, 9; 2023 Acts, ch 19, §2736
Referred to in §521H.8

521H.7 Penalties.

1. If an insurer or insurance group fails, without just cause, to timely file a corporate governance annual disclosure as required in this chapter, the commissioner shall, after notice and hearing, impose a penalty of five hundred dollars for each day's delay. The penalty shall be collected by the commissioner and paid to the treasurer of state for deposit as provided in section 505.7. The maximum penalty which may be imposed under this section for any single failure is five thousand dollars.

2. The commissioner may reduce the penalty to be imposed if the insurer or insurance group demonstrates to the commissioner that imposition of the penalty would constitute a financial hardship to the insurer or insurance group.

2015 Acts, ch 27, §7, 9

521H.8 Severability.

If any provision of this chapter other than section 521H.6, or the application of this chapter to any person or circumstance, is held invalid, such holding shall not affect the provisions or applications of this chapter which can be given effect without the invalid provision or application, and to that end the provisions of this chapter, with the exception of section 521H.6, are severable.

2015 Acts, ch 27, §8, 9

CHAPTER 521I

DIVISION OF DOMESTIC STOCK INSURERS

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

521I.1 Definitions.
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521I.13 Shareholder appraisal rights.
521I.14 Rules.
521I.15 Enforcement.

521I.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Assets"* means property whether real, personal, mixed, tangible, or intangible and any right or interest therein, including all rights under a contract or other agreement.

2. *"Capital"* means the capital stock component of a statutory surplus as defined in Iowa law.

3. *"Commissioner"* means the commissioner of insurance.

4. *"Divide"* or *"division"* means a transaction in which a domestic stock insurer splits into two or more resulting domestic stock insurers.

5. *"Dividing insurer"* means a domestic stock insurer that approves a plan of division.

6. *"Domestic stock insurer"* means a stock insurer domiciled and organized under the laws of this state pursuant to chapter 508, 514B, or 515, including domestic stock insurers affiliated with a mutual insurance holding company organized pursuant to section 521A.14,

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and including those insurers which confer membership rights in the mutual insurance holding company.

7. *"Liability"* means a secured or contingent debt or obligation arising in any manner.

8. *"Resulting insurer"* means a dividing domestic stock insurer that survives a division or a new domestic stock insurer that is created by a division.

9. *"Shareholder"* means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

10. *"Surplus"* means total statutory surplus less capital stock calculated in accordance with the current national association of insurance commissioners' accounting practices and procedures manual.

11. *"Transfer"* includes an assignment, assumption, conveyance, sale, lease, encumbrance, security interest, gift, or transfer by operation of law.

2019 Acts, ch 20, §1
Referred to in §521.1

521I.2 Plan of division — general requirements.

A domestic stock insurer's plan of division shall include all of the following:

1. The name of the domestic stock insurer seeking to divide.

2. The name of each resulting insurer created by the proposed division and for each resulting insurer a copy of all of the following:

a. Proposed articles of incorporation.

b. Proposed bylaws.

3. The manner of allocating assets and liabilities, including policy liabilities, between or among all resulting insurers.

4. The manner of distributing shares in the resulting insurers to the dividing insurer or the dividing insurer's shareholders.

5. A description of all liabilities and all assets that the dividing insurer proposes to allocate to each resulting insurer, including the manner by which the dividing insurer proposes to allocate all reinsurance contracts.

6. All terms and conditions required by the laws of this state and the articles and bylaws of the dividing insurer.

7. All other terms and conditions of the division.

2019 Acts, ch 20, §2
Referred to in §521I.3, 521I.4

521I.3 Plan of division — dividing insurer to survive division.

If a dividing insurer will survive a division, the plan of division shall include, in addition to the requirements pursuant to section 521I.2, all of the following:

1. All proposed amendments to the dividing insurer's articles of incorporation and bylaws.

2. If the dividing insurer intends to cancel some but not all shares in the dividing insurer, the manner in which the dividing insurer intends to cancel such shares.

3. If the dividing insurer intends to convert some but not all shares in the dividing insurer into securities, obligations, money, other property, rights to acquire shares or securities, or any combination thereof, a statement disclosing the manner in which the dividing insurer intends to convert such shares.

2019 Acts, ch 20, §3

521I.4 Plan of division — dividing insurer not to survive division.

If a dividing insurer will not survive a division, the plan of division shall include, in addition to the requirements pursuant to section 521I.2, the manner in which the dividing insurer will cancel or convert shares in the dividing insurer's shares into shares, securities, obligations, money, other property, rights to acquire shares or securities, or any combination thereof.

2019 Acts, ch 20, §4

521I.5 Amending plan of division.

1. A dividing insurer may amend the dividing insurer's plan of division in accordance with

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any procedures set forth in the plan of division, or if no such procedures are set forth in the plan of division, in a manner determined by the board of directors of the dividing insurer. A shareholder that is entitled to vote on or consent to approval of the plan of division shall be entitled to vote on or consent to an amendment of the plan of division that will affect any of the following:

a. The amount or kind of shares, securities, obligations, money, other property, rights to acquire shares or securities, or any combination thereof to be received by any of the shareholders of the dividing insurer under the plan of division.

b. The articles of incorporation or bylaws of any resulting insurer that become effective when the division becomes effective except for changes that do not require approval of the shareholders of the resulting insurer under such articles of incorporation or bylaws.

c. Any other terms or conditions of the plan of division if the change may adversely affect the shareholders in any material respect.

2. A dividing insurer shall not amend the dividing insurer's plan of division after the plan of division becomes effective under section 521I.10, subsection 2.

3. A dividing insurer shall not amend the dividing insurer's plan of division after the plan of division is approved by the commissioner under section 521I.8.

2019 Acts, ch 20, §5; 2020 Acts, ch 1063, §293

521I.6 Abandoning plan of division.

1. A dividing insurer may abandon the dividing insurer's plan of division in any of the following circumstances:

a. After the dividing insurer has approved the plan of division without any action by the shareholders and in accordance with any procedures set forth in the plan of division, or if no such procedures are set forth in the plan of division, in a manner determined by the board of directors of the dividing insurer.

b. After the dividing insurer has filed a certificate of division with the secretary of state pursuant to section 521I.10, the dividing insurer may file a signed certificate of abandonment with the secretary of state and file a copy with the commissioner. The certificate of abandonment shall be effective on the date the certificate of abandonment is filed with the secretary of state.

2. A dividing insurer shall not abandon the dividing insurer's plan of division after the plan of division becomes effective under section 521I.10, subsection 2.

3. If a dividing insurer elects to abandon the dividing insurer's plan of division, the dividing insurer shall notify the commissioner.

2019 Acts, ch 20, §6; 2020 Acts, ch 1063, §294

521I.7 Approval of plan of division — articles of incorporation and bylaws.

1. A dividing insurer shall not file a plan of division with the commissioner until such plan of division has been approved in accordance with all provisions of the dividing insurer's articles of incorporation and bylaws. If the dividing insurer's articles of incorporation and bylaws do not provide for approval of a plan of division, the dividing insurer shall not file the plan of division with the commissioner unless such plan of division has been approved in accordance with all provisions of the dividing insurer's articles of incorporation and bylaws that provide for approval of a merger.

2. If a provision of a dividing insurer's articles of incorporation or bylaws adopted before July 1, 2019, requires that a specific number of or a percentage of the board of directors or shareholders propose or adopt a plan of merger or impose other procedures for the proposal or adoption of a plan of merger, the dividing insurer shall adhere to such provision in proposing or adopting a plan of division. If any such provision of the articles of incorporation or bylaws is amended on or after July 1, 2019, the amended provision shall apply to a division occurring after adoption of the amendment only in accordance with the express terms of the provision as amended.

2019 Acts, ch 20, §7; 2020 Acts, ch 1063, §295

Referred to in §521I.8

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521I.8 Commissioner approval of plan of division.

1. After a dividing insurer approves a plan of division pursuant to section 521I.7, the dividing insurer shall file the plan of division with the commissioner. Within ten business days of filing the plan of division with the commissioner, the dividing insurer shall provide notice of the filing to each reinsurer that is a party to a reinsurance contract allocated in the plan of division.

2. *a.* A division shall not become effective until approved by the commissioner after reasonable notice and a public hearing. Notice and public hearing required under this section shall be conducted as a contested case pursuant to chapter 17A.

b. The commissioner shall require the dividing insurer to mail written notice of the public hearing to the dividing insurer's policyholders stating that a plan of division has been filed with the commissioner and providing the date, time, and location of the public hearing.

c. The commissioner shall select and retain an independent expert who shall review the dividing insurer's plan of division and issue a report to the commissioner.

3. The commissioner may approve a plan of division if the commissioner finds that all of the following apply:

a. The interest of the policyholders, creditors, or shareholders of the dividing insurer will be adequately protected and the plan of division is not unfair or unreasonable to the policyholders of the dividing insurer and is not contrary to the public interest.

b. The financial condition of the resulting insurers will not jeopardize the financial stability of a dividing insurer or the resulting insurers or prejudice the interests of the policyholders of such insurers.

c. All resulting insurers created by the proposed division will be qualified and eligible to receive a certificate of authority to transact the business of insurance in this state.

d. The proposed division does not violate a provision of chapter 684. In a division in which the dividing insurer will survive, the commissioner shall apply chapter 684 to the dividing insurer in its capacity as a resulting insurer. In applying the provisions of chapter 684 to a resulting insurer, the commissioner shall do all of the following:

(1) Treat the resulting insurer as a debtor.

(2) Treat a liability allocated to the resulting insurer as a liability incurred by a debtor.

(3) Treat the resulting insurer as receiving unequal value in exchange for incurring allocated obligations.

(4) Treat assets allocated to the resulting insurer as remaining assets.

e. The proposed division is not being made for the purpose of hindering, delaying, or defrauding any policyholders or other creditors of the dividing insurer.

f. All resulting insurers will be solvent when the division becomes effective.

g. The remaining assets of a resulting insurer will not be unreasonably small in relation to the business and transactions such resulting insurer has been engaged in or will engage in after completion of the division.

4. In determining if the standards set forth in subsection 3, paragraphs "*c*" through "*g*" are satisfied, the commissioner may consider all proposed assets of the resulting insurer including without limitation reinsurance agreements, parental guarantees, support agreements, keepwell agreements, and capital maintenance of contingent capital agreements regardless of whether such qualify as an admitted asset under state law.

5. All expenses incurred by the commissioner in connection with proceedings under this section including expenses for attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff as may be reasonably necessary to assist the commissioner in reviewing a proposed plan of division shall be paid by the dividing insurer filing such plan. A dividing insurer may allocate such expense in a plan of division in the same manner as any other liability.

6. If the commissioner approves a plan of division the commissioner shall issue an order which shall be accompanied by findings of fact and conclusions of law. The commissioner shall also issue a certificate of authority authorizing the resulting insurers to transact the business of insurance in this state.

7. The conditions in this section for freeing one or more of the resulting insurers from the liabilities of the dividing insurer and for allocating some or all of the liabilities of the

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dividing insurer shall be deemed to have been satisfied if the plan of division is approved by the commissioner in a final order.

2019 Acts, ch 20, §8
Referred to in §521I.5, 521I.9, 521I.10

521I.9 Confidentiality.

A dividing insurer may submit a written request to the commissioner that confidentiality be maintained regarding all business, financial, actuarial, and other proprietary information submitted to, obtained by, or disclosed to the commissioner in connection with the dividing insurer's plan of division. The commissioner shall make a determination regarding the dividing insurer's request prior to issuing a notice of a public hearing pursuant to section 521I.8, subsection 2. If the commissioner grants the dividing insurer's request in whole or in part, such information as the commissioner determines shall remain confidential, shall not be available for public inspection, and shall not be subject to chapter 22. The plan of division shall not be confidential and shall be available for public inspection.

2019 Acts, ch 20, §9

521I.10 Certificate of division.

1. If the commissioner approves a dividing insurer's plan of division pursuant to section 521I.8, an officer or duly authorized representative of the dividing insurer shall sign a certificate of division that sets forth all of the following:

a. The name of the dividing insurer.

b. A statement disclosing whether the dividing insurer survived the division. If the dividing insurer survived the division, the certificate of division shall include any amendments to the dividing insurer's articles of incorporation or bylaws as approved as part of the plan of division.

c. The name of each resulting insurer that is created by the division.

d. The date on which the division is effective.

e. A statement that the division was approved by the commissioner under section 521I.8.

f. A statement that the dividing insurer provided reasonable notice to each reinsurer that is a party to a reinsurance contract allocated in the plan of division.

g. The resulting insurer's articles of incorporation and bylaws for each resulting insurer created by the division. The articles of incorporation and bylaws of each resulting insurer must comply with the applicable requirements of the laws of this state. The articles of incorporation and bylaws may state the name or address of an incorporator, may be signed, and may include any provision that is not required in a restatement of the articles of incorporation or bylaws.

h. A reasonable description of the capital, surplus, other assets and liabilities, including policy liabilities, of the dividing insurer that are to be allocated to each resulting insurer.

2. A dividing insurer's certificate of division is effective on the date the dividing insurer files the certificate with the secretary of state and provides a concurrent copy to the commissioner, or on another date as specified in the plan of division, whichever is later. However, the certificate of division shall become effective not later than ninety calendar days after it is filed with the secretary of state. A division shall be effective when the relevant certificate of division is effective.

2019 Acts, ch 20, §10
Referred to in §521.19, 521I.5, 521I.6, 521I.11

521I.11 Division effective.

1. On the effective date of a division pursuant to section 521I.10, the following apply:

a. If the dividing insurer survives, all of the following apply:

(1) The dividing insurer shall continue to exist.

(2) The articles of incorporation of the dividing insurer shall be amended, if at all, if provided for in the plan of division.

(3) The bylaws of the dividing insurer shall be amended, if at all, if provided for in the plan of division.

b. If the dividing insurer does not survive, the dividing insurer's separate existence shall

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cease to exist and any resulting insurer created by the plan of division shall come into existence.

c. Each resulting insurer shall hold any capital, surplus, and other assets allocated to such resulting insurer by the plan of division as a successor to the dividing insurer by operation of law, and not by transfer, whether directly or indirectly. The articles of incorporation and bylaws, if any, of each resulting insurer shall be effective when the resulting insurer comes into existence.

d. (1) All capital, surplus, and other assets of the dividing insurer that are allocated by the plan of division shall vest in the applicable resulting insurer as provided in the plan of division or shall remain vested in the dividing insurer as provided in the plan of division.

(2) All capital, surplus, and other assets of the dividing insurer that are not allocated by the plan of division shall remain vested in the dividing insurer if the dividing insurer survives the division and shall be allocated to and vest pro rata in the resulting insurers individually if the dividing insurer does not survive the division.

(3) All capital, surplus, and other assets of the dividing insurer otherwise vest as provided in this section without transfer, reversion, or impairment.

e. A resulting insurer to which a cause of action is allocated may be substituted or added in any pending action or proceeding to which the dividing insurer is a party when the division becomes effective.

f. All liabilities of a dividing insurer are allocated between or among any resulting insurers as provided in section 521I.10 and each resulting insurer to which liabilities are allocated is liable only for those liabilities, including policy liabilities, allocated as a successor to the dividing insurer by operation of law.

g. Any shares in the dividing insurer that are to be converted or canceled in the division are converted or canceled and the shareholders of those shares are entitled only to the rights provided to such shareholders under the plan of division and any appraisal rights that such shareholders may have pursuant to section 521I.13.

2. Except as provided in the dividing insurer's articles of incorporation or bylaws, the division does not give rise to any rights that a shareholder, director of a domestic stock insurer, or third party would have upon a dissolution, liquidation, or winding up of the dividing insurer.

3. The allocation to a resulting insurer of capital, surplus, or other asset that is collateral covered by an effective financing statement shall not be effective until a new effective financing statement naming the resulting insurer as a debtor is effective under the uniform commercial code, chapter 554.

4. Unless otherwise provided in the plan of division, the shares in and any securities of each resulting insurer shall be distributed to the dividing insurer if it survives the division, or pro rata to the shareholders of the dividing insurer that do not assert any appraisal rights pursuant to section 521I.13.

2019 Acts, ch 20, §11; 2020 Acts, ch 1062, §59

521I.12 Resulting insurers liability for allocated assets, debts, and liabilities.

1. Except as expressly provided in this section, when a division becomes effective, by operation of law all of the following apply:

a. A resulting insurer is individually liable for the liabilities, including policy liabilities, that the resulting insurer issues, undertakes, or incurs in its own name after the division.

b. A resulting insurer is individually liable for the liabilities, including policy liabilities, of the dividing insurer that are allocated to or remain the liability of the resulting insurer to the extent specified in the plan of division.

c. The dividing insurer remains responsible for the liabilities, including policy liabilities, of the dividing insurer that are not allocated by the plan of division if the dividing insurer survives the division.

d. A resulting insurer is liable pro rata individually for the liabilities, including policy liabilities, of the dividing insurer that are not allocated by the plan of division if the dividing insurer does not survive the division.

2. Except as otherwise expressly provided in this section, when a division becomes

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effective a resulting insurer is not responsible for and shall not have liability for any of the following:

a. Any liabilities, including policy liabilities, that another resulting insurer issues, undertakes, or incurs in such resulting insurer's own name after the division.

b. Any liabilities, including policy liabilities, of the dividing insurer that are allocated to or remain the liability of another resulting insurer under the plan of division.

3. If a provision of any evidence of indebtedness, whether secured or unsecured, or a provision of any contract other than an insurance policy, annuity, or reinsurance agreement that was issued, incurred, or executed by the dividing insurer before July 1, 2019, requires the consent of the obligee to a merger of the dividing insurer, or treats such a merger as a default, such provision shall apply to a division of the dividing insurer as if such division were a merger.

4. If a division breaches a contractual obligation of the dividing insurer, all resulting insurers are jointly and severally liable for the breach. The validity and effectiveness of the division shall not be affected by the breach.

5. A direct or indirect allocation of capital, surplus, assets, or liabilities, including policy liabilities, shall occur automatically, by operation of law, and shall not be treated as a distribution or transfer for any purpose with respect to either the dividing insurer or any resulting insurer.

6. Liens, security interests, and other charges on the capital, surplus, or other assets of the dividing insurer shall not be impaired by the division, notwithstanding any otherwise enforceable allocation of liabilities, including policy liabilities, of the dividing insurer.

7. If the dividing insurer is bound by a security agreement governed by chapter 554 or article 9 of the uniform commercial code as enacted in any other jurisdiction, and the security agreement provides that the security interest attaches to after-acquired collateral, a resulting insurer shall be bound by the security agreement.

8. Unless provided in the plan of division and specifically approved by the commissioner, an allocation of a policy or other liability is prohibited from doing any of the following:

a. Affecting the rights that a policyholder or creditor has under any other law with respect to such policy or other liability, except that such rights shall be available only against a resulting insurer responsible for the policy or liability under this section.

b. Releasing or reducing the obligation of a reinsurer, surety, or guarantor of the policy or liability.

9. A resulting insurer shall only be liable for the liabilities allocated to the resulting insurer in accordance with the plan of division and this section and shall not be liable for any other liabilities under the common law doctrine of successor liability or any other theory of liability applicable to transferees or assignees of assets.

2019 Acts, ch 20, §12

521I.13 Shareholder appraisal rights.

If a dividing insurer does not survive a division, an objecting shareholder of the dividing insurer is entitled to appraisal rights and to obtain payment of the fair value of such shareholder's shares in the same manner and to the extent provided for a corporation as a party to a merger pursuant to section 490.1302.

2019 Acts, ch 20, §13

Referred to in §521I.11

521I.14 Rules.

The commissioner may adopt rules pursuant to chapter 17A to administer this chapter.

2019 Acts, ch 20, §14

521I.15 Enforcement.

The commissioner may take any action under the commissioner's authority to enforce compliance with this chapter.

2019 Acts, ch 20, §15

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CHAPTER 521J

CAPTIVE COMPANIES

Referred to in §87.4, 296.7, 331.301, 364.4, 432.1A, 490.905, 505.28, 505.29, 507C.3, 669.14, 670.7

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SUBCHAPTER I

CAPTIVE INSURANCE COMPANIES

521J.1 Definitions.

As used in this subchapter, unless the context otherwise requires:

1. *"Affiliated company"* means a company that is in the same corporate system as a parent, an industrial insured, or a member based on common ownership, control, operation, or management.

2. *"Alien captive company"* means a captive company formed under the laws of any country except the United States that imposes statutory or regulatory standards in a form acceptable to the commissioner on companies transacting the business of insurance in such jurisdiction.

3. *"Branch business"* means any insurance business transacted by a branch captive company in this state.

4. *"Branch captive company"* means an alien captive company authorized by the commissioner by rule to transact the business of insurance in this state through a business entity with its principal place of business in this state.

5. *"Branch operations"* means any business operations of a branch captive company.

6. *"Business entity"* means a legal entity permitted under Iowa law. *"Business entity"* does not include a sole proprietorship.

7. *"Captive company"* means any pure captive company, protected cell captive company, special purpose captive company, or industrial insured captive company formed or authorized under this subchapter. *"Captive company"* does not include a life captive reinsurance company as defined under section 521J.101.

8. *"Captive reinsurance company"* means a captive insurance company in this state, as authorized under this subchapter, that reinsures the risk ceded by any other insurer. *"Captive reinsurance company"* does not include a life captive reinsurance company as defined under section 521J.101.

9. *"Captive risk retention group"* means a captive insurance risk retention group formed under this subchapter and that is subject to chapter 515E.

10. *"Cash equivalent"* means any short-term, highly liquid investment with an original maturity of three months or less that is readily convertible to known amounts of cash.

11. *"Commissioner"* means the commissioner of insurance.

12. *"Controlled unaffiliated business entity"* means a business entity or sole proprietorship that meets all of the following requirements:

a. The business entity or sole proprietorship is not in a parent's corporate system that consists of the parent and any affiliated companies.

b. The business entity or sole proprietorship has an existing, controlling contractual relationship with the parent or an affiliated company.

c. The business entity's or sole proprietorship's risks are managed by a pure captive company or an industrial insured captive company, as applicable.

13. *"Excess workers' compensation insurance"* means, for an employer that has insured or self-insured the employer's workers' compensation risks in accordance with applicable state or federal law, insurance in excess of a specified per-incident or aggregate limit as established by the commissioner by rule.

14. *"Foreign captive company"* means a captive company formed and licensed under the laws of any jurisdiction within the United States except this state.

15. *"Industrial insured"* means an insured that meets all of the following requirements:

a. The insured procures the insurance of any risk by use of the services of a full-time employee acting as an insurance manager or buyer.

b. The insured's aggregate annual premiums for insurance on all risks are at least twenty-five thousand dollars.

c. The insured employs a minimum of twenty-five full-time employees.

16. *"Industrial insured captive company"* means an insurance company that insures the risks of industrial insureds, comprised of the industrial insured group and the industrial insured group's affiliated companies and the risks of the controlled unaffiliated business of an industrial insured or its affiliates.

17. *"Industrial insured group"* means a group of industrial insureds that meets either of the following requirements:

a. The group collectively owns, controls, or holds with the power to vote all of the outstanding voting securities of an industrial insured captive company incorporated as a stock insurer, or has complete voting control over any of the following:

(1) An industrial insured captive company incorporated as a mutual insurer.

(2) An industrial insured captive company formed as a reciprocal insurer.

(3) An industrial insured captive company formed as a limited liability company.

b. The group is a captive risk retention group.

18. *"Mutual insurer"* means a business entity that does not have capital stock, and that has a governing body elected by the insurer's policyholders. *"Mutual insurer"* includes a nonprofit corporation with members.

19. *"Organizational document"* means articles of incorporation, articles of organization, a subscribers' agreement, a charter, or any other document that can legally establish a business entity in this state.

20. *"Parent"* means a sole proprietorship, a business entity, or an individual that directly

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or indirectly owns, controls, or holds with power to vote more than fifty percent of the outstanding voting securities or membership interests of a captive company.

21. *"Participant"* means a sole proprietorship or a business entity and any affiliates that are insured by a protected cell captive company and whose losses are limited by a participant contract to such participant's pro rata share of the assets of one or more protected cells identified in the participant contract.

22. *"Participant contract"* means a contract by which a protected cell captive company insures the risks of a participant and limits the losses of each participant in the contract to the participant's pro rata share of the assets of one or more protected cells as identified in the contract.

23. *"Protected cell"* means a separate account established by a protected cell captive company formed or authorized under this subchapter in which an identified pool of assets and liabilities are segregated and insulated, as provided in section 521J.17, from the remainder of the protected cell captive company's assets and liabilities in accordance with the terms of one or more participant contracts to fund the liability of the protected cell captive company with respect to the participants.

24. *"Protected cell assets"* means all assets, contract rights, and general intangibles identified and attributable to a specific protected cell of a protected cell captive company.

25. *"Protected cell captive company"* means a captive company that meets all of the following requirements:

a. The minimum legally required capital and surplus of the company is provided by one or more sponsors.

b. The company is formed or authorized under this subchapter.

c. The company insures the risks of separate participants through participant contracts.

d. The company funds the company's liability to each participant through one or more protected cells, and segregates the assets of each protected cell from the assets of other protected cells, and from the assets of the protected cell captive company's general account.

e. The company is incorporated or formed as a limited liability company.

26. *"Protected cell liabilities"* means all liabilities and other obligations identified with and attributable to a specific protected cell of a protected cell captive company.

27. *"Public records"* means the same as defined in section 22.1.

28. *"Pure captive company"* means an insurance company that insures the risks of the company's parent and the parent's affiliated companies, and the risks of controlled unaffiliated business entities.

29. *"Qualified actuary"* means an individual who meets all of the following requirements:

a. The individual is a member of the American academy of actuaries.

b. The individual is qualified to provide the certifications as described in the United States qualifications standards promulgated by the American academy of actuaries pursuant to the code of professional conduct adopted by the American academy of actuaries, the society of actuaries, the American society of pension professionals and actuaries, the casualty actuarial society, and the conference of consulting actuaries.

30. *"Series of members"* means a group or collection of members of a limited liability company who share interests and who have separate rights, powers, or duties with respect to property, obligations, or profits and losses associated with property or obligations, and who are specified in the organizational document or operating agreement of the limited liability company, or that are specified by one or more members or managers of the limited liability company or other persons as provided in the organizational document or operating agreement.

31. *"Sole proprietorship"* means an individual who does business in a noncorporate form.

32. *"Special purpose captive company"* means a captive company that is formed or authorized under this subchapter that does not meet the definition of any other type of captive company as defined in this subchapter, or that is formed by, on behalf of, or for the benefit of a political subdivision. *"Special purpose captive company"* may include a reciprocal insurer. *"Special purpose captive company"* does not include a life captive reinsurance company as defined under section 521J.101.

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33. *"Sponsor"* means any person that meets the requirements of sections 521J.17 and 521J.18, and that is approved by the commissioner to do all of the following:

a. Provide all or part of the capital and surplus required of a protected cell captive company by law.

b. Organize and operate a protected cell captive company.

2023 Acts, ch 107, §4; 2026 Acts, ch 1113, §4 – 9
Referred to in §521J.101
Section amended and editorially internally renumbered

521J.2 Certificate of authority.

1. If permitted by its organizational document, a captive company may apply to the commissioner for a certificate of authority to provide property insurance, casualty insurance, life insurance, disability income insurance, surety insurance, marine insurance, health insurance, a group health plan, or the ability to accept or transfer risk by means of a parametric contract, with the following exceptions:

a. A pure captive company shall only insure risks of the company's parent and affiliated companies, and of the company's controlled unaffiliated business entities.

b. An industrial insured captive company shall only insure risks of the industrial insured company, comprised of the industrial insured group and the industrial insured group's affiliated companies, and the controlled unaffiliated business of an industrial insured group or the industrial insured group's affiliated companies.

c. A special purpose captive company shall not provide insurance or reinsurance for risks unless approved by the commissioner.

d. A captive company or a branch captive company shall not do any of the following:

(1) Provide personal lines of insurance, including but not limited to motor vehicle insurance, homeowner's insurance, or any component of motor vehicle insurance or homeowner's insurance on a direct basis.

(2) Accept or cede reinsurance except as permitted by the commissioner by rule.

(3) Provide health insurance coverage or a group health plan unless the captive company or the branch captive company provides the health insurance coverage or the group health plan only for the parent company and the parent company's affiliated companies.

(4) Write workers' compensation insurance on a direct basis.

(5) Write life insurance on a direct basis.

e. A protected cell captive company shall not insure any risks other than those of the protected cell captive company's participants.

2. A captive company shall not write any insurance business unless the captive company complies with all of the following:

a. The captive company obtains a certificate of authority from the commissioner prior to writing any insurance business.

b. The captive company's board of directors, board of managing members, or a reciprocal insurer's subscribers' advisory committee, holds at least one annual meeting in the state.

c. The captive company maintains its principal place of business in the state.

d. The captive company designates a registered agent to accept service of process, files the name and contact information and any subsequent changes regarding the registered agent with the commissioner, and agrees that if the registered agent cannot be found with reasonable diligence, the commissioner may act as an agent of the captive company with respect to any action or proceeding and may be served pursuant to section 505.30.

e. The captive company's organizational documents, and any subsequent amendments, have been filed and approved by the commissioner prior to being filed with the secretary of state.

3. *a.* Prior to receiving a certificate of authority, a captive company applicant shall do all of the following:

(1) File with the commissioner all of the following:

(a) A copy of the business entity's organizational document.

(b) A statement under oath of an officer of the business entity showing the business entity's financial condition.

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(c) Any other statement or document required by the commissioner.

(2) Submit a description of coverages, deductibles, coverage limits, rates, and any additional information requested by the commissioner to the commissioner for approval.

(3) Provide a statement to the commissioner that describes all of the following:

(a) The character, reputation, and financial standing of the organizers of the business entity.

(b) The character, reputation, financial responsibility, insurance experience, and business qualifications of all officers, directors, and managing members of the business entity.

(4) Provide any other information required by the commissioner.

b. If there is a subsequent material change in the information provided to the commissioner under paragraph *"a"*, the captive company shall submit appropriate supporting documentation to the commissioner for approval. The captive company shall not offer any additional lines of insurance until on or after the date on which the commissioner approves the supporting documentation. The captive company shall inform the commissioner of any change in rates within thirty calendar days of the captive company's adoption of a change in rate.

c. In addition to the information required under paragraphs *"a"* and *"b"*, each applicant captive company shall file with the commissioner evidence of all of the following:

(1) The amount and liquidity of the captive company's assets relative to the risks to be assumed by the captive company.

(2) The adequacy of the expertise, experience, and character of the persons who will manage the captive company.

(3) The overall soundness of the captive company's plan of operation.

(4) The adequacy of the loss prevention program of the captive company's parent, members, or industrial insureds, as applicable.

(5) Any other factors deemed relevant by the commissioner to ascertain if the proposed captive company will be able to meet the company's policy obligations.

d. In addition to the information required under paragraph *"a"*, each applicant that is a protected cell captive company shall file with the commissioner all of the following:

(1) A business plan that demonstrates, at a level of detail deemed sufficient by the commissioner, how the applicant will account for the loss and expense experience of each protected cell, and how the applicant will report the loss and expense experience of each protected cell to the commissioner.

(2) A statement that acknowledges that all financial records of the protected cell captive company, including records pertaining to any protected cells, shall be made available upon request for inspection or examination by the commissioner or the commissioner's designated agent.

(3) A copy of each participant contract.

(4) Evidence that expenses will be allocated to each protected cell in a fair and equitable manner.

e. In addition to the requirements of paragraph *"a"*, a captive company formed as a reciprocal insurer shall file with the commissioner a certified copy of the power of attorney of the reciprocal insurer's attorney-in-fact, a certified copy of the reciprocal insurer's subscribers' agreement, a statement under oath of the reciprocal insurer's attorney-in-fact that shows the reciprocal insurer's financial condition, and any other statements or documents required by the commissioner.

4. All documents, reports, and information submitted pursuant to this subchapter shall be confidential and shall not be made public without the advance written consent of the submitting company, with the following exceptions:

a. The documents and information shall be discoverable by a party in a civil action or in a contested case to which the captive company that submitted the information is a party upon a showing by the party seeking to discover the information that the information sought is relevant to, and necessary for, the furtherance of the action or case; the information sought is unavailable from other nonconfidential sources; and that a subpoena issued by a judicial or an administrative officer has been submitted to the commissioner.

b. The commissioner may, in the commissioner's discretion, disclose the documents and

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information to a public official having jurisdiction over the regulation of insurance in another state, or to a public official of the federal government, provided that the public official agrees in writing to maintain the confidentiality of the information, and that the laws of the state in which the public official serves require that the information remain confidential.

5. *a.* Each captive company, each individual series of members of a limited liability company, and each protected cell shall pay a nonrefundable fee to the commissioner of two hundred dollars for the examination, investigation, and processing of its application for a certificate of authority. The commissioner shall be authorized to retain legal, financial, and examination services from outside experts as necessary for review of the application, the reasonable cost of which may be charged to the applicant.

b. Each captive insurance company, each individual series of members of a limited liability company, and each protected cell shall pay an annual renewal registration fee of three hundred dollars.

6. If the commissioner is satisfied with the documents and statements that an applicant captive company has filed in compliance with this subchapter, and the applicable provisions of Title XIII, subtitle 1, the commissioner may grant a certificate of authority to the captive company that permits the company to do the business of insurance in this state. The certificate of authority must be renewed annually and may be renewed if the applicant is in compliance with this subchapter.

2023 Acts, ch 107, §5; 2026 Acts, ch 1113, §10 – 12
Referred to in §432.1A, 521J.22
Subsection 1, unnumbered paragraph 1 amended
Subsection 2, NEW paragraph e
Subsections 3, 4, and 5 amended and renumbered as 3, 4, 5, and 6

521J.3 Captive companies — names.

A captive company shall not adopt a name that is the same, deceptively similar, or likely to be confused with or mistaken for any other existing business name already registered in this state.

2023 Acts, ch 107, §6

521J.4 Minimum capital and surplus requirements.

1. The commissioner shall not issue a certificate of authority to a captive company unless the captive company possesses and maintains unimpaired paid-in capital and surplus that meets the following requirements:

a. Is not less than two hundred fifty thousand dollars for a pure captive company.

b. Is not less than five hundred thousand dollars for an industrial insured captive company, including a captive risk retention group.

c. Is an amount as determined by the commissioner after giving due consideration to the captive company's business plan, feasibility study, and pro forma documents, including, for a special purpose captive company, the nature of the risks to be insured.

d. Is not less than one hundred thousand dollars for a protected cell captive company.

e. Is not less than the applicable amount of capital and surplus required in paragraphs "*a*" through "*d*", as determined based upon the organizational form of the alien captive company, for a branch captive company. The minimum capital and surplus shall be jointly held by the commissioner and the branch captive company in a bank of the federal reserve system as approved by the commissioner.

f. Is not less than fifty percent of the capital required for that type of captive company for a captive reinsurance company.

2. The commissioner may require additional capital and surplus for a captive company under subsection 1 based upon the type, volume, and nature of the insurance business transacted by the captive company.

3. *a.* The capital and surplus required under subsection 1 and subsection 2, if applicable, shall be in the form of cash, cash equivalent, marketable securities as approved by the commissioner, or an irrevocable letter of credit on a form as prescribed by the commissioner and as issued by a bank chartered by the state of Iowa, a member bank of the federal reserve system, or a bank chartered by another state if approved by the commissioner.

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b. If a captive company elects to satisfy any portion of the captive company's minimum capital and surplus requirements with marketable securities, the commissioner may require the captive company to file financial statements or other reports on a more frequent basis than otherwise required under this subchapter. The increased reporting frequency may be imposed to ensure the commissioner can adequately monitor the liquidity, valuation, and market risk associated with the marketable securities.

2023 Acts, ch 107, §7; 2026 Acts, ch 1113, §13, 14
Referred to in §521J.6, 521J.9, 521J.13, 521J.19
Subsection 1, paragraphs d and e amended
Subsection 3 amended

521J.5 Captive companies — formation.

1. Subject to the commissioner's approval, a captive company may be formed or organized as a business entity as provided under this subchapter, or as a reciprocal insurer as provided under chapter 520.

2. An industrial insured captive company shall be formed or organized in one of the following ways:

a. Incorporated as a stock insurer with the stock insurer's capital divided into shares and held by the stockholders.

b. Incorporated as a mutual insurer without capital stock.

c. Organized as a reciprocal insurer as permitted by the commissioner.

d. Organized as a manager-managed limited liability company.

3. A captive company incorporated or organized in this state shall be incorporated or organized by at least one incorporator or organizer who is a resident of the state.

4. The capital stock of a captive company incorporated as a stock insurer may be authorized with no par value.

5. *a.* At least one member of the board of directors of a captive company shall be a resident of this state. A captive risk retention group shall have a minimum of five directors.

b. A captive company formed as a limited liability company shall have at least one manager who is a resident of this state. A captive risk retention group formed as a limited liability company shall not be required to have a manager who is a resident of this state; however, the limited liability company shall maintain a board of directors of which at least one board member shall be a resident of this state.

c. A reciprocal insurer shall have at least one member of the subscribers' advisory committee who is a resident of this state.

6. *a.* A captive company formed as a corporation or another business entity shall have the privileges of, and shall be subject to, state laws governing corporations or other business entities, and the applicable provisions of this subchapter.

b. In the event of a conflict between a state law governing corporations or other business entities and this subchapter, this subchapter shall take precedence.

7. *a.* A subscribers' agreement, or other organizational document of a captive company formed as a reciprocal insurer, shall authorize a quorum of a subscribers' advisory committee to consist of at least one-third of the number of members on the advisory committee. In addition to this subchapter, a captive company formed as a reciprocal insurer shall be subject to chapter 520, unless exempt by approval of the commissioner in the captive company's plan of operations. In the event of a conflict between chapter 520 and this subchapter, this subchapter shall take precedence.

b. In addition to this subchapter, a captive risk retention group shall be subject to chapter 515E. In the event of a conflict between chapter 515E and this subchapter, this subchapter shall take precedence.

8. *a.* An alien captive company must apply to the secretary of state for a certificate of authority for the alien captive company's branch captive company to transact business in this state.

b. A branch captive company established under this subchapter to write, in this state, only insurance or reinsurance of the employee benefit business of the branch captive company's parent and affiliated companies shall be subject to the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. §1001, et seq.

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c. A branch captive company shall not conduct any insurance business in this state unless the branch captive company maintains the principal place of business for the company's branch operations in this state.

2023 Acts, ch 107, §8; 2026 Acts, ch 1113, §15 – 20
Referred to in §521J.11
Subsection 1 amended
Subsection 2, paragraph c amended
Subsection 5, paragraph c amended
Subsections 6 and 7 amended
Subsection 8 stricken
Former subsection 9, paragraph b amended and subsection renumbered as 8

521J.6 Dividends.

1. A captive company shall not pay a dividend out of, or other distribution with respect to, the minimum capital or surplus required under section 521J.4 without the prior written approval of the commissioner.

2. The commissioner's approval of an ongoing plan for the payment of dividends or other distributions shall be conditioned upon retention, at the time of each payment, of capital and surplus in excess of the amounts specified by, or determined in accordance with, a formula approved by the commissioner.

2023 Acts, ch 107, §9; 2026 Acts, ch 1113, §21
Subsection 2 amended

521J.7 Reports.

Unless otherwise directed by the commissioner in the first year of a captive company's licensure under this subchapter, the captive company shall be required to file an annual report with the commissioner that meets the following requirements:

1. Except as provided in subsection 2, on or before April 1 of each year, each captive company and each captive risk retention group shall submit to the commissioner a report on the company's financial condition as of December 31 of the preceding year, as verified by oath of two of the company's or group's executive officers. The report shall be submitted in a form and manner as prescribed by the commissioner by rule.

2. A captive company, other than a captive risk retention group, may apply to the commissioner to file the report required under subsection 1 on a fiscal year-end basis. If the commissioner approves reporting on a fiscal year-end basis, the captive company shall comply with all of the following requirements:

a. Subject to paragraph "*b*", the captive company's report shall be filed no later than ninety calendar days after the close of the company's fiscal year.

b. Prior to April 1, the captive company shall file a report covering the immediately preceding calendar year with the commissioner to provide sufficient information to support the captive company's premium tax return under section 432.1A.

3. Each captive company shall use generally accepted accounting principles as used in the United States, unless the commissioner requires, approves, or accepts the use of United States statutory accounting principles or any other comprehensive accounting principles for the company's report. The commissioner may require, approve, or accept any appropriate or necessary modifications of United States statutory accounting principles or other comprehensive accounting principles based on the type of insurance and kinds of insurers that are included in a captive company's report. The report may include letters of credit that are established, issued, or confirmed by any of the following:

a. A bank chartered in this state.

b. A member of the federal reserve system.

c. A bank chartered by another state, if approved by the commissioner.

4. An actuarial opinion from a qualified actuary regarding the adequacy of the company's required reserves to make full provision for the company's liabilities, insured or reinsured, shall be included in the report. The qualified actuary shall submit a memorandum to the commissioner that details the qualified actuary's support for the actuarial opinion. The commissioner may require that additional information be submitted to supplement the actuarial opinion.

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5. All captive companies shall be audited annually by an independent certified public accountant and shall annually file the audited financial report with the commissioner on or before June 1, as a supplement to the annual report required under this section.

6. A captive company may request an extension to file a report required by this section. A written request for an extension must be received by the commissioner not less than ten days before the filing due date, and the request must contain sufficient details to enable the commissioner to make an informed decision regarding the request. The commissioner may grant a thirty-day extension upon a determination by the commissioner that a captive company has good cause for the extension.

7. A captive company may be required to file a report on the captive company's financial condition on a semiannual, quarterly, monthly, or other basis as determined by the commissioner.

8. Captive companies shall file all reports required under this section in the form and manner prescribed by the commissioner by rule.

2023 Acts, ch 107, §10; 2023 Acts, ch 119, §41; 2026 Acts, ch 1113, §22
Referred to in §521J.9, 521J.13
Section amended

521J.8 Examinations.

1. *a.* Except for captive risk retention groups as provided under paragraph "*c*", the commissioner may examine each captive company's compliance with this subchapter, and may examine the affairs, transactions, accounts, records, and assets of each captive company as the commissioner deems necessary.

b. The commissioner shall upon the completion of an examination under paragraph "*a*", or at such regular intervals prior to completion of an examination as the commissioner determines, prepare an account of the costs incurred in performing and preparing the report of the examination which shall be charged to and paid by the captive company examined. If the captive company fails or refuses to pay the charges, the charges may be recovered in an action brought in the name of the state.

c. The commissioner shall examine the affairs, transactions, accounts, records, and assets of each captive risk retention group as the commissioner deems necessary, but no less frequently than every three calendar years. A report produced pursuant to the examination of a captive risk retention group under this section shall be a public record.

2. Except as provided in subsection 3, this section shall apply to all business written by a captive company.

3. An examination of a branch captive company shall be conducted only on the branch business and branch operations if all of the following requirements are met:

a. The branch captive company annually provides the commissioner a certificate of compliance, or equivalent, that was issued by or filed with the licensing authority of the jurisdiction in which the branch captive company is formed.

b. The branch captive company demonstrates to the satisfaction of the commissioner that the company is operating in sound financial condition and in compliance with all applicable law and regulations of the jurisdiction in which the branch captive company is formed.

4. As a condition of authorization of a branch captive company, the alien captive company shall grant authority to the commissioner for examination of the affairs of the alien captive company in the jurisdiction in which the alien captive company is formed.

5. The applicable provisions of chapter 507 shall apply to examinations conducted under this subchapter.

2023 Acts, ch 107, §11; 2026 Acts, ch 1113, §23, 24
Referred to in §521J.9, 521J.22
Subsection 1, paragraph a amended
Subsection 5 amended

521J.9 Suspension or revocation.

1. A captive company's certificate of authority to conduct the business of insurance in this state may be suspended or revoked by the commissioner for any of the following reasons:

a. Insolvency or impairment of capital or surplus.

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b. Failure to meet and maintain the minimum capital and surplus requirements under section 521J.4.

c. Refusal or failure to submit an annual report pursuant to section 521J.7, or to submit any other report or statement required by law or by lawful order of the commissioner.

d. Failure to comply with the captive company's own charter, bylaws, or other organizational document.

e. Failure to submit to an examination as required under section 521J.8.

f. Use of methods that render the captive company's operation detrimental, or the company's condition unsound, with respect to the company's policyholders or to the public.

g. Failure to pay tax on premiums as required under section 432.1A.

h. Failure to submit or pay any fee under this subchapter.

i. Failure to submit to or pay the cost of any examination under this subchapter.

j. Failure to comply with the laws of this state.

2. *a.* If the commissioner finds upon examination, hearing, or other review that a captive company has committed an act specified in subsection 1, the commissioner may suspend or revoke the company's certificate of authority if the commissioner deems it in the best interest of the public or of the policyholders of the captive company.

b. If the commissioner does not revoke a captive company's certificate of authority during a suspension imposed by the commissioner under paragraph *"a"*, the company's certificate of authority may be reinstated if the commissioner finds that the cause of the suspension has been rectified.

2023 Acts, ch 107, §12; 2026 Acts, ch 1113, §25
Subsection 1, paragraphs h and i amended

521J.10 Excess workers' compensation insurance.

1. A captive company may provide excess workers' compensation insurance to the captive company's parent and affiliated companies unless the laws of the state that has jurisdiction over the transaction prohibits the captive company from providing excess workers' compensation insurance.

2. A captive company may reinsure workers' compensation of a qualified self-insured plan of the captive company's parent and affiliated companies.

2023 Acts, ch 107, §13

521J.11 Captive mergers.

1. A merger between captive stock insurers, or a merger between captive mutual insurers, shall meet the requirements of chapter 521 and section 521J.5, as applicable. The commissioner may, at the commissioner's discretion, provide notice to the public of a proposed merger prior to the commissioner's approval or disapproval of a merger. Except as provided in this section, applicable provisions of chapter 508B shall apply to a merger, consolidation, conversion, mutualization, or voluntary dissolution by a captive company.

2. An industrial insured group formed as a stock insurer or as a mutual insurer may be converted to or merged with a reciprocal insurer under this section.

3. A plan for conversion or merger shall meet all of the following requirements:

a. (1) The plan shall be fair and equitable to the shareholders in the case of a stock insurer, or to the policyholders in the case of a mutual insurer.

(2) The plan shall provide for the purchase of the shares of any nonconsenting shareholder of a stock insurer, or of the policyholder interests of any nonconsenting policyholder of a mutual insurer.

b. A plan for conversion to a reciprocal insurer must be approved by the commissioner. The commissioner shall not approve a plan unless the plan meets all of the following requirements:

(1) The plan provides for a hearing upon notice to the insurer, directors, officers, and stockholders or policyholders who have the right to appear at the hearing, unless the commissioner waives or modifies the requirements for the hearing.

(2) (a) In the case of a stock insurer, the plan provides for the conversion of the existing stockholder interests into subscriber interests in the resulting reciprocal insurer

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proportionate to the existing stockholder interests, and is approved by a majority of the shareholders who are entitled to vote, and who are represented at a regular or special meeting at which a quorum is present either in person or by proxy.

(b) In the case of a mutual insurer, the plan provides for the conversion of the existing policyholder interests into subscriber interests in the resulting reciprocal insurer proportionate to the existing policyholder interests, and is approved by a majority of the voting interests of the policyholders who are represented at a regular or special meeting at which a quorum is present either in person or by proxy.

(3) The plan meets the applicable requirements of section 521J.5.

c. If the commissioner approves a plan of conversion, the certificate of authority for the converting insurer shall be amended to state that the converting insurer is a reciprocal insurer. The conversion shall be effective and the corporate existence of the converting entity shall cease to exist on the date on which the amended certificate of authority is issued to the attorney-in-fact for the reciprocal insurer. The resulting reciprocal insurer shall file the articles of merger or the articles of conversion with the secretary of state.

2023 Acts, ch 107, §14; 2026 Acts, ch 1113, §26
Subsection 1 amended

521J.12 Captive insurance — regulatory and supervision fund — appropriation.

1. A captive insurance regulatory and supervision fund is established in the state treasury under the control of the division. The fund shall consist of all moneys deposited in the fund pursuant to this section and any other moneys appropriated to or deposited in the fund.

2. All fees, assessments, fines, and administrative penalties collected under this chapter and all premium tax receipts collected under section 432.1A shall be deposited in the fund.

3. Moneys in the fund are appropriated to the division to administer this chapter, including the maintenance of staff, associated expenses, and necessary contractual services, and for the reimbursement of reasonable expenses incurred by the division to promote captive insurance in this state.

4. *a.* Notwithstanding section 8.33, moneys in the fund that remain unencumbered or unobligated at the close of a fiscal year shall not revert but shall remain available for expenditure for the purposes designated.

b. At the close of each fiscal year, if unencumbered or unobligated moneys remaining in the captive insurance regulatory and supervision fund exceed five hundred thousand dollars, moneys in excess of that amount shall be transferred from the captive insurance regulatory and supervision fund to the general fund of the state.

5. The division may temporarily use moneys from the general fund of the state to pay expenses in excess of moneys available in the captive insurance regulatory and supervision fund for the purposes designated in this section if those additional expenditures are fully reimbursable and the division reimburses the general fund of the state in full by the close of the fiscal year. Because any general fund moneys used shall be fully reimbursed, such temporary use of moneys from the general fund of the state shall not constitute an appropriation for purposes of calculating the state general fund expenditure limitation pursuant to section 8.54.

2023 Acts, ch 107, §15; 2025 Acts, ch 168, §31
Referred to in §432.1A

521J.13 Legal investments.

1. *a.* Industrial insured captive companies and captive risk retention groups shall comply with investment requirements as approved by the commissioner. The commissioner may approve the use of alternative reliable methods of valuation and rating.

b. If a captive company's annual report filed pursuant to section 521J.7 states total assets of less than five million dollars, the commissioner may approve an investment of up to twenty percent of the captive company's admitted assets in rated credit instruments in any investment that meets the requirements established by the commissioner. For purposes of this subsection, total assets shall be based on the accounting basis approved by the

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commissioner, provided that all assets included in such total assets must be reasonably liquid, realizable, and available to support the obligations of the captive.

2. A pure captive company, or a protected cell captive company, shall not be subject to any restrictions on allowable investments, except that the commissioner may prohibit or limit any investment that threatens the solvency or liquidity of the pure captive company.

3. Any captive company may make loans to any of the captive company's affiliates with prior written approval of the commissioner, and each loan must be evidenced by a note in a form as approved by the commissioner by rule. Loans made from minimum capital and surplus funds required by section 521J.4 shall be prohibited.

2023 Acts, ch 107, §16; 2026 Acts, ch 1113, §27
Referred to in §521J.21
Subsection 1 amended

521J.14 Reinsurance.

1. Subject to the prior approval of the commissioner, a captive company may provide reinsurance on risks ceded by any other insurer.

2. Any captive company may take credit for reserves on risks, or portions of risks, ceded to reinsurers as provided under chapter 521B. In order to cede or take credit for the reinsurance of risks or portions of risks ceded to reinsurers that do not comply with chapter 521B, a captive company shall obtain the prior approval of the commissioner.

3. Insurance by a captive company of any workers' compensation qualified self-insured plan of the captive company's parent and affiliates shall be deemed to be reinsurance under this subchapter.

4. In addition to reinsurers authorized under chapter 521B, a captive company may take credit for the reinsurance of risks or portions of risk ceded to a pool or exchange acting as a reinsurer which has been authorized by the commissioner. The commissioner may require documents, financial information, or other evidence that such a reinsurance pool or exchange will be able to provide adequate security for the reinsurance pool's or exchange's financial obligations. The commissioner may deny authorization or impose any limitations on the activities of a reinsurance pool or exchange that, in the commissioner's judgment, are necessary and proper to provide adequate security for the ceding captive company and for the protection and benefit of the public.

5. No credit shall be allowed for reinsurance if the reinsurance contract does not result in the complete transfer of the risk or liability to the reinsurer.

6. No credit shall be allowed, as an asset or a deduction from liability, to any ceding insurer for reinsurance unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding insurer under the contract reinsured without diminution because of the insolvency of the ceding insurer.

7. Reinsurance under this section shall be effected through a written agreement of reinsurance setting forth the terms, provisions, and conditions governing the reinsurance. The commissioner may require that complete copies of all reinsurance agreements be filed with and approved by the commissioner.

2023 Acts, ch 107, §17; 2026 Acts, ch 1113, §28
Referred to in §521J.21
Subsection 3 amended

521J.15 Rating organizations.

A captive company shall not be required to join a rating organization.

2023 Acts, ch 107, §18

521J.16 Compulsory organizations.

A captive company shall not join or contribute financially to any plan, pool, association, or guaranty or insolvency fund in this state. A captive company, a captive company's insureds, a captive company's parent, and any company affiliated with a captive company shall not receive any benefit from a plan, pool, association, or guaranty or insolvency fund for claims arising out of the operations of the captive company.

2023 Acts, ch 107, §19

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521J.17 Protected cell captive companies.

1. One or more sponsors may form a protected cell captive company.

2. A protected cell captive company formed or authorized under this subchapter shall be subject to all of the following requirements:

a. (1) A protected cell captive company may establish one or more protected cells subject to the prior written approval of the commissioner of a plan of operation submitted by the protected cell captive company for each protected cell. The plan of operation shall include but is not limited to the specific business objectives and investment guidelines of the protected cell.

(2) Upon the commissioner's approval of the protected cell captive company's plan of operation, the company, in accordance with the approved plan of operation, may attribute insurance obligations with respect to its insurance business to the protected cell.

(3) A protected cell captive company shall transfer all assets attributable to a protected cell to one or more separately established and separately identified protected cell accounts bearing the name or designation of that protected cell. Each protected cell shall have a distinct name or designation that must include the words "protected cell". Protected cell assets shall be held in the protected cell accounts for the purpose of satisfying the obligations of the specific protected cell.

(4) Each protected cell shall be formed as a business entity, provided the business entity is separate from the protected cell captive company of which the business entity is a part. Each protected cell of a protected cell captive company shall be treated as a captive insurance company under this subchapter, except that the limit on maximum yearly aggregate taxes paid under section 432.1A, subsection 4, shall not apply. Unless otherwise permitted by the organizational document of a protected cell captive company, each protected cell of the protected cell captive company must have the same directors, secretary, and registered office as the protected cell captive company.

b. All attributions of assets and liabilities between a protected cell and the protected cell captive company's general account shall be in accordance with the plan of operation and the participant contracts as approved by the commissioner. No other attribution of assets and liabilities shall be made by a protected cell captive company between the protected cell captive company's general account and the company's protected cells. Any attribution of assets and liabilities between the general account and a protected cell shall be in cash or in readily marketable securities with established market values.

c. The establishment of a protected cell shall create, with respect to the protected cell, a business entity separate from the protected cell captive company. Amounts attributed to a protected cell under this subchapter, including assets transferred to a protected cell account, shall be owned by the protected cell and the protected cell captive company shall not be a trustee, or hold itself out to be a trustee, with respect to the protected cell assets of that protected cell account.

d. A protected cell captive company may contract with or arrange for an investment adviser or other third party, approved by the commissioner, to manage the protected cell assets of a protected cell if all remuneration, expenses, and other compensation of the third party are paid from the protected cell assets of that protected cell, and not from the protected cell assets of other protected cells or the assets of the protected cell captive company's general account.

e. (1) A protected cell captive company shall establish the administrative and accounting procedures necessary to properly identify each protected cell of the protected cell captive company, and the protected cell assets and protected cell liabilities attributable to each protected cell. The directors of a protected cell captive company shall be responsible for all of the following:

(a) Maintaining the assets and liabilities of protected cells separately, and separately identifiable, from the assets and liabilities of the protected cell captive company's general account.

(b) Maintaining protected cell assets and protected cell liabilities attributable to one protected cell separate, and separately identifiable, from protected cell assets and protected cell liabilities attributable to another protected cell.

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(2) If a protected cell captive company fails to comply with subparagraph (1), the remedy of tracing shall be applicable to protected cell assets commingled with protected cell assets of other protected cells, or commingled with the assets of the protected cell captive company's general account. The remedy of tracing shall not be the exclusive remedy.

f. When establishing a protected cell, a protected cell captive company shall attribute assets with a value at least equal to the reserves attributed to that protected cell to the protected cell.

3. Each protected cell shall be accounted for separately on the books and records of the protected cell captive company to reflect the financial condition and result of operations of the protected cell, including but not limited to the net income or loss, dividends or other distributions to participants, and any other factor provided in the participant contract, or as required by the commissioner by rule.

4. The assets of a protected cell shall not be chargeable with liabilities arising from any other insurance business of the protected cell captive company.

5. A protected cell captive company shall not make a sale, exchange, or other transfer of assets among any of the company's protected cells without the consent of the participants of each affected protected cell.

6. A protected cell shall not make a sale, exchange, transfer of assets, dividend, or distribution to a sponsor or to a participant without the commissioner's prior written approval, which shall not be given if the sale, exchange, transfer, dividend, or distribution will result in the insolvency or impairment of the protected cell.

7. A protected cell captive company shall annually file with the commissioner any financial reports required by the commissioner, as established by rule, and shall include, without limitation, accounting statements detailing the finances of each protected cell.

8. A protected cell captive company shall notify the commissioner in writing within ten business days from the date that a protected cell has become impaired or insolvent, or is otherwise unable to meet its claim or expense obligations.

9. A participant contract shall not take effect without the commissioner's prior written approval.

10. An addition of any new protected cell, or the withdrawal of any participant of an existing protected cell, shall constitute a change in the business plan of the protected cell captive company, and the change shall not become effective without the prior written approval of the commissioner.

11. With respect to each protected cell, business written by a protected cell captive company shall be fronted by an insurance company authorized under the laws of any state, or as approved by the commissioner.

12. If a protected cell captive company's business is reinsured, with respect to each protected cell, the protected cell captive company shall comply with at least one of the following requirements:

a. The business shall be reinsured by a reinsurer authorized or approved by the commissioner.

b. The business shall be secured by a trust fund that is located in the United States for the benefit of policyholders and claimants, and which is funded by an irrevocable letter of credit or other asset that is acceptable to the commissioner, and that is subject to all of the following:

(1) The amount of security provided by the trust fund shall not be less than the reserves associated with the liabilities that are not fronted or reinsured, including but not limited to reserves for losses that are allocated for loss adjustment expenses, incurred but not reported losses, and unearned premiums for business written through the participant's protected cell.

(2) The commissioner may require the protected cell captive company to increase the funding of any trust.

(3) If the form of security in the trust is a letter of credit, the letter of credit shall be established, issued, or confirmed by a bank chartered in this state, a member of the federal reserve system, or a bank chartered by another state if the bank is approved by the commissioner.

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(4) The commissioner shall approve the form and terms of the trust and trust instrument.

2023 Acts, ch 107, §20, 31; 2026 Acts, ch 1113, §29 – 31

Referred to in §521J.1

Section applies January 1, 2025, to protected cell captive companies formed, authorized, or continued on or after that date; 2023 Acts, ch 107, §31

Subsection 2, unnumbered paragraph 1 amended

Subsection 2, paragraph a, subparagraph (4) amended

Subsection 2, paragraph c amended

521J.18 Sponsors — qualifications.

A sponsor of a protected cell captive company may be any person approved by the commissioner, based on the commissioner's determination that the approval of such person as a sponsor is consistent with the purposes of this subchapter. In evaluating the qualifications of a proposed sponsor, the commissioner shall consider the type and structure of the proposed sponsor entity, the sponsor's experience in financial operations, the sponsor's financial stability, the sponsor's business reputation, and any other factors deemed relevant by the commissioner. A risk retention group shall not be a sponsor of a protected cell captive company.

2023 Acts, ch 107, §21; 2026 Acts, ch 1113, §32

Referred to in §521J.1

Section amended

521J.19 Delinquency.

1. Except as otherwise provided in this section, chapter 507C shall apply to a protected cell captive company.

2. Upon any order of supervision, rehabilitation, or liquidation of a protected cell captive company, the receiver shall manage the assets and liabilities of the protected cell captive company pursuant to this section.

3. Notwithstanding chapter 507C or any other provision of law to the contrary, in the conservation, rehabilitation, or liquidation of a protected cell captive company, all of the following requirements shall be met:

a. The assets and liabilities of a protected cell shall at all times be kept separate from, and shall not be commingled with, those of other protected cells and the protected cell captive company.

b. The assets of a protected cell shall not be used to pay any expenses or claims other than the expenses or claims attributable to the protected cell.

c. If the sponsor consents and the commissioner has granted prior written approval, the assets of the protected cell captive company's general account may be used to pay any expenses or claims attributable solely to a protected cell or protected cells of the protected cell captive company. Notwithstanding section 521J.4, if the assets of the protected cell captive company's general account are used to pay expenses or claims attributed solely to a protected cell or protected cells of the protected cell captive company, the sponsor shall not be required to contribute additional capital and surplus to the protected cell captive company's general account.

d. A protected cell captive company's capital and surplus shall be available at all times to pay any expenses of, or claims against, the protected cell captive company.

4. Notwithstanding chapter 507C or any other provision of law to the contrary, in the event of an insolvency of a protected cell captive company where the commissioner determines that one or more protected cells remain solvent, the commissioner may separate such cells from the protected cell captive company and, on application of the sponsor, may allow for the conversion of such protected cells into one or more new or existing protected cell captive companies, or one or more other captive companies, pursuant to a plan of operation approved by the commissioner.

2023 Acts, ch 107, §22; 2023 Acts, ch 119, §42

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521J.20 Participants.

Individuals, business entities, and sponsors may be a participant in a protected cell captive company. A participant shall not be required to be a shareholder of a protected cell captive company, or of the protected cell captive company's affiliate.

2023 Acts, ch 107, §23

521J.21 Investments — combined assets.

The assets of two or more protected cells may be combined for the purpose of investment by a protected cell captive company, and combining the protected cells' assets shall not be construed as defeating the segregation of the assets for accounting or any other purpose. Protected cell captive companies and protected cells shall comply with the applicable investment requirements contained in section 521J.13; however, compliance with such investment requirements shall be waived for protected cell captive companies to the extent that credit for reinsurance ceded to reinsurers is allowed under section 521J.14, or to the extent that waiver of compliance with the investment requirements is deemed reasonable and appropriate by the commissioner. The commissioner may exercise discretion in approving the accounting standards used by the company.

2023 Acts, ch 107, §24

521J.22 Dormant captive companies.

1. As used in this section, "*dormant captive company*" means a captive company, other than a captive risk retention group, that meets all of the following:

a. The captive company has ceased transacting the business of insurance, including the issuance of insurance policies.

b. The captive company does not have any remaining liabilities associated with its insurance business transactions or insurance policies issued prior to the captive company's filing of an application for a certificate of dormancy under subsection 2.

2. Any captive company that is domiciled in this state and that complies with this section may apply to the commissioner for a certificate of dormancy. A certificate of dormancy shall be subject to expiration five calendar years from the date that the certificate is issued, and the commissioner shall not renew a certificate of dormancy.

3. *a.* A captive company that has been issued a certificate of dormancy shall comply with all of the following:

(1) The dormant captive company shall possess and maintain unimpaired, paid-in capital and surplus of not less than twenty-five thousand dollars.

(2) Within ninety calendar days of the dormant captive company's fiscal year end, the company shall annually submit to the commissioner a report on the company's financial condition, verified by oath of two of the company's executive officers, in the form and manner as established by the commissioner by rule.

(3) The dormant captive company shall pay an annual one thousand dollar dormancy tax, due on or before March 1, if for any portion of the immediately preceding calendar year the captive company held a certificate of dormancy. Each series of members and each protected cell shall be considered separate for purposes of paying the annual dormancy tax under a certificate of dormancy. A dormant captive company is not otherwise liable for any annual renewal as provided in section 521J.2, subsection 5, paragraph "*b*".

b. A dormant captive insurance company that has been issued a certificate of dormancy shall not be subject to or liable for the payment of tax under section 432.1A from the date the certificate of dormancy is issued through the date the certificate of dormancy expires.

4. A dormant captive company shall be subject to examination under section 521J.8 for any year in which the company does not qualify as a dormant captive company. In the commissioner's discretion, a dormant captive company shall be subject to examination under section 521J.8 for any year in which the dormant captive company qualifies as a dormant captive company.

5. Prior to a dormant captive company issuing an insurance policy, the dormant captive company shall apply to the commissioner for approval to surrender the company's certificate of dormancy and to resume conducting the business of insurance.

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6. A dormant captive company's certificate of dormancy shall be revoked if the company violates this section.

2023 Acts, ch 107, §25; 2026 Acts, ch 1113, §33
Subsection 3, paragraph a, subparagraph (3) amended

521J.23 Workers' compensation — compliance with state and federal laws.

1. This subchapter shall not be construed to exempt a captive company, a captive company's parent, or a captive company's affiliated companies from compliance with applicable state and federal laws governing workers' compensation insurance.

2. This subchapter shall not be construed to divest the division of workers' compensation of any jurisdiction, as authorized by law, over workers' compensation self-insurance plans.

2023 Acts, ch 107, §26; 2026 Acts, ch 1113, §34
Section amended

521J.24 Books and records.

1. *a.* Unless otherwise approved by the commissioner, a captive company shall maintain the captive company's original books, records, documents, accounts, vouchers, and agreements in this state and make them available for examination and inspection by the commissioner as requested by the commissioner. The captive company may store and reproduce the books, records, documents, accounts, vouchers, and agreements electronically.

b. All books, records, documents, accounts, vouchers, and agreements shall be kept in a manner that the commissioner can readily ascertain the captive company's financial condition, affairs, and operations; can readily verify the captive company's financial statements; and can confirm the captive company's compliance with this subchapter.

2. Unless otherwise approved by the commissioner, all books, records, documents, accounts, vouchers, and agreements maintained by a captive company under subsection 1 shall remain available in the state until the commissioner approves destruction or other disposition of the books, records, documents, accounts, vouchers, and agreements.

2023 Acts, ch 107, §27; 2026 Acts, ch 1113, §35
Subsection 1, paragraph b amended

521J.25 Risk management of controlled unaffiliated business — standards.

The commissioner may adopt rules establishing standards to ensure that a parent or affiliated company is able to exercise control of the risk management function of any controlled unaffiliated business to be insured by a captive company. If rules are not adopted to establish standards pursuant to this section, the commissioner may approve the coverage of such risks on a case-by-case basis.

2023 Acts, ch 107, §28

521J.26 Rules.

The commissioner may adopt rules pursuant to chapter 17A to implement and administer this subchapter.

2023 Acts, ch 107, §29; 2026 Acts, ch 1113, §36
Section amended

521J.27 Redomestication — premium tax year waiver.

1. For taxes due pursuant to section 432.1A, a foreign or alien captive company organized under this subchapter that redomesticates into the state shall only be liable for taxes on premiums paid to the captive company after redomestication.

2. A foreign or alien captive company that redomesticates under this subchapter shall report to the commissioner all premium taxes annually due under section 432.1A, and may elect to forgo payment of the premium taxes in either the calendar year in which the foreign or alien captive company first redomesticates into the state, or the immediately succeeding calendar year. A foreign or alien captive company that makes such election that subsequently surrenders the foreign or alien captive company's license or redomesticates to another jurisdiction within five years from the date of redomestication into the state shall

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immediately pay to the commissioner a tax in an amount equal to the foregone premium tax plus ten percent per annum from the date the foregone premium tax would have originally been due.

3. This section shall not apply to tax years beginning on or after January 1, 2030.

2026 Acts, ch 1113, §37
NEW section

521J.28 through 521J.100 Reserved.

SUBCHAPTER II

LIFE CAPTIVE REINSURANCE COMPANIES

521J.101 Definitions.

As used in this subchapter, unless the context otherwise requires:

1. *"Affiliated company"* means the same as defined in section 521J.1.
2. *"Business entity"* means the same as defined in section 521J.1.
3. *"Ceding insurer"* means an affiliated company of a life captive reinsurance company that cedes risk to the life captive reinsurance company pursuant to a reinsurance contract.
4. *"Commissioner"* means the commissioner of insurance.
5. *"Dormant life captive reinsurance company"* means a life captive reinsurance company that has ceased transacting the business of insurance, including but not limited to ceasing issuance of insurance policies, and does not have any remaining liabilities associated with the life captive reinsurance company's insurance business transactions or insurance policies prior to the filing of an application for a certificate of dormancy.
6. *a. "Insurance securitization"* or *"securitization"* means a transaction or a group of related transactions, including but not limited to capital market offerings, that are effected through related risk transfer instruments and facilitation of administrative agreements, in which any of the following proceeds from the transaction or group of related transactions are used to fund a life captive reinsurance company's obligations under a reinsurance contract with a ceding insurer:

(1) Proceeds obtained by a life captive reinsurance company, directly or indirectly, through the issuance of securities by the life captive reinsurance company or any other person.

(2) Proceeds provided through one or more letter of credit or other assets for the benefit of the life captive reinsurance company, and which the commissioner authorizes the life captive reinsurance company to treat as admitted assets for purposes of the life captive reinsurance company's annual statement.

b. "*Insurance securitization*" or *"securitization"* does not include the issuance of a letter of credit to satisfy all or part of the life captive reinsurance company's capital and surplus requirements under this subchapter.

7. *"Letter of credit"* means a clean, irrevocable, unconditional letter of credit, issued or confirmed by a qualified United States financial institution, as defined in section 521B.104, subsection 1.
8. *"Life captive reinsurance company"* means a captive insurance company in this state that is authorized under and meets the requirements of this subchapter, and that reinsures the risk ceded by a life insurance company.
9. *"NAIC"* means the national association of insurance commissioners.
10. *"Organizational document"* means the same as defined in section 521J.1.
11. *"Organizing company"* means a life insurance company or an affiliated company that organizes a life captive reinsurance company.
12. *"Parent"* means a person that owns an organizing company, either directly or indirectly through one or more intermediaries.
13. *"Person"* means an individual, corporation, limited liability company, business trust, estate, trust, partnership or association, joint stock company, unincorporated organization,

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or any other legal entity, or combination of the foregoing acting in concert. *"Person"* does not include a joint venture partnership exclusively engaged in owning, managing, leasing, or developing real or tangible personal property.

14. *"Qualified actuary"* means the same as defined in section 521J.1.

15. *"Risk"* means a risk associated with life insurance policies and contracts written by a ceding life insurance company or assumed by a ceding life insurance company from an affiliated company, which were written by the affiliated company and for which the ceding life insurance company holds direct statutory reserves as required by section 508.36.

16. *"Risk-based capital instructions"* means instructions included in a risk-based capital report as adopted and amended by the NAIC.

17. *"Security"* means the same as defined in section 502.102. *"Security"* also includes any form of debt obligation, surplus note, derivative, or other financial instrument that the commissioner designates as a *"security"* for purposes of this subchapter.

18. *"Surplus note"* means an unsecured subordinate debt obligation possessing characteristics consistent with the NAIC statutory accounting principles pursuant to the most recently published NAIC accounting practices and procedures manual.

2026 Acts, ch 1113, §38
Referred to in §521J.1
NEW section

521J.102 Certificate of authority.

1. A life captive reinsurance company issued a certificate of authority shall only reinsure the risks of a ceding insurer and shall not otherwise engage in the business of insurance. A life captive reinsurance company may purchase retrocession to cede the risks assumed under a reinsurance contract, subject to prior approval of the commissioner.

2. A life captive reinsurance company shall not write any insurance business unless the life captive reinsurance company complies with all of the following:

a. The life captive reinsurance company obtains a certificate of authority from the commissioner.

b. The life captive reinsurance company maintains its principal place of business in the state.

c. The life captive reinsurance company's board of directors holds at least one annual meeting in the state.

d. At least one member of the board of directors of the life captive reinsurance company is a resident of the state.

e. The life captive reinsurance company designates a registered agent to accept service of process, files the name and contact information and any subsequent changes regarding the registered agent with the commissioner, and agrees that if the registered agent cannot be found with reasonable diligence, the commissioner may act as an agent of the life captive reinsurance company with respect to any action or proceeding, and the commissioner may be served pursuant to section 505.30.

f. The life captive reinsurance company has filed a copy of the life captive reinsurance company's articles and bylaws, including any subsequent amendment to the articles or bylaws, with the commissioner and with the secretary of state, and the articles and bylaws have been approved by the commissioner and the secretary of state.

3. *a.* Prior to receiving a certificate of authority, a life captive reinsurance company shall do all of the following:

(1) File with the commissioner all of the following:

(a) A copy of the life captive reinsurance company's plan of operation.

(b) An affidavit from the life captive reinsurance company's president, vice president, treasurer, or chief financial officer that includes all of the following:

(i) A statement that the proposed organization and operation of the life captive reinsurance company complies with this section.

(ii) The life captive reinsurance company's investment policy reflects and accounts for the liquidity of assets and the reasonable preservation, administration, and management of

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assets with respect to the risks associated with the reinsurance contract between the life captive reinsurance company and the parent or ceding insurer.

(c) A statement under oath by an officer of the life captive reinsurance company that attests to the life captive reinsurance company's financial condition.

(d) Documentation that provides evidence of the amount and liquidity of the life captive reinsurance company's assets relative to the risks to be assumed by the life captive reinsurance company.

(e) Documentation that provides evidence related to the overall soundness of the life captive reinsurance company's plan of operation.

(f) A certification from an actuarial officer of a ceding insurer that complies with section 521J.104.

(g) A description of coverages, deductibles, coverage limits, rates, and any additional information requested by the commissioner.

(h) A copy of each reinsurance contract and each arrangement that secures the life captive reinsurance company's obligations under the reinsurance contract between the life captive reinsurance company and the parent or ceding insurer, including but not limited to any agreements or other documentation to implement such reinsurance contract or arrangement.

(i) A legal opinion, in a form and manner approved by the commissioner, that the offer and sale of life captive reinsurance company securities comply with all applicable registration requirements or applicable exemptions or exceptions to such requirements under state and federal securities laws. The legal opinion shall not be required as part of the life captive reinsurance company's initial application for a certificate of authority if the life captive reinsurance company includes a statement in the company's plan of operation that the legal opinion will be submitted to the commissioner prior to the offer or sale of a captive reinsurance security.

(j) An opinion of a qualified actuary, approved by the commissioner, confirming that the methodology and assumptions to set and discount reserves sufficiently provide for the risk assumed by the life captive reinsurance company, including significant stress tests on key assumptions.

(k) A biographical affidavit for each officer and each director of the life captive reinsurance company prepared on the most recent template for biographical affidavits prescribed by the NAIC.

(2) Provide the commissioner with any other statement or document requested by the commissioner to evaluate the life captive reinsurance company's application for a certificate of authority.

(3) Pay a nonrefundable fee of two thousand five hundred dollars to the commissioner for the examination, investigation, and processing of the life captive reinsurance company's application for a certificate of authority.

b. The commissioner shall be authorized to retain legal, financial, and examination services from outside experts as necessary for review of the application, the reasonable cost of which may be charged to the applicant.

c. If there is a subsequent material change in the information provided to the commissioner under paragraph "*a*", the life captive reinsurance company shall inform the commissioner within thirty calendar days of the date of the material change and shall submit appropriate documentation as requested by the commissioner for approval. The life captive reinsurance company shall not write any insurance business until on or after the date on which the commissioner approves the supporting documentation.

4. All documents and information submitted pursuant to this subchapter shall be confidential and shall not be made public without the advance written consent of the submitting life captive reinsurance company, with the following exceptions:

a. The documents and information shall be discoverable by a party in a civil action or in a contested case to which the life captive reinsurance company that submitted the information is a party upon a showing by the party seeking to discover the information that the information sought is relevant to, and necessary for, the furtherance of the action or case; the information

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sought is unavailable from other nonconfidential sources; and that a subpoena issued by a judicial or an administrative officer has been submitted to the commissioner.

b. The commissioner may, in the commissioner's discretion, disclose the documents and information to a public official having jurisdiction over the regulation of insurance in another state, or to a public official of the federal government, provided that the public official agrees in writing to maintain the confidentiality of the information, and that the laws of the state in which the public official serves require that the information remain confidential.

5. *a.* If an application filed by a life captive reinsurance company is complete, the commissioner may issue to the life captive reinsurance company a certificate of authority upon a finding of all of the following:

(1) The life captive reinsurance company's proposed plan of operation provides for a viable operation and is not hazardous to any ceding insurer.

(2) The terms of any reinsurance contract and related transactions of the life captive reinsurance company comply with this subchapter and the insurance laws and rules of this state.

b. In conjunction with the issuance of the certificate of authority to a life captive reinsurance company, the commissioner may issue an order regarding any terms and conditions relating to the organization, licensing, and operation of the life captive reinsurance company that the commissioner deems appropriate and that are not inconsistent with this subchapter.

6. A certificate of authority shall be valid for a period of one year beginning on the date of initial issuance and the certificate must be renewed annually. A certificate of authority may be renewed if the applicant is in compliance with the requirements of this subchapter and has paid an annual renewal registration fee at the time of renewal in the amount of two thousand five hundred dollars.

2026 Acts, ch 1113, §39
Referred to in §521J.104
NEW section

521J.103 Life captive reinsurance companies — names.

A life captive reinsurance company shall not adopt a name that is the same, deceptively similar, or likely to be confused with or mistaken for any other existing business name already registered in this state.

2026 Acts, ch 1113, §40
NEW section

521J.104 Actuarial officer — certification.

On the date a life captive reinsurance company files an application for a certificate of authority under section 521J.102, and by March 15 of each succeeding year that a life captive reinsurance company is in operation and is ceded new business from a ceding insurer, a qualified actuary of each ceding insurer shall file with the commissioner a certification that the ceding insurer's transactions with the life captive reinsurance company are not used to gain an unfair advantage if pricing of policies and contracts reinsured by the life captive reinsurance company reflect, at the time the policies and contracts were issued, a reasonable long-term estimate of the cost to the ceding insurer of an alternative third-party transaction and utilize current pricing assumptions. The ceding insurer shall have an ongoing responsibility to maintain documentation detailing the process by which the qualified actuary arrived at the conclusions in the certification in preparation for an examination conducted pursuant to section 521J.110.

2026 Acts, ch 1113, §41
Referred to in §521J.102
NEW section

521J.105 Minimum capital and surplus requirements.

1. The commissioner shall not issue a certificate of authority to a life captive reinsurance company unless the life captive reinsurance company possesses and maintains unimpaired paid-in capital and surplus that is not less than five million dollars. The commissioner may require additional capital and surplus based upon the type, volume, and nature of the

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reinsurance business transacted by the life captive reinsurance company. Minimum capital and surplus shall be in the form of cash or other securities that are investment-grade at the time of acquisition and are acceptable to the commissioner.

2. Except as otherwise provided in this section, chapter 521E shall apply to a life captive reinsurance company.

2026 Acts, ch 1113, §42
Referred to in §521J.106, 521J.108, 521J.111
NEW section

521J.106 Plan of operation.

A life captive reinsurance company must have a plan of operation approved by the life captive reinsurance company's board of directors, and, prior to assuming risks under a reinsurance contract, shall submit the plan of operation to the commissioner for approval. The commissioner may approve the plan of operation upon finding that the plan of operation meets the requirements of this section, and may require amendments to the plan of operation as necessary to satisfy the requirements of this section. Any change in the life captive reinsurance company's plan of operation shall require prior approval of the commissioner. The plan of operation must include, at a minimum, all of the following:

1. A complete description of all reinsurance transactions, reinsurance security arrangements, securitizations, and any other material transactions or arrangements in which the life captive reinsurance company engages.

2. The source and form of the life captive reinsurance company's capital and surplus minimums as required under 521J.105.

3. The life captive reinsurance company's policy on investments.

4. Pro forma balance sheets and income statements illustrating one or more adverse case scenarios, as determined under criteria established by the commissioner, for the performance of the life captive reinsurance company under all reinsurance contracts.

5. Risk-based capital requirements, that, at a minimum, require the life captive reinsurance company to maintain risk-based capital equal to the product of two and one-half and the number determined under the life risk-based capital formula in accordance with the risk-based capital instructions.

6. The life captive reinsurance company's procedures for notice and reporting of material transactions.

7. The life captive reinsurance company's policies for payments of dividends and other distributions to the organizing company.

8. Copies of all contracts between the life captive reinsurance company and affiliated companies.

2026 Acts, ch 1113, §43
NEW section

521J.107 Life captive reinsurance companies — formation.

1. A life insurance company or an affiliated company may organize a life captive reinsurance company pursuant to this subchapter. A life captive reinsurance company must be formed as a corporation and may only reinsure risks of the organizing company, and may access alternative forms of financing.

2. An organizing company shall maintain a minimum of ten percent voting interest and ten percent equity ownership in the life captive reinsurance company unless otherwise approved by the commissioner.

3. A life captive reinsurance company's organizational documents must limit the life captive reinsurance company's authority to transact the business of reinsurance to only reinsure the risks of a ceding insurer.

4. An organizing company may invest funds from its surplus in a life captive reinsurance company organized pursuant to this subchapter.

5. An organizing company's officers and directors may serve as officers and directors of a life captive reinsurance company organized pursuant to subsection 1.

6. A life captive reinsurance company organized under this subchapter shall be deemed to be licensed to transact the business of reinsurance for the purposes of section 521B.102,

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subsection 1, but shall only reinsure risks of the organizing company and affiliated companies.

7. A life captive reinsurance company may, upon approval of the commissioner, purchase reinsurance to cede the reinsurance risks assumed by the life captive reinsurance company.

8. Admitted assets of a life captive reinsurance company shall include assets approved by the commissioner which shall be deemed to be, and reported as, admitted assets of the life captive reinsurance company.

2026 Acts, ch 1113, §44
Referred to in §521J.112
NEW section

521J.108 Dividends and distributions.

1. A life captive reinsurance company shall not pay a dividend out of, or other distribution with respect to, the minimum capital or surplus required under section 521J.105 without the prior written approval of the commissioner.

2. The commissioner's approval of an ongoing plan for the payment of dividends or other distributions shall be conditioned upon retention, at the time of each payment, of capital and surplus in excess of the amounts specified by, or determined in accordance with, a formula approved by the commissioner.

2026 Acts, ch 1113, §45
NEW section

521J.109 Reports and notifications.

1. A life captive reinsurance company shall provide the commissioner with a copy of documentation of an insurance securitization no later than forty-five calendar days before the closing on the transaction for the securitization.

2. In the event of a material change in the financial condition or management of a life captive reinsurance company, the company shall notify the commissioner in writing within two business days of the material change.

3. A life captive reinsurance company shall notify the commissioner within five business days of becoming aware of a material event affecting the life captive reinsurance company's parent, organizing company, or controlling entity that has not previously been disclosed to the commissioner.

4. If a life captive reinsurance company's parent, organizing company, or controlling entity is subject to group supervision in another jurisdiction, the commissioner may request participation in supervisory colleges or coordination calls with the lead regulator of that jurisdiction. The life captive reinsurance company shall facilitate the commissioner's participation to the extent permitted by law.

5. A life captive reinsurance company shall immediately notify the commissioner of an action by a ceding insurer or any other person to foreclose on, or otherwise take possession of, collateral provided by the life captive reinsurance company to secure an obligation of the life captive reinsurance company.

6. A life captive reinsurance company shall not be required to file any report, notice, or other document with the NAIC unless required by the commissioner.

7. At the commissioner's request, a life captive reinsurance company shall provide to the commissioner a copy of any financial or risk-related filings submitted by the company's parent, affiliate, organizing company, or controlling entity to the life captive reinsurance company's domiciliary insurance regulator. Upon request by the commissioner, such filings shall be provided to the commissioner within ten business days of the submission to the organizing company's domestic regulator.

8. A life captive reinsurance company shall file with the commissioner all of the following:

a. On or before March 1 of each year, for the immediately preceding calendar year, all of the following:

(1) A report of the company's risk-based capital level as of the end of the immediately preceding calendar year that contains the information required by the risk-based capital instructions.

(2) A supplemental compensation exhibit that discloses the total annual compensation of

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the company's officers, directors, and key employees. The supplemental exhibit must follow the format and instructions adopted by the NAIC for life insurance company filings.

b. (1) On or before March 1 of each year, for the immediately preceding calendar year, an actuarial opinion from the company's actuary on reserves for all risks assumed by the life captive reinsurance company pursuant to the company's reinsurance contracts and may discount the life captive reinsurance company's reserves in accordance with the actuarial opinion subject to approval by the commissioner. The company's actuary shall submit a memorandum to the commissioner that details the actuary's support for the actuarial opinion. The commissioner may require additional information to be submitted to supplement the actuarial opinion.

(2) Biennially on April 1, for the immediately preceding calendar year, an opinion by an independent qualified actuary concerning the methods and assumptions used to set reserves. The independent qualified actuary must be deemed acceptable by the commissioner prior to filing the opinion.

c. Completed quarterly and annual financial statement blanks as are required by the NAIC for traditional life insurance companies, including any supplements or interrogatories required by the NAIC, in accordance with the NAIC statutory accounting principles. The commissioner may require, approve, or accept any appropriate or necessary modifications of the NAIC statutory accounting principles based on the type of insurance and kind of insurers included in the life captive reinsurance company's report. The quarterly filings shall be filed with the commissioner on or before May 15 for the first quarter, August 15 for the second quarter, and November 15 for the third quarter for the current calendar year. The annual statement shall be filed with the commissioner on or before March 1 of each year for the immediately preceding calendar year.

d. On or before April 1 of each year, all of the following:

(1) For the immediately preceding calendar year, a written management's discussion and analysis of the company's financial condition and results of operations.

(2) For the immediately preceding tax year, a report providing sufficient information to support the company's premium tax return submitted pursuant to section 432.1A.

e. On or before June 1 of each year, for the immediately preceding calendar year, a report of the company's financial condition audited by an independent certified public accountant. The report shall be presented in accordance with the NAIC statutory accounting principles.

f. On or before August 1 of each year, a management report on internal control over financial reporting with the commissioner that describes the life captive reinsurance company's internal control structure over financial reporting and identifies any material weaknesses as of the end of the preceding calendar year.

9. Not less than ten business days prior to a filing due date, a life captive reinsurance company may submit a written request for an extension to file a report required under subsection 8. The request must contain sufficient details to enable the commissioner to make an informed decision about the request. The commissioner may grant an extension upon a determination that the life captive reinsurance company has good cause for the extension.

2026 Acts, ch 1113, §46
Referred to in §521J.111
NEW section

521J.110 Examinations.

1. *a.* The commissioner may examine each life captive reinsurance company's compliance with this subchapter, and may examine the affairs, transactions, accounts, records, and assets of each life captive reinsurance company as the commissioner deems necessary, but not less frequently than every five calendar years.

b. The commissioner shall, upon the completion of an examination under paragraph "*a*", or at such regular intervals prior to completion of an examination as the commissioner determines, prepare an account of the costs incurred in performing and preparing the report of the examination which shall be charged to and paid by the life captive reinsurance company examined. If the life captive reinsurance company fails or refuses to pay the charges, the charges may be recovered in an action brought in the name of the state.

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2. This section shall apply to all business written by a life captive reinsurance company.

3. The applicable provisions of chapter 507 shall apply to examinations conducted under this subchapter.

2026 Acts, ch 1113, §47
Referred to in §521J.104, 521J.111
NEW section

521J.111 Suspension or revocation.

1. A life captive reinsurance company's certificate of authority to conduct the business of insurance in this state may be suspended or revoked by the commissioner for any of the following reasons:

a. Insolvency or impairment of capital or surplus.

b. Failure to meet and maintain the minimum capital and surplus requirements under section 521J.105.

c. Refusal or failure to submit an annual report pursuant to section 521J.109, or to submit a report or statement required by law or by lawful order of the commissioner.

d. Failure to comply with the life captive reinsurance company's own charter, bylaws, or other organizational document.

e. Failure to submit to an examination under section 521J.110.

f. Use of methods that render the life captive reinsurance company's operation detrimental, or the company's condition unsound, with respect to the company's policyholders or to the public.

g. Failure to pay tax on premiums as required under section 432.1A.

h. Failure to submit any fee required under this subchapter.

i. Failure to pay the cost of an examination under section 521J.110.

j. Failure to comply with the laws of this state.

2. *a.* If the commissioner finds upon examination, hearing, or other review that a life captive reinsurance company has committed an act specified in subsection 1, the commissioner may suspend or revoke the life captive reinsurance company's certificate of authority.

b. If the commissioner does not revoke a life captive reinsurance company's certificate of authority during a suspension imposed under paragraph *"a"*, the life captive reinsurance company's certificate of authority may be reinstated if the commissioner finds that the cause of the suspension has been rectified.

2026 Acts, ch 1113, §48
NEW section

521J.112 Mergers.

1. A merger between life captive reinsurance companies must meet the requirements of chapter 521 and section 521J.107, as applicable. The commissioner may, at the commissioner's discretion, provide notice to the public of a proposed merger prior to the commissioner's approval or disapproval of the merger.

2. A plan for a merger must be fair and equitable to the shareholders of the life captive reinsurance companies and shall provide for the purchase of the shares of any nonconsenting shareholder of a life captive reinsurance company.

2026 Acts, ch 1113, §49
NEW section

521J.113 Investments.

1. A life captive reinsurance company's investment program shall take into account the safety of the company's assets, investment yield and return, stability in the value of the investment, and liquidity necessary to meet the company's expected business needs and investment diversification. The assets of a life captive reinsurance company shall be preserved and administered by or on behalf of the life captive reinsurance company to satisfy the liabilities and obligations of the life captive reinsurance company incident to the reinsurance contract between the life captive reinsurance company and the parent or ceding

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insurer, any insurance securitizations, and other related agreements. For the purposes of this section, assets do not include letters of credit and guaranties of a parent.

2. At the discretion of the commissioner, a life captive reinsurance company shall either comply with section 511.8 or invest the life captive reinsurance company's assets in cash and securities that are investment-grade at the time of acquisition, provided that a life captive reinsurance company may invest up to ten percent of the life captive reinsurance company's assets in securities or other investments that are not investment-grade at the time of acquisition, not to include any of the following:

a. Securities rated 5 or higher by the NAIC securities valuation office at the time of acquisition.

b. Asset-based or mortgage-backed securities rated 3 or higher by the NAIC securities valuation office at the time of acquisition.

c. Convertible bonds.

d. Preferred or common stock.

e. Private equity or hedge funds.

3. *a.* A life captive reinsurance company securitization shall include a disclosure that all or part of the proceeds of such insurance securitization will be used to fund the life captive reinsurance company's obligations to the ceding insurer.

b. For purposes of this subsection, *"life captive reinsurance company securitization"* means the security-offering memorandum or other document issued to prospective investors regarding the offer and sale of a surplus note or other security.

4. A life captive reinsurance company's admitted assets must include proceeds from a securitization, premium and other amounts payable by a ceding insurer to the life captive reinsurance company, letters of credit, guaranties of a parent, and any other assets approved by the commissioner, which shall be deemed to be, and reported as, admitted assets of the life captive reinsurance company. The commissioner may reduce the amount of admitted assets previously approved by the commissioner, other than assets already covered by the most recent NAIC accounting practices and procedures manual of the NAIC, if the commissioner determines that the value of those assets has decreased. A minimum of thirty calendar days prior to reducing the amount of admitted assets previously approved, the commissioner shall notify the life captive reinsurance company of the reduction and provide the life captive reinsurance company an opportunity to remedy the issues identified by the commissioner.

5. A life captive reinsurance company shall not make a loan to or an investment in any person, other than as permitted in the life captive reinsurance company's plan of operation, without prior written approval of the commissioner, and any such loan or investment must be evidenced by documentation approved by the commissioner. A life captive reinsurance company shall not loan minimum capital and surplus funds.

6. An organizing company shall report to the commissioner the company's ownership in the life captive reinsurance company and value the ownership equal to the audited statutory surplus of the life captive reinsurance company.

2026 Acts, ch 1113, §50
NEW section

521J.114 Permitted reinsurance.

1. A life captive reinsurance company may reinsure, pursuant to a reinsurance contract, only the risks of a ceding insurer.

2. Unless otherwise approved in advance by the commissioner, a life captive reinsurance company shall not assume or retain exposure to reinsurance losses for the life captive reinsurance company's own account that are not funded by any of the following:

a. Proceeds from a securitization.

b. Premium and other amounts payable by a ceding insurer to the life captive reinsurance company pursuant to a reinsurance contract.

c. Letters of credit.

d. Guaranties of a parent.

e. A return on investment of proceeds from either a securitization or a premium, and other

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amounts payable by the ceding insurer to the life captive reinsurance company pursuant to the reinsurance contract.

3. A life captive reinsurance company may cede risks assumed through a reinsurance contract to one or more reinsurers through the purchase of retrocession, subject to prior approval of the commissioner.

4. A life captive reinsurance company may enter into contracts and conduct other commercial activities related or incidental to and necessary to fulfill the purposes of a reinsurance contract, an insurance securitization, and this subchapter. Such contracts and commercial activities must be included in the life captive reinsurance company's plan of operation or otherwise be approved in advance by the commissioner, and may include but are not limited to any of the following:

a. Entering into reinsurance contracts or issuing life captive reinsurance company securities, and complying with the terms of the contracts and securities.

b. Entering into guaranty trust, guaranteed investment contract, swap, or other derivative, tax, administration, services reimbursement, or fiscal agent transactions.

c. Complying with trust indenture, reinsurance, or retrocession.

5. A reinsurance contract shall not contain a provision for payment by the life captive reinsurance company in discharge of the life captive reinsurance company's obligations to a person other than the ceding insurer or a receiver of the ceding insurer, except upon prior approval of the commissioner.

2026 Acts, ch 1113, §51
NEW section

521J.115 Rating organizations.

A life captive reinsurance company shall not be required to join a rating organization.

2026 Acts, ch 1113, §52
NEW section

521J.116 Compulsory organizations.

A life captive reinsurance company shall not join or contribute financially to a plan, pool, association, or guaranty or insolvency fund in this state.

2026 Acts, ch 1113, §53
NEW section

521J.117 Dormant life captive reinsurance companies.

1. A life captive reinsurance company that is domiciled in this state and complies with this section may apply to the commissioner for a certificate of dormancy. A certificate of dormancy shall be valid for five years from the date of issuance and may not be renewed.

2. *a.* A life captive reinsurance company that has been issued a certificate of dormancy shall comply with all of the following:

(1) The dormant life captive reinsurance company shall possess and maintain unimpaired, paid-in capital and surplus of not less than twenty-five thousand dollars.

(2) A dormant life captive reinsurance company shall annually submit to the commissioner, within ninety calendar days of the end of the dormant life captive reinsurance company's fiscal year, a report on the dormant life captive reinsurance company's financial condition, verified under oath by two of the dormant life captive reinsurance company's executive officers, in the form and manner established by the commissioner by rule.

(3) If, for any portion of the immediately preceding calendar year, the life captive reinsurance company held a certificate of dormancy, the dormant life captive reinsurance company shall pay an annual one thousand dollar dormancy tax, due on or before March 1.

b. From the date a certificate of dormancy is issued through the date the certificate expires, a dormant life captive reinsurance company that has been issued the certificate shall not be subject to section 432.1A.

3. At the discretion of the commissioner, a dormant life captive reinsurance company may be subject to an annual examination.

4. Prior to a dormant life captive reinsurance company issuing an insurance policy, the

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company must apply to the commissioner for approval to surrender the company's certificate of dormancy and to resume conducting the business of insurance.

5. The commissioner shall revoke a dormant life captive reinsurance company's certificate of dormancy if the company violates this section.

2026 Acts, ch 1113, §54
NEW section

521J.118 Books and records.

1. *a.* Unless otherwise approved by the commissioner, a life captive reinsurance company shall maintain the company's original books, records, documents, accounts, vouchers, and agreements in this state and make them available for examination and inspection by the commissioner as requested by the commissioner. The life captive reinsurance company may store and reproduce the books, records, documents, accounts, vouchers, and agreements electronically.

b. All books, records, documents, accounts, vouchers, and agreements shall be kept in a manner that the commissioner can readily ascertain the life captive reinsurance company's financial condition, affairs, and operations; can readily verify the life captive reinsurance company's financial statements; and can confirm the life captive reinsurance company's compliance with this subchapter.

2. Unless otherwise approved by the commissioner, all books, records, documents, accounts, vouchers, and agreements maintained by a life captive reinsurance company under subsection 1 shall remain available in the state until the commissioner approves destruction or other disposition of the books, records, documents, accounts, vouchers, and agreements.

2026 Acts, ch 1113, §55
NEW section

521J.119 Material transactions.

1. A life captive reinsurance company shall not take any of the following actions unless the company provides the commissioner at least thirty calendar days' prior written notice and the commissioner expressly approves the action:

a. Dissolve the life captive reinsurance company.

b. Sell, exchange, lease, mortgage, assign, pledge, or otherwise transfer or grant a security interest in over thirty percent of the assets of the life captive reinsurance company.

c. Incur material indebtedness.

d. Make a material loan or other material extension of credit.

e. Make a material payment out of capital and surplus other than dividends or distributions paid in accordance with this subchapter.

f. Conduct a merger or consolidation to which the life captive reinsurance company is a constituent party.

g. Transfer to or redomesticate in a different jurisdiction.

h. Terminate all or a part of the life captive reinsurance company's business.

2. A life captive reinsurance company shall submit to the commissioner periodic written requests for authorization prior to making payments of interest on, and repayments of principal of, surplus notes and other debt obligations issued by a life captive reinsurance company. The commissioner shall not approve a payment or repayment if the commissioner determines that the payment or repayment would jeopardize the ability of the life captive reinsurance company or any other person to fulfill the company's or person's obligations.

2026 Acts, ch 1113, §56
NEW section

521J.120 Securities.

A life captive reinsurance company security shall not be subject to regulation as an insurance or reinsurance contract. An investor in, or holder of, the security shall not be considered to transact in the business of insurance in the state solely based on such interest in the security. An underwriter's placement agents, selling agents, partners, commissioners, officers, members, managers, employees, agents, representatives, and advisors involved in an insurance securitization by a life captive reinsurance company shall not be considered

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insurance producers or brokers, or to be conducting business as an insurance company, as a reinsurance company, or as an insurance agency, brokerage, intermediary, advisory, or consulting business, solely based on underwriting activities in connection with securitization.

2026 Acts, ch 1113, §57
NEW section

521J.121 Rules.

The commissioner may adopt rules pursuant to chapter 17A to implement and administer this subchapter.

2026 Acts, ch 1113, §58
NEW section

CHAPTER 522

INSURER RISK AND SOLVENCY ASSESSMENTS

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

522.1 Purpose and scope — legislative intent.
522.2 Definitions.
522.3 Risk management framework.
522.4 Own risk and solvency assessment requirement.
522.5 Own risk and solvency assessment summary report.
522.6 Exemption.
522.7 Contents of own risk and solvency assessment summary report.
522.8 Confidentiality.
522.9 Penalties.
522.10 Severability.

522.1 Purpose and scope — legislative intent.

1. The purpose of this chapter is to require insurers to maintain a risk management framework and complete an own risk and solvency assessment and to provide guidance and instructions for the filing of own risk and solvency assessment reports with the commissioner.

2. The general assembly finds and declares that own risk and solvency assessment summary reports will contain confidential and sensitive information related to an insurer's or insurance group's identification of risks material and relevant to the insurer or insurance group filing the report. This information will include proprietary and trade secret information that has the potential for harm and competitive disadvantage to the insurer or insurance group if the information is made public. It is the intent of the general assembly that own risk and solvency assessment summary reports filed with the commissioner are confidential documents, shall be shared only as provided in this chapter and to assist the commissioner in the performance of the commissioner's duties, and shall not be subject to public disclosure.

2013 Acts, ch 40, §1, 11

522.2 Definitions.

1. *"Affiliate"*, or a person affiliated with a specific person, means the same as defined in section 521A.1.

2. *"Commissioner"* means the Iowa commissioner of insurance.

3. *"Insurance group"* means the insurers and affiliates included within an insurance holding company system as defined in section 521A.1.

4. *"Insurer"* means the same as defined in section 521A.1.

5. *"Own risk and solvency assessment"* or *"assessment"* means a confidential internal assessment, appropriate to the nature, scale, and complexity of an insurer or insurance group, that is conducted by that insurer or insurance group, of the material and relevant risks associated with the insurer or insurance group's current business plan, and the sufficiency of capital resources to support those risks.

6. *"Own risk and solvency assessment guidance manual"* or *"guidance manual"* means the current version of the own risk and solvency assessment guidance manual developed and

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adopted by the national association of insurance commissioners and amended from time to time. A change in the guidance manual is effective and applicable to this chapter on January 1 following the calendar year in which the change was adopted by the national association of insurance commissioners.

7. *"Own risk and solvency assessment summary report"* or *"summary report"* means a confidential high-level summary of the own risk and solvency assessment conducted by an insurer or insurance group.

8. *"Supervisory college"* means a temporary or permanent forum for communication and cooperation between regulators charged with supervision of an insurer or its affiliates.

2013 Acts, ch 40, §2, 11

522.3 Risk management framework.

An insurer shall maintain a risk management framework to assist the insurer with identifying, assessing, monitoring, managing, and reporting on the insurer's material and relevant risks. This requirement is satisfied if the insurance group of which the insurer is a member maintains a risk management framework applicable to the operations of the insurer.

2013 Acts, ch 40, §3, 11

522.4 Own risk and solvency assessment requirement.

1. Subject to section 522.6, an insurer, or the insurance group of which the insurer is a member, shall regularly conduct an own risk and solvency assessment consistent and comparable with the assessment process contained in the own risk and solvency assessment guidance manual.

2. An own risk and solvency assessment shall be conducted at least annually, but an assessment shall also be conducted at any time when there are significant changes to the risk profile of an insurer or the insurance group of which the insurer is a member.

2013 Acts, ch 40, §4, 11

522.5 Own risk and solvency assessment summary report.

1. *a.* Beginning in 2015, an insurer shall annually submit to the commissioner an own risk and solvency assessment summary report or any combination of reports that together contain the information described in the own risk and solvency assessment guidance manual that is applicable to the insurer or the insurance group of which the insurer is a member.

b. If the insurer is a member of an insurance group, the insurer shall submit the report or reports required by this section to the state commissioner that is the lead state commissioner of the insurance group of which the insurer is a member, as determined by the procedures contained in the financial analysis handbook adopted by the national association of insurance commissioners.

c. The own risk and solvency assessment summary report shall be filed after the insurer or the insurance group of which the insurer is a member conducts the insurer's or insurance group's strategic planning process. The insurer or insurance group shall notify the commissioner as to the date that the summary report will be filed.

2. The own risk and solvency assessment summary report shall include the signature of the insurer's or insurance group's chief risk officer or another executive having responsibility for the oversight of the insurer's enterprise risk management process, attesting that to the best of that person's belief and knowledge the insurer applies the enterprise risk management process described in the summary report and that a copy of the summary report has been provided to the insurer's or insurance group's board of directors or the appropriate committee of that board.

3. An insurer may comply with subsection 1 by submitting the most recent and substantially similar report provided by the insurer or another member of the insurance group of which the insurer is a member to the commissioner of insurance of another state or to a supervisor or regulator of a foreign jurisdiction, if that report provides information that is comparable to the information described in the own risk and solvency assessment

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guidance manual. Any such report that is submitted in a language other than English must be accompanied by a translation of that report into the English language.

2013 Acts, ch 40, §5, 11
Referred to in §522.6, 522.9

522.6 Exemption.

1. An insurer is exempt from the requirements of this chapter if both of the following apply:

a. The insurer has annual direct written and unaffiliated assumed premium, including international direct and assumed premium, but excluding premiums reinsured with the federal crop insurance corporation and the federal flood program, of less than five hundred million dollars.

b. The insurance group of which the insurer is a member has annual direct written and unaffiliated assumed premium, including international direct and assumed premium, but excluding premiums reinsured with the federal crop insurance corporation and the federal flood program, of less than one billion dollars.

2. If an insurer qualifies for exemption from the requirements of this chapter pursuant to subsection 1, paragraph *"a"*, but the insurance group of which the insurer is a member does not qualify for exemption pursuant to subsection 1, paragraph *"b"*, then the own risk and solvency assessment summary report that is required pursuant to section 522.5 shall include information concerning every insurer in the insurance group. This requirement may be satisfied by the submission of more than one summary report for any combination of insurers in the insurance group provided that the combination of reports submitted includes every insurer in the insurance group.

3. If an insurer does not qualify for exemption pursuant to subsection 1, paragraph *"a"*, but the insurance group of which the insurer is a member qualifies for exemption pursuant to subsection 1, paragraph *"b"*, then the only own risk and solvency assessment summary report that is required pursuant to section 522.5 is the report applicable to that insurer.

4. An insurer that does not qualify for exemption pursuant to subsection 1 may apply to the commissioner for a waiver from the requirements of this chapter based upon unique circumstances. In deciding whether to grant the insurer's request for a waiver, the commissioner may consider the type and volume of business written, ownership and organizational structure, and any other factors the commissioner considers relevant to the insurer or the insurance group of which the insurer is a member. If the insurer is part of an insurance group with insurers domiciled in more than one state, the commissioner shall coordinate with the state commissioner that is the lead state commissioner of the insurance group, as determined pursuant to section 522.5, and with the other domiciliary commissioners in considering whether to grant the insurer's request for a waiver.

5. Notwithstanding the exemptions provided in this section, the commissioner may do the following:

a. Require that an insurer maintain a risk management framework, conduct an own risk and solvency assessment, and file an own risk and solvency assessment summary report based on unique circumstances including but not limited to the type and volume of business written, ownership and organizational structure, federal agency requests, and international supervisor requests.

b. Require that an insurer maintain a risk management framework, conduct an own risk and solvency assessment, and file an own risk and solvency assessment summary report if the insurer has a risk-based capital level that is a company-action-level event as set forth in section 521E.3 for insurers and section 521F.4 for health organizations or that would cause the insurer to be in hazardous financial condition as set forth in 191 IAC ch. 110, or if the insurer otherwise exhibits qualities of a troubled insurer as determined by the commissioner.

6. If an insurer that qualifies for an exemption pursuant to subsection 1 subsequently no longer qualifies for that exemption due to changes in premium as reflected in the insurer's most recent annual statement or in the most recent annual statements of the other insurers

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in the insurance group of which the insurer is a member, the insurer shall have one year following the year the threshold is exceeded to comply with the requirements of this chapter.

2013 Acts, ch 40, §6, 11; 2013 Acts, ch 140, §73; 2015 Acts, ch 29, §80

Referred to in §522.4

522.7 Contents of own risk and solvency assessment summary report.

1. The own risk and solvency assessment summary report shall be prepared consistent with the own risk and solvency assessment guidance manual, subject to the requirements of subsection 2. Documentation and supporting information shall be maintained and made available upon examination of an insurer or upon request of the commissioner.

2. The review of an own risk and solvency assessment summary report, and any additional requests for information, shall be made using procedures similar to the procedures currently used in the analysis and examination of multistate or global insurers and insurance groups.

2013 Acts, ch 40, §7, 11

522.8 Confidentiality.

1. Documents, materials, or other information, including an own risk and solvency assessment summary report, in the possession or control of the insurance division of the department of insurance and financial services, that are obtained by, created by, or disclosed to the commissioner or to any other person pursuant to this chapter, are recognized in this state as being proprietary and containing trade secrets. All such documents, materials, or other information, including the summary report, shall be confidential and privileged, shall not be subject to chapter 22, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use such documents, materials, or other information, including the summary report, in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties. The commissioner shall not otherwise make the documents, materials, or other information, including the summary report, public without the prior written consent of the insurer that provided the documents, materials, or other information, including the summary report.

2. The commissioner or any person who received documents, materials, or other information related to own risk and solvency assessments, through examination or otherwise, while acting under the authority of the commissioner or with whom such documents, materials, or other information are shared pursuant to this chapter, shall not be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information, including summary reports, subject to subsection 1.

3. In order to assist in the performance of the commissioner's regulatory duties, the commissioner may do any of the following:

a. Upon request, share documents, materials, or other own risk and solvency assessment-related information, including the confidential and privileged documents, materials, or information subject to subsection 1, and including proprietary and trade secret documents, materials, or information, with other state, federal, or international financial regulatory agencies, including members of any supervisory college, with the national association of insurance commissioners, and with any third-party consultants designated by the commissioner, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the documents, materials, or other assessment-related information and verifies in writing the legal authority to maintain such confidentiality and privilege.

b. Receive documents, materials, or other own risk and solvency assessment-related information, including otherwise confidential and privileged documents, materials, or information, and proprietary and trade secret documents, materials, and information, from regulatory officials of other foreign or domestic jurisdictions, including members of any supervisory college, and from the national association of insurance commissioners, and shall maintain as confidential or privileged any documents, materials, or information received with notice or the understanding that the documents, materials, or other information received are confidential and privileged under the laws of the jurisdiction that is the source of the documents, materials, or information.

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4. In order to assist in the performance of the commissioner's regulatory duties, the commissioner shall enter into a written agreement with the national association of insurance commissioners or with a third-party consultant that is consistent with subsection 3, governing the sharing and use of information provided pursuant to this chapter, and that does all of the following:

a. Specifies procedures and protocols regarding the confidentiality and security of information shared with the national association of insurance commissioners or with a third-party consultant pursuant to this chapter, including procedures and protocols of the national association of insurance commissioners for sharing information with other state regulators from states in which an insurance group has domiciled insurers. The agreement shall require that the recipient of such information must agree in writing to maintain the confidentiality and privileged status of the own risk and solvency assessment-related documents, materials, or other information and verify in writing the legal authority to maintain confidentiality and privilege.

b. Specifies that ownership of information shared with the national association of insurance commissioners or with a third-party consultant pursuant to this chapter remains with the commissioner and that use of the information by the national association of insurance commissioners or by a third-party consultant is subject to the direction of the commissioner.

c. Prohibits the national association of insurance commissioners or a third-party consultant from storing the information shared pursuant to this chapter in a permanent database after the underlying analysis is completed.

d. Requires that prompt notice be given to an insurer whose confidential information is in the possession of the national association of insurance commissioners or a third-party consultant pursuant to this chapter, that the information is subject to a request or subpoena to the national association of insurance commissioners or the third-party consultant for disclosure or production.

e. Requires the national association of insurance commissioners or a third-party consultant to consent to intervention by an insurer in any judicial or administrative action in which the national association of insurance commissioners or the third-party consultant may be required to disclose confidential information about the insurer that was shared with the association or consultant pursuant to this chapter.

f. In the case of an agreement involving a third-party consultant, provides for the insurer's written consent to the agreement.

5. The sharing of documents, materials, or information by the commissioner pursuant to this chapter shall not constitute a delegation of regulatory authority or rulemaking, and the commissioner is solely responsible for the administration, execution, and enforcement of the provisions of this chapter.

6. No waiver of any applicable privilege or claim of confidentiality in the documents, proprietary and trade secret materials, or other own risk and solvency assessment-related information shall occur as a result of the disclosure of such documents, materials, or information to the commissioner under this section or as a result of the sharing of those documents, materials, or information as authorized in this chapter.

7. Documents, materials, or other information in the possession or control of the national association of insurance commissioners or a third-party consultant pursuant to this chapter shall be confidential and privileged, shall not be subject to chapter 22, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action.

2013 Acts, ch 40, §8, 11; 2023 Acts, ch 19, §2737

522.9 Penalties.

1. If an insurer fails, without just cause, to file an own risk and solvency assessment summary report by the filing date stipulated to the commissioner pursuant to section 522.5, subsection 1, paragraph "*c*", the commissioner shall, after notice and hearing, impose a penalty of five hundred dollars for each calendar day after the stipulated date that the summary report is not filed. The penalties shall be collected by the commissioner and

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deposited pursuant to section 505.7. The maximum penalty which may be imposed under this section is fifty thousand dollars.

2. The commissioner may reduce the penalty to be imposed if the insurer demonstrates to the commissioner that imposition of the penalty would constitute a financial hardship to the insurer.

2013 Acts, ch 40, §9, 11; 2021 Acts, ch 181, §33

522.10 Severability.

If any provision of this chapter, or the application of this chapter to any person or circumstance, is held invalid, such holding shall not affect the provisions or applications of this chapter which can be given effect without the invalid provision or application, and to that end the provisions of this chapter are severable.

2013 Acts, ch 40, §10, 11

CHAPTER 522A

SALE OF INSURANCE BY VEHICLE RENTAL COMPANIES

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

522A.1	Purpose.	522A.5	Fees.
522A.2	Definitions.	522A.6	Vendor qualifications.
522A.3	Limited licenses.	522A.7	Rules.
522A.4	Term of limited license.		

522A.1 Purpose.

The purpose of this chapter is to provide for the limited licensing of rental companies when a motor vehicle rental company sells travel or automobile-related insurance products or coverage in connection with and incidental to the rental of vehicles.

99 Acts, ch 143, §1

522A.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Commissioner"* means the commissioner of insurance appointed pursuant to section 505.2.

2. *"Counter employee"* means any employee at least eighteen years of age employed by a rental company that offers the products described in this chapter.

3. *"Limited licensee"* means a person at least eighteen years of age or an entity authorized to sell certain insurance coverages relating to the rental of vehicles.

4. *"Rental agreement"* means any written agreement setting forth the terms and conditions governing the use of a vehicle provided by a rental company for rental.

5. *"Rental company"* means any person or entity in the business of primarily providing vehicles intended for the private transportation of passengers to the public under a rental agreement for a period not to exceed ninety days.

6. *"Rental period"* means the term of the rental agreement.

7. *"Renter"* means any person obtaining the use of a vehicle from a rental company under the terms of a rental agreement for a period not to exceed ninety days.

8. *"Vehicle"* means a motor vehicle under section 321.1 used for the private transportation of passengers, including passenger vans, minivans, and sport utility vehicles, or used for the transportation of cargo with a gross vehicle weight of less than twenty-six thousand and one pounds and not requiring the operator to possess a commercial driver's license, including cargo vans, pickup trucks, and trucks.

99 Acts, ch 143, §2

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522A.3 Limited licenses.

1. Notwithstanding the provisions of chapter 522B, the commissioner may issue a limited license to a rental company that has complied with the requirements of this chapter. The limited license shall authorize the limited licensee to offer or sell insurance with the rental of vehicles.

2. As a prerequisite for issuance of a limited license under this section, a written application for a limited license, which is signed by an officer of the applicant, shall be filed with the commissioner. The application shall be in a form and contain information prescribed by the commissioner. The application shall include a list of all rental locations where the rental company intends to conduct business. An updated list shall be provided to the commissioner within thirty business days from any date on which the list is amended.

3. If a provision of this section is violated by a limited licensee, the commissioner may, after notice and a hearing, revoke or suspend a limited license issued under this section, or impose any other penalties, including suspending permission for the transaction of insurance offers or sales at specific rental locations where violations of this section have occurred, as the commissioner deems to be necessary or convenient to carry out the purposes of this section.

4. A rental company licensed pursuant to this section may offer or sell insurance issued by an insurance carrier authorized to do business in this state and only in connection with and incidental to the rental of a vehicle. A renter shall not be required to purchase coverage in order to rent a vehicle. The type of insurance offered or sold by a limited licensee, whether at the rental office or by preselection of coverage in a master, corporate, group rental, or individual agreement, may be in any of the following general categories:

a. Personal accident insurance covering the risks of travel, including, but not limited to, accident and health insurance that provides coverage, as applicable, to a renter and other rental vehicle occupants for accidental death or dismemberment and reimbursement for medical expenses resulting from an accident that occurs during the rental period.

b. Liability insurance that provides coverage, as applicable, to a renter and other authorized drivers of rental vehicles for liability arising from the operation of the rental vehicle.

c. Personal effects insurance that provides coverage, as applicable, to a renter and other vehicle occupants for the loss of, or damage to, personal effects that occurs during the rental period.

d. Roadside assistance and emergency sickness protection programs.

5. Insurance shall only be sold by a limited licensee pursuant to this section if all of the following apply:

a. The rental period of the rental agreement does not exceed ninety consecutive days.

b. At every rental location where a rental agreement is executed, brochures or other written materials are readily available to a prospective renter that include all of the following information:

(1) A clear and correct summary of the material terms of coverage offered to renters, including the identity of the insurer.

(2) A disclosure that the coverage offered by the rental company may provide a duplication of coverage already provided by a renter's personal automobile insurance policy, homeowner's insurance policy, personal liability insurance policy, or other source of coverage.

(3) A statement that the purchase by a renter of the types of coverage specified in this section is not required in order to rent a vehicle.

(4) A description of the process for filing a claim in the event a renter elects to purchase coverage and in the event of a claim.

c. Evidence of coverage in the rental agreement is provided to every renter who elects to purchase such coverage.

d. A fee, compensation, or commission is not paid to an employee by a rental company dependent solely on the sale of insurance under any limited license issued pursuant to this section.

6. Any limited license issued under this section shall authorize a counter employee of

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the limited licensee to act individually on behalf, and under the supervision, of the limited licensee with respect to the offer and sale of coverage specified in this section.

7. A rental company counter employee must successfully pass an examination covering the insurance products offered for sale by the rental company in connection with and incidental to the rental of vehicles by the rental company. The examination shall be approved and administered by the insurance division or a vendor approved by the insurance division pursuant to section 522A.6. The counter employee shall file an application with the commissioner for an individual license. Any application shall be deemed approved unless the commissioner notifies the rental company of the denial or rejection of the application within thirty days of receiving the application. An application shall not include requirements greater in scope than defined in this section.

8. A limited licensee pursuant to this section shall not be required to treat moneys collected from renters purchasing insurance when renting vehicles as moneys received in a fiduciary capacity, provided that the charges for coverage are itemized and are ancillary to a rental agreement. The offer or sale of insurance not in conjunction with a rental agreement shall not be permitted.

9. A limited licensee under this section shall not advertise, represent, or otherwise hold itself out or hold any of its employees out as licensed insurers, insurance agents, or insurance brokers.

10. A limited licensee shall not engage in this state in any of the following:

a. A trade practice defined in chapter 507B as, or determined pursuant to section 507B.6 to be, an unfair method of competition or an unfair or deceptive act or practice in the business of insurance.

b. An illegal sales practice or unfair trade practice as defined in rules adopted pursuant to chapter 17A by the commissioner.

11. An individual license, authorization, and certification to offer or sell insurance products under this chapter shall expire when the counter employee's employment terminates with the rental company.

99 Acts, ch 143, §3; 2000 Acts, ch 1058, §48; 2001 Acts, ch 16, §12, 37
Referred to in §522A.6

522A.4 Term of limited license.

A limited license issued pursuant to this chapter is valid for three years and may be renewed without examination if the renewal application is received in a timely manner.

99 Acts, ch 143, §4

522A.5 Fees.

The fee for a counter employee license shall be fifty dollars per counter employee. In no case shall any combined fees exceed one thousand dollars in any calendar year for any one rental company or limited license or licensee or renewal license. The fees collected under this section shall be deposited as provided in section 505.7.

99 Acts, ch 143, §5; 2009 Acts, ch 181, §89

522A.6 Vendor qualifications.

If a qualified vendor is available, the commissioner shall utilize the qualified vendor closest in proximity to where the counter employee is employed to meet the requirements in section 522A.3. A vendor shall have at least two years teaching experience relating to the topic of the products described in this chapter. For purposes of this section, the commissioner may approve a rental company that meets the requirements of this section as a qualifying vendor to administer the requirements in section 522A.3.

99 Acts, ch 143, §6
Referred to in §522A.3

522A.7 Rules.

The commissioner shall adopt rules necessary for the administration of this chapter.

99 Acts, ch 143, §7

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CHAPTER 522B

LICENSING OF INSURANCE PRODUCERS

Referred to in §8A.438, 87.4, 296.7, 321A.3, 331.301, 364.4, 423.3, 505.8, 505.28, 505.29, 507A.10, 507B.4, 507E.2A, 508A.5, 508E.2, 514B.19, 514K.2, 515.115, 515I.2, 515I.11, 515I.12, 518.16, 522A.3, 522C.4, 522D.3, 522E.2, 522E.8, 522E.9, 522E.12, 523A.502, 523H.1, 537A.10, 669.14, 670.7, 714H.4

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522B.3 Exceptions to licensing.
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522B.8 Exemption from examination.
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522B.12 Commissions.
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522B.16A Duties of licensees.
522B.16B Written consent to engage or participate in business of insurance.
522B.17 Cease and desist orders — penalties.
522B.17A Injunctive relief.
522B.18 Rules.

522B.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Business entity"* means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

2. *"Commissioner"* means the commissioner of insurance.

3. *"Exclusive insurance producer"* means a licensed insurance producer whose contract with an insurer requires the insurance producer to act as an agent only for that insurer or a group of insurers under common ownership or control or other insurers authorized by that insurer.

4. *"Home state"* means the District of Columbia and any state or territory of the United States in which an insurance producer maintains the producer's principal place of residence or principal place of business and is licensed to act as an insurance producer.

5. *"Insurance"* means any of the lines of authority an insurer is authorized to sell in this state.

6. *"Insurance producer"* means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

7. *"Insurer"* means a person engaged in the business of insurance who is regulated under chapter 508, 512B, 515, or 520.

8. *"License"* means a document issued pursuant to this chapter by the commissioner authorizing a person to act as an insurance producer for the lines of authority specified in the document. A license by itself does not create any authority, actual, apparent, or inherent, in the holder to represent or commit an insurer.

9. *"Limited lines insurance"* means any authority granted by the home state which restricts the authority of the license to less than the total authority prescribed in the associated major lines pursuant to section 522B.6, subsection 2, paragraphs *"a"* through *"f"*, and any other line of insurance that the commissioner may deem it necessary to recognize for the purposes of complying with section 522B.7, subsection 4.

10. *"Limited lines producer"* means a person licensed by the commissioner to sell, solicit, or negotiate limited lines insurance.

11. *"Negotiate"* means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

12. *"Person"* means an individual or a business entity.

13. *"Policy owner"* means a person who is identified as the legal owner of an insurance policy or contract under the terms of the insurance policy or contract, or who is otherwise

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vested with legal title to the insurance policy or contract through a valid assignment completed in accordance with the terms of the insurance policy or contract and is properly recorded as the legal owner of the policy or contract in the records of the insurer. *"Policy owner"* does not include a person who has a mere beneficial interest in an insurance policy or contract.

14. *"Producer database"* means the national database of insurance producers maintained by the national association of insurance commissioners, its affiliates, or subsidiaries.

15. *"Sell"* means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurer.

16. *"Solicit"* or *"solicitation"* means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.

17. *"Terminate"* means the cancellation of the relationship between an insurance producer and the insurer or the termination of an insurance producer's authority to transact insurance.

18. *"Uniform application"* means the current version of the national association of insurance commissioners uniform application for resident and nonresident insurance producer licensing.

19. *"Uniform business entity application"* means the current version of the national association of insurance commissioners uniform business entity application for resident and nonresident business entities.

2001 Acts, ch 16, §15, 37; 2002 Acts, ch 1111, §35; 2002 Acts, ch 1119, §75; 2014 Acts, ch 1108, §1

Referred to in §321B.1, 507F.3, 515.106, 518.16A, 518A.42, 533C.103

522B.2 License required.

1. A person shall not sell, solicit, or negotiate insurance in this state for any line of insurance unless the person is licensed as an insurance producer for that line of insurance as provided in this chapter.

2. A person offering to the public, for a fee or commission, to engage in the business of offering any advice, counsel, or service with respect to the benefits, advantages, or disadvantages promised under any policy of insurance must also be licensed as an insurance producer.

2001 Acts, ch 16, §16, 37

Referred to in §522B.17A

522B.3 Exceptions to licensing.

1. Nothing in this chapter shall be construed to require an insurer to obtain an insurance producer license. For the purposes of this section, *"insurer"* does not mean an officer, director, employee, subsidiary, or affiliate of the insurer.

2. A license as an insurance producer shall not be required of any of the following:

a. An officer, director, or employee of an insurer or of an insurance producer, provided that the officer, director, or employee does not receive any commission on policies written or sold to insure risks residing, located, or to be performed in this state, and one of the following applies:

(1) The activities of the officer, director, or employee are executive, administrative, managerial, clerical, or a combination of these, and are only indirectly related to the sale, solicitation, or negotiation of insurance.

(2) The function of the officer, director, or employee relates to underwriting, loss control, inspection, or the processing, adjusting, investigating, or settling of a claim on a contract of insurance.

(3) The officer, director, or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers where the person's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation, or negotiation of insurance.

b. A person who performs any of the following services and who is not paid a commission for the performance of such service:

(1) Secures and furnishes information for the purpose of group life insurance, group

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property and casualty insurance, group annuities, or group or blanket accident and health insurance.

(2) Secures and furnishes information for the purpose of enrolling individuals under plans, issuing certificates under plans, or otherwise assisting in administering plans.

(3) Performs administrative services related to mass marketed property and casualty insurance.

c. An employer or association, or an officer, director, or employee of such employer or association, or the trustees of an employee trust plan, to the extent that such employer, association, officer, director, employee, or trustee is engaged in the administration or operation of a program of employee benefits for the employer's or association's own employees or the employees of its subsidiaries or affiliates, which program involves the use of insurance issued by an insurer, as long as such employer, association, officer, director, employee, or trustee is not in any manner compensated, directly or indirectly, by the insurer issuing the contracts.

d. An employee of an insurer, or an organization employed by an insurer, who engages in the inspection, rating, or classification of risks or in the supervision of the training of insurance producers and who is not individually engaged in the sale, solicitation, or negotiation of insurance.

e. A person whose activities in this state are limited to advertising without the intent to solicit insurance in this state through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of the state, provided that the person does not sell, solicit, or negotiate insurance that would insure risks residing, located, or to be performed in this state.

f. A person who is not a resident of this state who sells, solicits, or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, provided that that person is otherwise licensed as an insurance producer to sell, solicit, or negotiate that insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state.

g. A salaried full-time employee who counsels or advises the employee's employer relative to the insurance interests of the employer or of the subsidiaries or business affiliates of the employer, provided that the employee does not sell or solicit insurance or receive a commission.

h. A licensed attorney providing surety bonds incident to the attorney's practice.

i. A person selling transportation tickets of a common carrier of persons or property when that person also sells, in connection with and related to the transportation ticket, a trip and accident insurance policy or an insurance policy on personal effects being carried as baggage.

2001 Acts, ch 16, §17, 37; 2002 Acts, ch 1050, §47; 2002 Acts, ch 1119, §76

Vehicle rental company limited licenses, see §522A.3

522B.4 Application for examination.

1. A resident individual applying for an insurance producer license shall pass a written examination unless exempt pursuant to section 522B.8. The examination shall test the knowledge of the individual concerning the lines of authority for which application is made, the duties and responsibilities of an insurance producer, and the insurance laws and regulations of this state. The commissioner shall adopt rules pursuant to chapter 17A related to development and conduct of the examination.

2. The commissioner may make arrangements, including contracting with an outside testing service or other appropriate entity, for administering examinations and collecting fees.

3. An individual applying for an examination shall remit a nonrefundable fee as established by rule of the commissioner.

4. An individual who fails to appear for the examination as scheduled or fails to pass the

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examination shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

2001 Acts, ch 16, §18, 37
Referred to in §522B.6

522B.5 Application for license.

1. A person applying for a resident insurance producer license shall make application to the commissioner on the uniform application, meet all requirements pursuant to section 522B.5A, and declare under penalty of refusal, suspension, or revocation of the license that all statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find all of the following:

a. The individual is at least eighteen years of age.

b. The individual has not committed any act that is a ground for denial, suspension, or revocation as set forth in section 522B.11.

c. The individual has paid the license fee of fifty dollars.

d. The individual has successfully passed the examinations for the lines of authority for which the person has applied.

e. In order to protect the public interest, the individual has the requisite character and competence to receive a license as an insurance producer.

2. A business entity acting as an insurance producer may elect to obtain an insurance producer license. Application shall be made using the uniform business entity application. Prior to approving the application, the commissioner shall find both of the following:

a. The business entity has paid the appropriate fees.

b. The business entity has designated a licensed producer responsible for the business entity's compliance with the insurance laws and rules of this state.

3. The commissioner may require any documents reasonably necessary to verify the information contained in an application.

4. Fees collected under this section shall be deposited as provided in section 505.7.

2001 Acts, ch 16, §19, 37; 2009 Acts, ch 181, §90; 2020 Acts, ch 1016, §6
Referred to in §522B.6, 522B.8, 522B.10

522B.5A Criminal history check.

1. In determining eligibility for licensure, the commissioner is authorized to require an applicant pursuant to subsection 2 to provide to the commissioner the applicant's fingerprints and reasonable fees required to perform a state criminal history check through the department of public safety, division of criminal investigation, and a national criminal history check through the federal bureau of investigation. By submitting such fingerprints, the applicant authorizes the commissioner to do all of the following:

a. Submit the applicant's fingerprints to the department of public safety, division of criminal investigation, for submission to the federal bureau of investigation for the purpose of conducting a national criminal history check.

b. Receive the results of the state and national criminal history checks.

2. The commissioner is authorized to require a state and national criminal history check on each applicant that applies for any of the following:

a. An initial license in Iowa as a resident insurance producer.

b. An initial license or an additional line of authority under a nonresident insurance producer license if a state and national criminal history check has not already been completed.

c. A renewal, reinstatement, or reissuance of a license if the license of a producer has been revoked or suspended pursuant to section 522B.11, the license of an adjuster has been revoked or suspended pursuant to section 522C.13, the license of a viatical settlement provider or viatical settlement broker has been revoked or suspended pursuant to section 508E.4, or the license of an appraiser or an umpire has been revoked or suspended pursuant to section 522F.20.

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d. An initial license as a viatical settlement provider or viatical settlement broker in this state.

e. An initial license as an adjuster in this state.

f. An initial license as an appraiser in this state.

g. An initial license as an umpire in this state.

3. The commissioner shall require an applicant pursuant to subsection 2 to submit a full set of fingerprints and any other required identifying information to the commissioner on a form prescribed by the department of public safety.

4. The commissioner may contract with a third-party vendor for the collection and transmission of an applicant's fingerprints for the purpose of conducting a state and national criminal history check. The commissioner may agree to reasonable fees to be charged by the third-party vendor and may require such reasonable fees to be paid by the applicant directly to the third-party vendor.

5. The results of a criminal history check conducted pursuant to this section shall not be considered a public record pursuant to chapter 22. An applicant's fingerprints and any criminal history check information shall not be subject to subpoena, other than a subpoena issued in a criminal action or investigation, shall be confidential by law and privileged, and shall not be subject to discovery or be admissible in evidence in a private civil action.

2020 Acts, ch 1016, §7; 2025 Acts, ch 28, §30, 52, 54, 55

Referred to in §508E.3, 522B.5, 522B.10, 522C.5, 522C.6, 522C.15, 522F.3, 522F.4, 522F.8, 522F.9, 522F.22

2025 amendment to subsection 2, paragraphs c and e, by 2025 Acts, ch 28, §30, applies beginning July 22, 2025, to a person currently doing business in this state as an independent adjuster or a staff adjuster as of January 1, 2025; 2025 Acts, ch 28, §52

522B.6 License.

1. A person who meets the requirements of sections 522B.4 and 522B.5, unless otherwise denied licensure pursuant to section 522B.11, shall be issued an insurance producer license. An insurance producer license is valid for three years.

2. An insurance producer may qualify for a license in one or more of the following lines of authority:

a. Life insurance providing coverage on human lives, including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income.

b. Accident and health or sickness insurance providing coverage for sickness, bodily injury, or accidental death, and may include benefits for disability income.

c. Property insurance providing coverage for the direct or consequential loss or damage to property of any kind.

d. Casualty insurance providing coverage against legal liability, including that for death, injury, or disability, or damage to real or personal property.

e. Variable life and variable annuity products insurance coverage provided under variable life insurance contracts and variable annuities.

f. Personal lines property and casualty insurance sold to individuals and families primarily for noncommercial purposes.

g. Excess and surplus lines insurance provided by certain nonadmitted insurers pursuant to chapter 515I.

h. Credit insurance, including credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing a credit obligation and that the commissioner determines should be designated a form of credit insurance.

i. Any other line of insurance permitted under state law or by rule.

3. An insurance producer license remains in effect unless revoked or suspended as long as all required fees are paid and continuing education requirements for resident individual insurance producers are met by any applicable due date. Resident individual insurance producers are required to complete continuing education requirements in order to be eligible for license renewal unless exempted from such requirements under this chapter or by rule.

4. An individual insurance producer who allows the producer's license to lapse, within

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twelve months from the due date of the renewal fee, may have the same license reinstated without the necessity of passing a written examination upon the payment of a reinstatement fee as specified by rule of the commissioner. Such reinstatement fee shall be in addition to the required renewal fee.

5. A licensed insurance producer who is unable to comply with license renewal procedures due to military service or some other extenuating circumstance may request a waiver of those procedures. Such insurance producer may also request a waiver of any examination requirement or any other penalty or sanction imposed for failure to comply with renewal procedures.

6. The license shall contain the licensee's name, address, personal identification number, and the date of issuance, the lines of authority, the expiration date, and any other information the commissioner deems necessary.

7. A licensee shall inform the commissioner by any means acceptable to the commissioner of a change of legal name or address within thirty days of the change. Failure to timely inform the commissioner of a change in legal name or address may result in a penalty as specified in section 522B.17.

8. In order to assist with the commissioner's duties, the commissioner may contract with a nongovernmental entity, including the national association of insurance commissioners or any affiliate or subsidiary the national association of insurance commissioners oversees, to perform any ministerial functions, including the collection of fees, related to producer licensing that the commissioner deems appropriate.

2001 Acts, ch 16, §20, 37; 2002 Acts, ch 1050, §48; 2002 Acts, ch 1119, §77; 2007 Acts, ch 137, §23; 2007 Acts, ch 152, §82; 2012 Acts, ch 1025, §20, 22

Referred to in §522B.1

522B.7 Nonresident licensing.

1. Unless denied licensure pursuant to section 522B.11, a nonresident person shall receive a nonresident insurance producer license if all of the following apply:

a. The person is currently licensed as an insurance producer and is in good standing in the person's home state.

b. The person has submitted the proper request for licensure and has paid the required fees.

c. The person has submitted or transmitted to the commissioner the application for licensure that the person submitted to the person's home state, or in lieu of such application, a completed uniform application.

d. The person's home state awards nonresident insurance producer licenses to residents of this state on the same basis.

2. The commissioner may verify the insurance producer's licensing status through the producer database.

3. A nonresident insurance producer who moves from one state to another state or a resident insurance producer who moves from this state to another state shall file a change of address and provide certification from the new resident state within thirty days of the change of legal residence. No fee or license application is required. The certification may be obtained through the producer database.

4. Notwithstanding any other provision of this chapter, a person licensed as a limited lines insurance producer in the person's home state shall receive a nonresident limited lines insurance producer license, pursuant to subsection 1, granting the same scope of authority as granted under the license issued by such person's home state.

2001 Acts, ch 16, §21, 37

Referred to in §522B.1, 522B.10, 522B.15

522B.8 Exemption from examination.

1. An individual who applies for an insurance producer license in this state who was previously licensed for the same lines of authority in another state shall not be required to complete an examination. This exemption is only available if the person is currently licensed in that other state or if the request for licensure is received within ninety days of

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the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state. The certification may be obtained through the producer database.

2. A person licensed as an insurance producer in another state who moves to this state shall make application within ninety days of establishing legal residence to become a resident licensee pursuant to section 522B.5. An examination shall not be required of that person to obtain an insurance producer license for any line of authority previously held in the prior state except where the commissioner determines otherwise by regulation.

2001 Acts, ch 16, §22, 37
Referred to in §522B.4

522B.9 Assumed names.

An insurance producer doing business under any name other than the insurance producer's legal name is required to notify the commissioner prior to using the assumed name.

2001 Acts, ch 16, §23, 37

522B.10 Temporary licensing.

1. The commissioner may issue a temporary insurance producer license for a period not to exceed one hundred eighty days without requiring an examination if the commissioner deems that the temporary license is necessary for the servicing of an insurance business in the following cases:

a. To the surviving spouse or court-appointed personal representative of a licensed insurance producer who dies or becomes mentally or physically disabled, to allow adequate time for the sale of the insurance business owned by the insurance producer, for the recovery or return of the insurance producer to the business, or for the training and licensing of new personnel to operate the insurance producer's business.

b. To a member or employee of a business entity licensed as an insurance producer, upon the death or disability of an individual designated in the business entity application or the license.

c. To the designee of a licensed insurance producer entering active service in the armed forces of the United States.

d. In any other circumstance where the commissioner deems that the public interest will best be served by the issuance of a temporary license.

e. To an applicant for a resident insurance producer license who has met all of the requirements under section 522B.5, subsection 1, and who has not been issued a resident insurance producer license within ten business days from the date that the applicant submitted fingerprints and any other required identifying information to the commissioner pursuant to section 522B.5A, subsection 3.

f. To an applicant for a nonresident insurance producer license that has met all of the requirements under section 522B.7 and that has not been issued a nonresident insurance producer license within ten business days from that date that the applicant submitted fingerprints and any other required identifying information to the commissioner pursuant to section 522B.5A, subsection 3.

2. The commissioner may by order limit the authority of any temporary licensee in any way deemed necessary to protect insureds and the public. The commissioner may require the temporary licensee to have a suitable sponsor who is a licensed insurance producer or insurer and who assumes responsibility for all acts of the temporary licensee and may impose other similar requirements designed to protect insureds and the public. The commissioner may by order revoke a temporary license if the interest of insureds or the public is endangered. A temporary license shall not continue after the owner or the personal representative disposes of the business.

2001 Acts, ch 16, §24, 37; 2022 Acts, ch 1134, §27

522B.11 License denial, nonrenewal, or revocation — limitation on duties and responsibilities of insurance producers.

1. The commissioner may place on probation, suspend, revoke, or refuse to issue or renew

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an insurance producer's license or may levy a civil penalty as provided in section 522B.17 for any one or more of the following causes:

a. Providing incorrect, misleading, incomplete, or materially untrue information in the license application.

b. Violating any insurance laws, or violating any regulation, subpoena, or order of the commissioner or of a commissioner of another state.

c. Obtaining or attempting to obtain a license through misrepresentation or fraud.

d. Improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance business.

e. Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.

f. Having been convicted of a felony.

g. Having admitted or been found to have committed any unfair insurance trade practice or fraud.

h. Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

i. Having an insurance producer license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory.

j. Forging another's name to an application for insurance or to any document related to an insurance transaction.

k. Improperly using notes or any other reference material to complete an examination for an insurance license.

l. Knowingly accepting insurance business from an individual who is not licensed.

m. Failing to comply with an administrative or court order imposing a child support obligation.

n. Failing to comply with an administrative or court order related to repayment of loans to the college student aid commission.

o. Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax.

p. Failing or refusing to cooperate in an investigation by the commissioner.

q. Is the subject of an order denying, suspending, revoking, or otherwise taking action against a registration as a broker-dealer, agent, investment adviser, or investment adviser representative issued by any of the following:

(1) The securities administrator of this state or any other state, province, district, or territory.

(2) The federal securities and exchange commission.

(3) The financial industry regulatory authority.

r. Using an insurance producer's license for the principal purpose of procuring, receiving, or forwarding applications for insurance of any kind, or placing, or effecting such insurance directly or indirectly upon or in connection with the property of the licensee or the property of a relative, employer, or employee of the licensee, or upon or in connection with property for which the licensee or a relative, employer, or employee of the licensee is an agent, custodian, vendor, bailee, trustee, or payee.

2. If the commissioner does not renew a license or denies an application for a license, the commissioner shall notify the applicant or licensee and advise, in writing, the licensee or applicant of the reason for the nonrenewal of the license or denial of the application for a license. The licensee or applicant may request a hearing on the nonrenewal or denial. A hearing shall be conducted according to section 507B.6.

3. The license of a business entity may be suspended, revoked, or refused if the commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by a partner, officer, or manager acting on behalf of the business entity and the violation was not reported to the commissioner and corrective action was not taken.

4. In addition to, or in lieu of, any applicable denial, suspension, or revocation of a license, a person, after hearing, may be subject to a civil penalty as provided in section 522B.17.

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5. The commissioner may conduct an investigation of any suspected violation of this chapter pursuant to section 507B.6 and may enforce the provisions and impose any penalty or remedy authorized by this chapter and chapter 507B against any person who is under investigation for, or charged with, a violation of either chapter even if the person's license has been surrendered or has lapsed by operation of law.

6. *a.* In order to assure a free flow of information for accomplishing the purposes of this section, all complaint files, investigation files, other investigation reports, and other investigative information in the possession of the commissioner or the commissioner's employees or agents that relates to licensee discipline are privileged and confidential, and are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the licensee, and are not admissible in evidence in a judicial or administrative proceeding other than the proceeding involving licensee discipline. A final written decision of the commissioner in a disciplinary proceeding is a public record.

b. Investigative information in the possession of the commissioner or the commissioner's employees or agents that relates to licensee discipline may be disclosed, in the commissioner's discretion, to appropriate licensing authorities within this state, the appropriate licensing authority in another state, the District of Columbia, or a territory or country in which the licensee is licensed or has applied for a license.

c. If the investigative information in the possession of the commissioner or the commissioner's employees or agents indicates a crime has been committed, the information shall be reported to the proper law enforcement agency.

d. Pursuant to the provisions of section 17A.19, subsection 6, upon an appeal by the licensee, the commissioner shall transmit the entire record of the contested case to the reviewing court.

e. Notwithstanding the provisions of section 17A.19, subsection 6, if a waiver of privilege has been involuntary and evidence has been received at a disciplinary hearing, the court shall issue an order to withhold the identity of the individual whose privilege was waived.

7. *a.* Unless an insurance producer holds oneself out as an insurance specialist, consultant, or counselor and receives compensation for consultation and advice apart from commissions paid by an insurer, the duties and responsibilities of an insurance producer are limited to those duties and responsibilities set forth in *Sandbulte v. Farm Bureau Mut. Ins. Co.*, 343 N.W.2d 457 (Iowa 1984).

b. The general assembly declares that the holding of *Langwith v. Am. Nat'l Gen. Ins. Co.*, 793 N.W. 2d 215 (Iowa 2010) is abrogated to the extent that it overrules *Sandbulte* and imposes higher or greater duties and responsibilities on insurance producers than those set forth in *Sandbulte*.

c. Notwithstanding the holding in *Pitts v. Farm Bureau Life Ins. Co.*, 818 N.W.2d 91 (Iowa 2012), an insurance producer, while acting within the scope and course of the license provided for by this chapter, is not in the business of supplying information to others unless the requirements of paragraph *"a"* relating to expanded duties and responsibilities are met.

d. Neither an insurance producer nor an insurer has a duty to change the beneficiary of an insurance policy or contract unless clear written evidence of the policy owner's intent to change a beneficiary of the policy or contract is presented to the insurance producer or insurer in the manner required by the policy or contract prior to the payment of any insurance benefits under the policy or contract. Such evidence shall be provided in the same manner as a claim for benefits under the policy or contract.

e. An insurance producer owes any duties and responsibilities referred to in this subsection only to the policy owner, a person in privity of contract with the insurance producer, and the principal in an agency relationship with the insurance producer. If a person to whom an insurance producer owes duties and responsibilities is deceased or incapacitated, a direct and specifically identified beneficiary referenced in a written instrument required by the insurer and delivered to the insurance producer prior to the death or incapacity may enforce the insurance producer's duties and responsibilities. An insurance producer does not owe any duty or responsibility to a person who was a direct and

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specifically identified beneficiary if the policy owner changes the beneficiary in the manner required by the policy or contract to remove the person as a beneficiary.

2001 Acts, ch 16, §25, 37; 2004 Acts, ch 1110, §60 – 62; 2008 Acts, ch 1123, §42; 2011 Acts, ch 70, §45; 2014 Acts, ch 1108, §2; 2015 Acts, ch 108, §8; 2017 Acts, ch 54, §62; 2024 Acts, ch 1031, §2

Referred to in §505.8, 522B.5, 522B.5A, 522B.6, 522B.7, 522B.14, 522B.16A

522B.12 Commissions.

1. An insurer or insurance producer shall not pay a commission, service fee, brokerage, or other valuable consideration to a person for selling, soliciting, or negotiating insurance in this state if that person is required to be licensed under this chapter and is not so licensed.

2. A person shall not accept a commission, service fee, brokerage, or other valuable consideration for selling, soliciting, or negotiating insurance in this state if that person is required to be licensed under this chapter and is not so licensed.

3. Renewal or other deferred commissions may be paid to a person for selling, soliciting, or negotiating insurance in this state if the person was required to be licensed under this chapter at the time of the sale, solicitation, or negotiation and was so licensed at that time.

4. An insurer or insurance producer may pay or assign a commission, service fee, brokerage, or other valuable consideration to an insurance agency or to a person who does not sell, solicit, or negotiate insurance in this state, unless the payment would violate chapter 507B.

2001 Acts, ch 16, §26, 37; 2007 Acts, ch 152, §83

522B.13 Appointments.

1. An individual insurance producer who acts as an agent of an insurer must be appointed by that insurer. An insurance producer who is not acting as an agent of an insurer need not be appointed. A business entity is not required to be appointed.

2. The appointing insurer, for the purpose of appointing an insurance producer as its agent, shall file, in a format approved by the commissioner, a notice of appointment within thirty days from the date the agency contract is executed or the first insurance application is submitted.

3. An insurer shall pay an appointment fee, in the amount and method of payment set forth by rule of the commissioner, for each insurance producer appointed by the insurer.

4. An insurer shall remit a renewal appointment fee in the manner and amount as set forth by rule of the commissioner.

2001 Acts, ch 16, §27, 37

522B.14 Notification to commissioner of termination — penalties.

1. An insurer or authorized representative of the insurer that terminates the appointment, employment, contract, or other insurance business relationship with an insurance producer shall notify the commissioner within thirty days following the effective date of the termination, using a format prescribed by the commissioner, if the reason for termination is one of the reasons set forth in section 522B.11, or the insurer has knowledge the insurance producer was found by a court, government body, or self-regulatory organization authorized by law to have engaged in any of the activities set forth in section 522B.11. Upon request of the commissioner, the insurer or authorized representative of the insurer shall provide additional information, documents, records, or other data pertaining to the termination or activity of the insurance producer.

2. An insurer or authorized representative of the insurer that terminates the appointment, employment, contract, or other insurance business relationship with an insurance producer for any reason not set forth in section 522B.11 shall notify the commissioner within thirty days following the effective date of the termination, using a format prescribed by the commissioner. Upon request of the commissioner, the insurer shall provide additional information, documents, records, or other data pertaining to the termination.

3. The insurer or the authorized representative of the insurer shall promptly notify the commissioner using a format prescribed by the commissioner if, upon further review or

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investigation, the insurer or authorized representative of the insurer discovers additional information that would have been reportable to the commissioner pursuant to subsection 1, had the insurer then known of its existence.

4. Within fifteen days after making the notification required by this section, the insurer shall mail a copy of the notification to the insurance producer at the insurance producer's last known address. If the insurance producer is terminated for any of the reasons set forth in section 522B.11, the insurer shall provide a copy of the notification to the insurance producer at the insurance producer's last known address by restricted certified mail, as defined in section 618.15, or by overnight delivery using a nationally recognized carrier.

5. Within thirty days after the insurance producer has received the original or additional notification, the insurance producer may file written comments concerning the substance of the notification with the commissioner. The insurance producer, by the same means, shall simultaneously send a copy of the comments to the reporting insurer, and the comments shall become a part of the commissioner's record and accompany every copy of a report distributed or disclosed for any reason about the insurance producer, as permitted under subsection 8.

6. *a.* In the absence of actual malice, an insurer, the authorized representative of the insurer, an insurance producer, the commissioner, or an organization of which the commissioner is a member and that compiles the information and makes it available to other commissioners or regulatory or law enforcement agencies shall not be subject to civil liability. A civil cause of action of any nature shall not arise against any of these entities or their respective agents or employees, as a result of any statement or information required by or provided pursuant to this section or any information relating to any statement that may be requested in writing by the commissioner from an insurer or insurance producer; or a statement by a terminating insurer or insurance producer to an insurer or insurance producer limited solely and exclusively to whether a termination for cause under subsection 1 was reported to the commissioner, provided that the propriety of any termination for cause under subsection 1 is certified in writing by an officer or authorized representative of the insurer or insurance producer terminating the relationship.

b. In any action brought against a person that may have immunity under this section for making any statement required by this section or providing any information relating to any statement that may be requested by the commissioner, the party bringing the action shall plead specifically in any allegation that this section does not apply because the person making the statement or providing the information did so with actual malice. This section shall not abrogate or modify any existing statutory or common law privileges or immunities.

7. *a.* Any document, material, or other information in the control or possession of the insurance division that is furnished by an insurer, insurance producer, or an employee or agent of such insurer or insurance producer acting on behalf of the insurer or insurance producer, or obtained by the commissioner in an investigation pursuant to this section is considered a confidential record and shall not be subject to subpoena, or subject to discovery, or admissible in evidence in any private civil action. However, the commissioner is authorized to use such document, material, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's duties.

b. Neither the commissioner nor any person who received any document, material, or other information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning any confidential document, material, or information subject to this section.

8. *a.* The commissioner may share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection 7, with other state, federal, and international regulatory agencies, with the national association of insurance commissioners, its affiliates or subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information.

b. The commissioner may receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the national association of insurance commissioners, its affiliates or subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and

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shall maintain as confidential or privileged any document, material, or 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 information.

c. The commissioner may enter into agreements governing sharing and use of information consistent with this subsection.

9. A waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall not occur as a result of disclosure to the commissioner or sharing of information received under this section.

10. Nothing in this chapter shall prohibit the commissioner from releasing information regarding final, adjudicated actions that are considered public records subject to examination and copying under chapter 22 to a database or other clearinghouse service maintained by the national association of insurance commissioners, or an affiliate or subsidiary of the national association of insurance commissioners.

11. An insurer, the authorized representative of the insurer, or an insurance producer that fails to report as required under this section, or that is found to have reported with actual malice by a court of competent jurisdiction, after notice and hearing, may have its license or certificate of authority suspended or revoked and may be penalized as provided in section 522B.17.

2001 Acts, ch 16, §28, 37; 2001 Acts, ch 176, §72; 2012 Acts, ch 1023, §157

522B.15 Reciprocity.

1. The commissioner shall waive any requirements for a nonresident license applicant with a valid license from such applicant's home state, except for the requirements imposed by section 522B.7, if the applicant's home state awards nonresident licenses to residents of this state on the same basis.

2. A nonresident insurance producer's satisfaction of the producer's home state's continuing education requirements for licensed insurance producers shall constitute satisfaction of this state's continuing education requirements if the nonresident insurance producer's home state recognizes the satisfaction of its continuing education requirements imposed upon insurance producers from this state on the same basis.

2001 Acts, ch 16, §29, 37

522B.16 Reporting of actions.

1. An insurance producer shall report to the commissioner any administrative action taken against the insurance producer in another jurisdiction or by another governmental agency in this state within thirty days of the final disposition of the matter. This report shall include a copy of the order, consent to the order, and other relevant legal documents.

2. Within thirty days of the initial pretrial hearing date, an insurance producer shall report to the commissioner any criminal prosecution of the insurance producer taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.

2001 Acts, ch 16, §30, 37; 2002 Acts, ch 1050, §49; 2018 Acts, ch 1041, §127

522B.16A Duties of licensees.

1. An insurance producer has a continuing duty and obligation to keep, at the insurance producer's place of business, usual and customary records pertaining to transactions undertaken by the insurance producer. All such records shall be kept available and open for inspection by the commissioner or the commissioner's representative at any time during regular business hours, provided that the commissioner or the commissioner's representative is not entitled to inspect any records prepared in anticipation of litigation or that are subject to any privilege recognized in chapter 622. Such records shall be maintained for a minimum of three years following the completion of an insurance transaction.

2. An insurance producer who willfully fails to comply with this section commits a violation of this chapter and is subject to sanctions under section 522B.11.

2004 Acts, ch 1110, §63

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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.

2006 Acts, ch 1117, §115

522B.17 Cease and desist orders — penalties.

1. An insurer or insurance producer who, after hearing, is found to have violated this chapter may be ordered to cease and desist from engaging in the conduct resulting in the violation and may be assessed a civil penalty pursuant to chapter 507B.

2. A person who, after hearing, is found to have violated this chapter by acting as an agent of an insurer or otherwise selling, soliciting, or negotiating insurance in this state, or offering to the public advice, counsel, or services with regard to insurance, who is not properly licensed may be ordered to cease and desist from engaging in the conduct resulting in the violation and may be assessed a civil penalty according to the provisions of chapter 507A.

3. If a person does not comply with an order issued pursuant to this section, the commissioner may petition a court of competent jurisdiction to enforce the order. The court shall not require the commissioner to post a bond in an action or proceeding under this section. If the court finds, after notice and opportunity for hearing, that the person is not in compliance with an order, the court may adjudge the person to be in civil contempt of the order. The court may impose a civil penalty against the person for contempt in an amount not less than three thousand dollars but not greater than ten thousand dollars for each violation and may grant any other relief that the court determines is just and proper in the circumstances.

2001 Acts, ch 16, §31, 37; 2005 Acts, ch 70, §48
Referred to in §505.8, 522B.6, 522B.11, 522B.14, 522B.17A

522B.17A Injunctive relief.

1. An association with at least twenty-five insurance producer members may bring an action in district court to enjoin a person from selling, soliciting, or negotiating insurance in violation of section 522B.2. However, before bringing an action in district court to enjoin a person pursuant to this section, an association shall file a complaint with the insurance division alleging that the person is selling, soliciting, or negotiating insurance in violation of section 522B.2.

2. If the division makes a determination to proceed administratively against the person for a violation of section 522B.2, the complainant shall not bring an action in district court against the person pursuant to this section based upon the allegations contained in the complaint filed with the division.

3. If the division does not make a determination to proceed administratively against the person for a violation of section 522B.2, the division shall issue, on or before ninety days from the date of filing of the complaint, a release to the complainant that permits the complainant to bring an action in district court pursuant to this section.

4. The filing of a complaint with the division pursuant to this section tolls the statute of

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limitations pursuant to section 614.1 as to the alleged violation for a period of one hundred twenty days from the date of filing the complaint.

5. Any action brought in district court by a complainant against a person pursuant to this section, based upon the allegations contained in the complaint filed with the division, shall be brought within one year after the ninety-day period following the filing of the complaint with the division, or the date of the issuance of a release by the division, whichever is earlier.

6. If the court finds that the person is in violation of section 522B.2 and enjoins the person from selling, soliciting, or negotiating insurance in violation of that section, the court's findings of fact and law, and the judgment and decree, when final, shall be admissible in any proceeding initiated pursuant to section 522B.17 by the commissioner against the person enjoined and the person enjoined shall be precluded from contesting in that proceeding the court's determination that the person sold, solicited, or negotiated insurance in violation of section 522B.2.

2005 Acts, ch 70, §49

522B.18 Rules.

The commissioner may adopt reasonable rules according to chapter 17A as are necessary or proper to carry out the purposes of this chapter.

2001 Acts, ch 16, §32, 37

CHAPTER 522C

LICENSING OF ADJUSTERS

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 515.137A, 522F.1, 522F.3, 522F.4, 522F.8, 669.14, 670.7

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522C.1 Purpose.

The purpose of this chapter is to govern the qualifications and procedures for licensing adjusters in this state, and to specify the duties of and restrictions on public adjusters, including limitation of such licensure to assisting insureds only with first-party claims.

2007 Acts, ch 137, §24; 2025 Acts, ch 28, §31, 52

2025 amendment applies beginning July 22, 2025, to a person currently doing business in this state as an independent adjuster or a staff adjuster as of January 1, 2025; 2025 Acts, ch 28, §52

522C.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Adjuster"* means a public adjuster, an independent adjuster, or a licensed staff adjuster. A person that acts as an adjuster solely for a crop hail insurance or a multiperil crop insurance claim shall not be subject to this chapter.

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2. *"Amount of loss"* means the monetary amount determined to be necessary to properly repair or replace damage related to the scope of loss for a covered peril, and is limited to all applicable coverages for covered items associated with the claim.

3. *"Business entity"* means a corporation, association, partnership, limited liability company, limited liability partnership, or any other legal entity.

4. *a.* *"Catastrophic disaster"* means an event that results in all of the following:

(1) A large number of deaths or injuries.

(2) Extensive damage or destruction of facilities that provide and sustain human needs.

(3) An overwhelming demand on state and local response resources and mechanisms.

(4) A severe long-term effect on general economic activity.

(5) A severe effect on state, local, and private sector capabilities to commence and sustain disaster response activities.

b. *"Catastrophic disaster"* includes a major disaster declaration by the president of the United States or a state of disaster emergency proclamation by the governor.

5. *"Commissioner"* means the commissioner of insurance.

6. *"Consumer advocate"* means a consumer advocate appointed pursuant to section 505.8, subsection 6, paragraph *"b"*, subparagraph (1).

7. *"Disciplinary matter"* means but is not limited to a person who is the subject of an investigation, complaint, or pending administrative action in this state or any other state.

8. *"Financial interest"* means but is not limited to a fee, commission, or other valuable consideration.

9. *"First-party claim"* means a claim filed by a named insured under an insurance policy against which the claim is made.

10. *"Home state"* means the District of Columbia, or any state or territory of the United States in which an adjuster maintains the adjuster's principal place of residence or principal place of business.

11. *"Independent adjuster"* means a person who does all of the following:

a. Contracts, either directly or through a firm or third-party administrator, for compensation with insurers or self-insurers, and is treated by the insurer or self-insurer as an independent contractor and not as an employee as that term is described in 26 C.F.R. §31.3121(d)(1).

b. Investigates, negotiates, or settles property, casualty, or workers' compensation claims for insurers or for self-insurers.

12. *"Insured"* means a person covered under an insurance policy against which a claim is made.

13. *"Insurer"* means the same as defined in section 507A.3.

14. *"NAIC"* means the national association of insurance commissioners.

15. *"NIPR gateway"* means the communication network developed and operated by the national insurance producer registry that links state insurance regulators with regulated entities to facilitate the electronic exchange of adjuster information, including but not limited to license applications, license renewals, appointments, and terminations.

16. *"Person"* means an individual or a business entity.

17. *"Producer database"* means the national database of insurance producers maintained by the NAIC.

18. *"Public adjuster"* means a person who, for compensation or other thing of value, does any of the following:

a. Acts for or aids an insured in negotiating or affecting the settlement of a first-party claim for loss or damage to real or personal property of an insured.

b. Advertises for employment as a public adjuster of first-party insurance claims or otherwise solicits business or represents to the public that the person is a public adjuster of first-party insurance claims for loss or damage to real or personal property of an insured.

c. Directly or indirectly solicits business investigating or adjusting losses, or advising an insured about first-party claims for loss or damage to real or personal property of the insured.

19. *"Reinstatement"* means the reinstatement of a suspended license which was suspended in connection with a disciplinary matter, and that has not expired or been terminated during the suspension period.

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20. *"Reissuance"* means the issuance of a new license following the revocation of a license, the suspension and subsequent termination of a license, or the forfeiture of a license in connection with a disciplinary matter.

21. *"Staff adjuster"* means a person who is directly employed by an insurer or self-insurer to investigate, negotiate, or settle property, casualty, or workers' compensation claims.

22. *"Uniform business entity application"* means the most recent version of NAIC's uniform application for business entity license and registration.

23. *"Uniform individual application"* means the most recent version of NAIC's uniform application for individual adjuster or apprentice license and registration.

2007 Acts, ch 137, §25; 2025 Acts, ch 28, §32, 52

Referred to in §522C.10

2025 amendment applies beginning July 22, 2025, to a person currently doing business in this state as an independent adjuster or a staff adjuster as of January 1, 2025; 2025 Acts, ch 28, §52

522C.3 Authority of commissioner.

The commissioner may adopt rules pursuant to chapter 17A as necessary to administer and enforce this chapter, which may include but are not limited to all of the following:

1. Advertising standards.
2. Continuing education requirements for licensees.
3. Contracts between public adjusters and insureds.
4. Required disclosures by licensees.
5. Examinations for licensure.
6. Exemptions.
7. License bonds, and errors and omissions insurance requirements.
8. License requirements and exclusions.
9. Prohibited practices.
10. Record retention requirements.
11. Reporting requirements.
12. Requirements and limitations on fees charged by public adjusters.
13. Standards for reasonableness of payment.
14. Standards of conduct.
15. Penalties.

2007 Acts, ch 137, §26; 2025 Acts, ch 28, §33, 52

2025 amendment applies beginning July 22, 2025, to a person currently doing business in this state as an independent adjuster or a staff adjuster as of January 1, 2025; 2025 Acts, ch 28, §52

522C.4 License required.

1. A person shall not act as, or represent that the person is, a public adjuster or an independent adjuster in this state unless the person is licensed under this chapter.

2. A license as an adjuster shall not be required of any of the following:

a. A staff adjuster; however, staff adjusters shall comply with all other provisions of this chapter not including section 522C.7.

b. An attorney licensed to practice law in the state when acting within their professional capacity as an attorney.

c. A person employed only for the purpose of obtaining facts surrounding a loss, or furnishing technical assistance to a licensed adjuster, including but not limited to a photographer, estimator, private investigator, engineer, and handwriting expert.

d. An insurance producer licensed under chapter 522B appointed by, and granted claim authority by, an insurer or self-insurer.

2007 Acts, ch 137, §27; 2025 Acts, ch 28, §34, 52; 2026 Acts, ch 1027, §2, 5

2025 amendment applies beginning July 22, 2025, to a person currently doing business in this state as an independent adjuster or a staff adjuster as of January 1, 2025; 2025 Acts, ch 28, §52

Subsection 2, NEW paragraph d

522C.5 Application for license.

1. A person applying for an adjuster license shall complete a uniform individual application or a uniform business entity application through the NIPR gateway or as otherwise prescribed by the commissioner.

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2. To determine an applicant's eligibility for licensure, the commissioner may require a criminal history check pursuant to section 522B.5A.

2007 Acts, ch 137, §28; 2020 Acts, ch 1016, §8; 2025 Acts, ch 28, §35, 52

Referred to in §522C.15

2025 amendment applies beginning July 22, 2025, to a person currently doing business in this state as an independent adjuster or a staff adjuster as of January 1, 2025; 2025 Acts, ch 28, §52

522C.5A Individual applicants — resident adjuster.

Prior to approving an individual's application for a resident adjuster license, the commissioner shall find that the applicant meets all of the following requirements:

1. This state is the applicant's home state.

2. The applicant has not committed any act that is a ground for denial, suspension, or revocation of a license under section 522C.13.

3. The applicant has the requisite character and competence to be licensed as an adjuster, as may be determined by the commissioner.

4. The applicant is financially responsible pursuant to section 522C.7.

5. The applicant has paid all fees required under this chapter. An applicant who concurrently applies for both an adjuster license, and a license as an appraiser under chapter 522F, shall only be required to pay the fee required under this chapter or the fee required under chapter 522F.

6. The applicant maintains an office in the applicant's home state that is available by reasonable appointment or regular business hours.

7. The applicant is at least eighteen years of age.

8. The applicant successfully passed the adjuster examination pursuant to section 522C.8.

9. The applicant for a public adjuster license has submitted contracts and any subsequent contract modification to the commissioner for review and approval prior to use. A contract that has been filed is deemed to be approved unless disapproved or additional information is requested by the commissioner within thirty calendar days of receipt of the filing by the commissioner.

10. The applicant has obtained any necessary authority from the secretary of state to transact business in this state.

2025 Acts, ch 28, §36, 52

Referred to in §522C.7, 522C.9, 522C.10, 522C.15

Section applies beginning July 22, 2025, to a person currently doing business in this state as an independent adjuster or a staff adjuster as of January 1, 2025; 2025 Acts, ch 28, §52

522C.5B Individual applicants — nonresident adjuster.

Before approving a nonresident applicant's application for a nonresident adjuster license, the commissioner shall find that the nonresident applicant meets all of the following requirements:

1. The nonresident applicant has not committed any act that is a ground for denial, suspension, or revocation of a license under section 522C.13.

2. The nonresident applicant is licensed as a resident adjuster and in good standing in the nonresident applicant's home state. If the nonresident applicant's resident license in the nonresident applicant's home state terminates for any reason, a license issued to a nonresident applicant under this section shall become inactive, unless the termination is due to the nonresident applicant being issued a new resident adjuster license in the nonresident applicant's home state and the home state has reciprocity with this state.

3. The nonresident applicant has submitted a request for licensure to the division in a form and manner prescribed by the commissioner.

4. The nonresident applicant has the requisite character and competence to be licensed as an adjuster, as may be determined by the commissioner.

5. The nonresident applicant is financially responsible pursuant to section 522C.7.

6. The nonresident applicant has paid all fees required under this chapter. An applicant who concurrently applies for both an adjuster license, and a license as an appraiser under chapter 522F, shall only be required to pay the fee required under this chapter or the fee required under chapter 522F.

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7. The nonresident applicant has obtained any necessary authority from the Iowa secretary of state to transact business in this state.

8. The nonresident applicant for a public adjuster license has filed contracts with the commissioner for review and approval prior to use. A contract that has been filed is deemed to be approved unless disapproved or additional information is requested by the commissioner within thirty calendar days of receipt of the filing by the commissioner.

9. The nonresident applicant successfully passed the adjuster examination pursuant to section 522C.8.

10. The nonresident applicant is at least eighteen years of age.

11. The nonresident applicant maintains an office in the nonresident applicant's home state that is available by reasonable appointment or regular business hours.

2025 Acts, ch 28, §37, 52
Referred to in §522C.7, 522C.10, 522C.15
Section applies beginning July 22, 2025, to a person currently doing business in this state as an independent adjuster or a staff adjuster as of January 1, 2025; 2025 Acts, ch 28, §52

522C.5C Business entity applicants — resident public adjuster or independent adjuster.

Prior to approving a business entity's application for a license for a resident public adjuster or resident independent adjuster, the commissioner shall find that the business entity meets all of the following requirements:

1. The business entity has designated an individual adjuster licensed in this state to be responsible for the business entity's compliance with the insurance laws and administrative rules of this state.

2. The business entity has not committed any act that is a ground for denial, suspension, or revocation of a license under section 522C.13.

3. The business entity has the requisite character and competence to be licensed as an adjuster, as may be determined by the commissioner.

4. The business entity is financially responsible pursuant to section 522C.7.

5. The business entity has paid all fees required under this chapter. An applicant who concurrently applies for both an adjuster license, and a license as an appraiser under chapter 522F, shall only be required to pay the fee required under this chapter or the fee required under chapter 522F.

6. The business entity maintains an office in the business entity's home state that is available by reasonable appointment or regular business hours.

7. The business entity applying for a public adjuster license has submitted contracts and any subsequent contract modification to the commissioner for review and approval prior to use. A contract that has been filed is deemed to be approved unless disapproved or additional information is requested by the commissioner within thirty calendar days of receipt of the filing by the commissioner.

8. The business entity has obtained any necessary authority from the Iowa secretary of state to transact business in this state.

2025 Acts, ch 28, §38, 52
Referred to in §522C.7, 522C.10, 522C.15
Section applies beginning July 22, 2025, to a person currently doing business in this state as an independent adjuster or a staff adjuster as of January 1, 2025; 2025 Acts, ch 28, §52

522C.5D Business applicants — nonresident business entity.

Before approving a nonresident business entity's application for a nonresident public adjuster license or a nonresident independent adjuster license, the commissioner shall find that the nonresident business entity meets all of the following requirements:

1. The nonresident business applicant has designated an individual adjuster licensed in this state to be responsible for the nonresident business applicant's compliance with the insurance laws and administrative rules of this state.

2. The nonresident business applicant has not committed any act that is a ground for denial, suspension, or revocation of a license under section 522C.13.

3. The nonresident business applicant has the requisite character and competence to be licensed as an adjuster, as may be determined by the commissioner.

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4. The nonresident business applicant is financially responsible pursuant to section 522C.7.

5. The nonresident business applicant has paid all fees required under this chapter.

6. The nonresident business applicant maintains an office in the nonresident business applicant's home state that is available by reasonable appointment or regular business hours.

7. The nonresident business applicant applying for a public adjuster license has submitted contracts and any subsequent contract modification to the commissioner for review and approval prior to use. A contract that has been filed is deemed to be approved unless disapproved or additional information is requested by the commissioner within thirty calendar days of receipt of the filing by the commissioner.

8. The nonresident business applicant has obtained any necessary authority from the Iowa secretary of state to transact business in this state.

2025 Acts, ch 28, §39, 52
Referred to in §522C.7, 522C.10, 522C.15
Section applies beginning July 22, 2025, to a person currently doing business in this state as an independent adjuster or a staff adjuster as of January 1, 2025; 2025 Acts, ch 28, §52

522C.6 Fees — license issuance, renewal, or reinstatement, and examination.

Fees for a license as an adjuster shall be as follows:

1. Any applicable fee for a criminal history check pursuant to section 522B.5A.

2. The fee for issuance or renewal of an adjuster license is fifty dollars for a consecutive twenty-four-month period.

3. The fee for reinstatement of an adjuster license is fifty dollars.

4. The fee for a reinstatement or reissuance of an adjuster license due to a disciplinary action under section 522C.15 is one hundred dollars.

5. The commissioner may charge a reasonable fee for the compilation and production of adjuster licensing records.

6. The fee for an examination under section 522C.8 may be set by a third-party testing service under contract with the division to administer the examination. The fee must be approved by the division.

7. Fees shall be paid electronically through the NIPR gateway.

2007 Acts, ch 137, §29; 2013 Acts, ch 124, §29; 2025 Acts, ch 28, §40, 52
Referred to in §522C.8
2025 amendment applies beginning July 22, 2025, to a person currently doing business in this state as an independent adjuster or a staff adjuster as of January 1, 2025; 2025 Acts, ch 28, §52

522C.7 Financial responsibility.

Prior to issuance of a license under section 522C.5A, 522C.5B, 522C.5C, or 522C.5D, an applicant shall secure evidence of financial responsibility in a form and manner prescribed by the commissioner.

2025 Acts, ch 28, §41, 52; 2026 Acts, ch 1027, §3, 5
Referred to in §522C.4, 522C.5A, 522C.5B, 522C.5C, 522C.5D, 522C.10
Section applies beginning July 22, 2025, to a person currently doing business in this state as an independent adjuster or a staff adjuster as of January 1, 2025; 2025 Acts, ch 28, §52
Section amended

522C.8 Examination.

1. *a.* An individual applying for a license under this chapter shall pass a written examination, unless exempt pursuant to section 522C.9. The examination shall test the knowledge of the individual concerning the duties and responsibilities of an adjuster and the insurance laws and administrative rules of this state, and shall be conducted as prescribed by the division.

b. An individual who concurrently applies for an adjuster license, and a license as an appraiser under chapter 522F, may choose to take a joint examination conducted as prescribed by the division. The joint examination shall test the knowledge of the individual concerning the duties and responsibilities of an adjuster and of an appraiser, and the insurance laws and administrative rules of this state. An individual who successfully passes a joint examination, and who meets all other requirements for licensure as an adjuster, and as an appraiser under chapter 522F, shall be licensed as both an adjuster and as an appraiser.

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2. Each individual applying for examination shall remit the examination fee under section 522C.6. An individual applying for a joint examination under subsection 1, paragraph *"b"*, shall pay one examination fee for the joint examination.

3. An individual who fails to appear for a scheduled examination, or who fails to pass the examination, may reapply for examination and must remit the required fee to be scheduled for another examination.

4. The results of an examination shall be valid to submit for licensure for ninety calendar days after the date of the examination.

2025 Acts, ch 28, §42, 52
Referred to in §522C.5A, 522C.5B, 522C.6, 522C.9, 522C.15
Section applies beginning July 22, 2025, to a person currently doing business in this state as an independent adjuster or a staff adjuster as of January 1, 2025; 2025 Acts, ch 28, §52

522C.9 Examination — exemption.

1. An individual who applies for a nonresident license under this chapter and who was previously a licensed adjuster in another state that required an examination that included Iowa-specific statutes and administrative rules shall not be required to apply for examination under section 522C.8.

2. An individual who relocates to this state and who was a licensed adjuster in another state that required an examination that included Iowa-specific statutes and administrative rules shall not be required to apply for examination under section 522C.8 if the individual submits an application for a resident adjuster license under section 522C.5A within ninety calendar days of establishing legal residency, and all of the following apply:

a. The individual is currently a licensed adjuster in the state from which the applicant relocated.

b. The state from which the applicant relocated issues a certification that the applicant is licensed and in good standing.

c. The producer database records of the state from which the applicant relocated, or records maintained by the NAIC or a NAIC affiliate or subsidiary, indicate that the adjuster is currently licensed or had been licensed, and is in good standing.

2025 Acts, ch 28, §43, 52
Referred to in §522C.8
Section applies beginning July 22, 2025, to a person currently doing business in this state as an independent adjuster or a staff adjuster as of January 1, 2025; 2025 Acts, ch 28, §52

522C.10 Public adjuster and insured — contract for services.

1. *a.* A public adjuster shall not provide services to an insured until a written contract with the insured has been executed on a form filed with and approved by the commissioner pursuant to section 522C.5A, subsection 9, section 522C.5B, subsection 8, section 522C.5C, subsection 7, or section 522C.5D, subsection 7. The contract must have a heading that indicates the contract is a public adjuster contract and must contain all of the following:

(1) The full name, address, telephone number, and license number of the public adjuster presenting and negotiating the contract and, if applicable, the full name, address, telephone number, and license number of the business entity the public adjuster is associated with.

(2) The insured's full name, street address, insurance company name, and, if known or upon notification, the insurance policy number and claim number.

(3) A description of the insured's loss claim and the address at which the loss is located, if applicable.

(4) A description of services to be provided by the public adjuster on behalf of the insured.

(5) A signature of the public adjuster and of the insured, and the date the public adjuster and the insured each signed the contract.

(6) An attestation that the public adjuster has a surety bond pursuant to section 522C.7.

(7) An explanation of the amount payable to the public adjuster, and how the amount is calculated, which may include any of the following:

(a) If an hourly rate, the contract shall state the hourly rate and how the rate is applied to the hours of service provided by the public adjuster to calculate the amount payable.

(b) If a flat fee, the contract must state the exact amount payable to the public adjuster.

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(c) If a percentage of settlement, the contract must state the exact percentage applied to the settlement on the claim.

(d) If any other consideration, the contract must detail how the amount payable is calculated or determined.

(8) A public adjuster may charge a reasonable fee that shall not exceed any of the following:

(a) Fifteen percent of all claim payments approved by the insurer for any noncatastrophic disaster insurance claim settlement.

(b) Ten percent of all claim payments approved by the insurer for any catastrophic disaster insurance claim settlement.

(9) That compensation for any reopened or supplemental claim may not exceed the limitations set forth in the contract.

(10) That the insured has the right to agree to or reject a loss settlement even if the public adjuster objects to the insured's decision.

(11) The initial expenses of the public adjuster that will be reimbursed from the proceeds of the claim payment shall be specified by expense type, with reimbursement estimates set forth in the contract. Any additional expenses for which the public adjuster requests reimbursement shall be disclosed in writing to the insured, and must be approved by the insured prior to reimbursement.

(12) A statement that the public adjuster shall not render services or perform acts that constitute the practice of law.

(13) A statement that the public adjuster shall not act on behalf of or aid any person in negotiation or settlement of a claim related to bodily injury, death, or noneconomic damages.

(14) The process for rescinding the contract, including the date by which rescission of the contract by the public adjuster or the insured must occur. The public adjuster shall provide notice of the insured's rights under chapter 555A, and the insured may rescind the contract as provided in chapter 555A. A contract shall not be construed to prevent an insured from pursuing a civil remedy after the revocation or cancellation period. If the insured rescinds the contract, anything of value given by the insured shall be returned to the insured within fifteen business days following receipt of the cancellation notice by the public adjuster.

b. A contract provision shall not be redacted in a copy of the contract submitted to the commissioner. Such redaction shall constitute a violation of this chapter, and shall be subject to penalties under sections 522C.13 and 522C.14.

2. If the insurer, no later than five calendar days after the date on which the insured's loss is reported to the insurer, either pays or commits in writing to pay to the insured the policy limit of the insured's insurance policy, the public adjuster shall:

a. Inform the insured that the total amount of loss claimed by the insured may not be agreed to by the insurer.

b. Only be entitled to reasonable compensation from the insured for services provided on behalf of the insured based on the time spent on the claim, and the expenses incurred by the public adjuster, until the date the insurer pays the claim or provides the insured with a written commitment that the insurer will pay the claim.

3. A public adjuster contract shall not contain a provision that does any of the following:

a. Allows the public adjuster's percentage of a settlement to be collected if money is still due from an insurer, or that allows the public adjuster to collect the entire percentage of a settlement from any single payment issued by an insurer rather than as a percentage of each payment issued by the insurer.

b. Requires or permits the insured to authorize an insurer to issue a check only in the name of the public adjuster.

c. Imposes collection costs or late fees prior to an insurance claim payment by an insurer to an insured.

d. Allows the public adjuster's compensation to be increased based on the fact that a claim is litigated.

e. Precludes either an insured or the public adjuster from pursuing civil remedies.

f. Restricts an insured's right to initiate or maintain direct communication with the

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insured's attorney or insurer, with the insurer's adjuster or attorney, or any other person regarding settlement of the insured's claim.

g. Grants the public adjuster power of attorney for the insured. However, a public adjuster may obtain a limited power of attorney for an insured for the sole purpose of depositing claim payments in the insured's name into a fiduciary trust account pursuant to section 522C.11, subsection 26.

h. Requires the insured to use a particular business entity or individual for the reconstruction, repair, or restoration of the insured's damaged property.

4. Prior to execution of the contract, the public adjuster shall review the terms of the contract with the insured and provide the insured with a separate disclosure document regarding the claim process that shall include the following:

DISCLOSURE DOCUMENT
REGARDING THE CLAIM PROCESS

1. PROPERTY INSURANCE POLICIES OBLIGATE THE INSURED TO PRESENT A CLAIM TO THE INSURED'S INSURER FOR CONSIDERATION. THERE ARE THREE TYPES OF ADJUSTERS THAT MAY BE INVOLVED IN THAT PROCESS. THE THREE TYPES ARE AS FOLLOWS:

(A) *"STAFF ADJUSTER"* IS DEFINED IN IOWA CODE SECTION 522C.2. A STAFF ADJUSTER IS EMPLOYED BY THE INSURER. THEY WILL NOT CHARGE THE INSURED A FEE.

(B) *"INDEPENDENT ADJUSTER"* IS DEFINED IN IOWA CODE SECTION 522C.2. AN INDEPENDENT ADJUSTER IS CONTRACTED BY THE INSURER TO REPRESENT THE INSURER. THEY WILL NOT CHARGE THE INSURED A FEE.

(C) *"PUBLIC ADJUSTER"* IS DEFINED IN IOWA CODE SECTION 522C.2. A PUBLIC ADJUSTER IS NOT AN EMPLOYEE OR REPRESENTATIVE OF THE INSURER. THEY ARE HIRED BY THE INSURED TO ASSIST IN THE PREPARATION, PRESENTATION, AND SETTLEMENT OF A CLAIM.

2. THE INSURED IS NOT REQUIRED TO HIRE A PUBLIC ADJUSTER TO HELP THE INSURED MEET THE INSURED'S OBLIGATIONS UNDER THE INSURED'S POLICY, BUT HAS THE RIGHT TO DO SO.

3. THE INSURED HAS THE RIGHT TO INITIATE DIRECT COMMUNICATIONS WITH THE INSURED'S ATTORNEY, THE INSURED'S INSURANCE COMPANY, THE INSURANCE COMPANY'S STAFF ADJUSTER OR INDEPENDENT ADJUSTER, THE INSURANCE COMPANY'S ATTORNEY, OR ANY OTHER PERSON REGARDING THE SETTLEMENT OF THE INSURED'S CLAIM.

4. THE INSURED MAY BE RESPONSIBLE FOR ANY AMOUNT PAYABLE TO A PUBLIC ADJUSTER RELATED TO ANY PORTION OF A CLAIM THAT WAS PREVIOUSLY PAID IN PART, IN FULL, OR SETTLED BY THE INSURER PRIOR TO A CONTRACT BEING ENTERED INTO BETWEEN THE PUBLIC ADJUSTER AND THE INSURED.

5. THE AMOUNT PAYABLE TO A PUBLIC ADJUSTER, WHICH CAN INCLUDE A SALARY, FEE, COMMISSION, OR OTHER CONSIDERATION AS OUTLINED IN THE CONTRACT, IS THE OBLIGATION OF THE INSURED, NOT THE INSURER.

6. THE INSURED MAY FILE A COMPLAINT WITH THE IOWA INSURANCE DIVISION BY CALLING (877) 955-1212 OR VISITING IID.IOWA.GOV.

5. An original copy of a completed contract shall be provided to the public adjuster and to

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the insured. The commissioner may inspect the original contract in possession of the public adjuster at any time without prior notice. A contract may be executed electronically if done so in compliance with chapter 554D.

6. Within seventy-two hours of executing a contract with an insured under this section, the public adjuster shall provide the insured's insurer a notification letter, which has been signed by the insured, authorizing the public adjuster to represent the insured's interest. The insurer shall verify that the public adjuster is currently licensed with the division.

7. A contract between a public adjuster and an insured executed on a form in violation of subsection 1, paragraph *"a"*, shall not be enforceable in this state.

2025 Acts, ch 28, §44, 52
Referred to in §522C.11
Section applies beginning July 22, 2025, to a person currently doing business in this state as an independent adjuster or a staff adjuster as of January 1, 2025; 2025 Acts, ch 28, §52

522C.11 Adjusters — standards of conduct.

1. A public adjuster shall serve with objectivity and complete loyalty to the interest of the insured. A public adjuster shall render to the insured in good faith information, counsel, and service, that in the opinion of the public adjuster will best serve the insured's insurance claim needs and interest. These duties extend to the claims process and include providing timely responses to both the insurer and the insured.

2. For a minimum of seventy-two hours following a catastrophic disaster, to allow time for the commissioner to safely deploy consumer protection resources, a public adjuster shall not, in person or by telephone, directly offer to contract, attempt to offer to contract, or enter into an adjuster contract with an insured unless the offer to contract, the attempt to offer to contract, or entering into a contract is initiated by a consumer. If the commissioner deems the severity of the catastrophic disaster to have placed people under duress, the commissioner shall immediately dispatch the consumer advocate and other personnel to the disaster area to provide consumer guidance. If, after a public hearing, the commissioner determines that, due to the scope and severity of the catastrophic disaster, additional time is necessary to safely deploy additional consumer protection resources, the commissioner may extend the time period that a public adjuster shall not offer to contract, attempt to offer to contract, or enter into a contract for an additional seventy-two hours.

3. A public adjuster shall not solicit between the hours of 8:00 p.m. and 9:00 a.m. Solicitation shall include but is not limited to a door-to-door sale as that term is defined in section 555A.1.

4. A public adjuster, or an independent adjuster, shall not permit an unlicensed employee or representative of the public adjuster or independent adjuster, nor any person associated with a claim, to conduct business for which a license is required under this chapter.

5. An adjuster shall not have a direct or indirect financial interest in any aspect of a claim other than the amount payable pursuant to the written contract with an insured under section 522C.10.

6. An adjuster shall not acquire any interest in salvage of property.

7. An adjuster shall not undertake the adjustment of any claim if the adjuster is not competent and knowledgeable as to the terms and conditions of the insurance coverage, or if the loss or coverage otherwise exceeds the adjuster's current expertise.

8. An adjuster shall maintain all documentation relating to all estimates and coverage determinations for a minimum of five years from the date of completion of a settlement.

9. An adjuster shall not knowingly make any false oral or written material statements regarding any person engaged in the business of insurance, or any other adjuster, to an insured who is a client or potential client.

10. *a.* An adjuster shall not reasonably act, or fail to act, in any manner that obstructs or prevents an insurer or adjuster from timely conducting an inspection of any part of an insured's property for which there is a claim for loss or damage.

b. If a public adjuster is unavailable after reasonable request by an insurer, resulting in delay of the insurer's timely inspection of the property, the insured shall allow the insurer to have access to the property without the participation or presence of the public adjuster to facilitate the insurer's prompt inspection of the loss or damage.

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11. An adjuster shall respond to an inquiry from an insurer or an insured regarding a claim within fifteen business days of the date of the inquiry unless good cause exists for delay. The adjuster shall reply within fifteen business days to all pertinent communications from the insured, the insurer, or a representative of the insured or the insurer that reasonably suggest that a response is expected.

12. Upon receiving notification of a claim, an insurer shall provide necessary claim forms, instructions, and reasonable assistance within fifteen business days of notification of the claim so that first-party claimants can comply with the policy conditions and the insurer's reasonable requirements.

13. An adjuster shall not act as an appraiser and as an adjuster on the same claim.

14. An adjuster shall not act as an umpire and as an adjuster on the same claim.

15. A public adjuster shall not enter into a contract that accepts a power of attorney or limited power of attorney for an insured.

16. *a.* An independent adjuster shall not act as an independent adjuster and a public adjuster on the same claim.

b. A public adjuster shall not act as a public adjuster and an independent adjuster on the same claim.

17. A staff adjuster may be licensed as a public adjuster or as an independent adjuster, but shall be prohibited from providing services as an independent adjuster or a public adjuster while employed as a staff adjuster.

18. A public adjuster shall not agree to, or reject, any loss settlement without the insured's express knowledge and written consent.

19. An adjuster shall not engage in any act or practice that is a conflict of interest. A conflict of interest shall include but is not limited to the following:

a. A direct or indirect financial interest with a person responsible for the reconstruction, repair, or restoration of damaged property that is the subject of a claim, or with a person involved in resolving a claim valuation dispute.

b. A direct or indirect financial interest, or other valuable consideration regardless of form or amount paid to an adjuster in exchange for referring an insured to an appraiser, umpire, construction company, contractor, salvage company, or attorney.

c. Being an owner, employee, agent, investor, or having other financial interest in a business entity responsible for the reconstruction, repair, or restoration of damaged property that is the subject of a claim, or having an immediate family member who is an owner, employee, agent, or investor in a business entity responsible for the reconstruction, repair, or restoration of a damaged property that is the subject of a claim.

d. Entering into a written or verbal contract, or formal or informal agreement, with any person that compromises the adjuster's duty of loyalty to the insured.

e. Using claim information obtained in the course of a claim investigation for commercial purposes including marketing or advertising for the benefit of the adjuster.

20. A public adjuster shall not file a complaint with the division on behalf of an insured without the insured's knowledge and written consent.

21. An adjuster shall not represent, directly or indirectly, that damage has occurred at a property unless the adjuster has inspected the damaged areas of the property.

22. An adjuster shall produce a detailed written estimate to repair or replace covered damages and provide a copy to both the insured and the insurer in a timely manner.

23. A public adjuster shall not offer to pay an insured's deductible, or claim that the insured's deductible will be waived, as an inducement to use the services of the public adjuster.

24. An adjuster shall respond reasonably promptly to inquiries by the division.

25. A public adjuster shall provide a detailed invoice for completed services to an insured prior to requesting payment for services pursuant to a contract under section 522C.10.

26. Funds received or held by a public adjuster on behalf of an insured toward the settlement of a claim shall be:

a. Held in a fiduciary capacity.

b. Deposited by the adjuster into one or more separate noninterest-bearing fiduciary trust accounts in a financial institution licensed to do business in this state no later than the close

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of the fifth business day from the date the public adjuster received the funds, and either deposited in the insured's name or in the name of the public adjuster as trustee for the insured, to be held and administered as a trust account for the benefit and protection of the insured.

c. Held separately from personal or nonbusiness funds.

d. Held separately from other business funds.

e. Listed specifically and separately, by the insured's name and the amount in trust in the book of accounts and records of the public adjuster. The book of accounts and records must indicate the fiduciary nature of the account and any amounts deposited or withdrawn.

f. Disbursed within thirty calendar days of receipt of an invoice by the public adjuster from a contractor that completed work, if the public adjuster receives approval of the insured that the work was satisfactorily completed.

27. A public adjuster shall comply with all applicable local ordinances.

28. An adjuster who fails to comply with this section shall be subject to penalties under sections 522C.13 and 522C.14.

2025 Acts, ch 28, §45, 52

Referred to in §522C.10, 522C.14

Section applies beginning July 22, 2025, to a person currently doing business in this state as an independent adjuster or a staff adjuster as of January 1, 2025; 2025 Acts, ch 28, §52

522C.12 Adjusters — records.

1. An adjuster shall have a continuing duty to keep, at the adjuster's place of business, usual and customary records pertaining to transactions undertaken by the adjuster. All such records shall be kept available and open for inspection by the division at any time during regular business hours; however, the division is not entitled to inspect any records prepared in anticipation of litigation or that are subject to any privilege recognized in chapter 622. The records shall be maintained for a minimum of five years from the date of the adjuster transaction.

2. An adjuster who fails to comply with this section shall be subject to penalties under sections 522C.13 and 522C.14.

2025 Acts, ch 28, §46, 52

Section applies beginning July 22, 2025, to a person currently doing business in this state as an independent adjuster or a staff adjuster as of January 1, 2025; 2025 Acts, ch 28, §52

522C.13 License denial, nonrenewal, suspension, or revocation.

1. The division may place on probation, suspend, revoke, or refuse to issue or renew an adjuster's license, and may levy a civil penalty as provided in section 522C.14, for one or more of the following causes:

a. The adjuster provided incorrect, misleading, incomplete, or materially untrue information in a license application.

b. The adjuster violated an insurance law, regulation, subpoena, or order of the commissioner or of a commissioner of another state.

c. The adjuster obtained or attempted to obtain a license through misrepresentation or fraud.

d. The adjuster improperly withheld, misappropriated, or converted money or property received in the course of doing business.

e. The adjuster was convicted of a felony.

f. The adjuster admitted to, or was found to have committed, any unfair trade practice or fraud.

g. The adjuster used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness, or financial irresponsibility, or was a source of injury or loss in the conduct of business in this state or elsewhere.

h. The adjuster had any professional license, or its equivalent, denied, suspended, or revoked in this state or any other state, province, district, or territory.

i. The adjuster forged another's name to any document related to the adjuster's work as an adjuster.

j. The adjuster improperly used notes or any other reference material to complete an examination for an adjuster license.

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k. The adjuster knowingly negotiated as an adjuster with an individual or business entity who is not, but is required to be, licensed as an adjuster, appraiser, or umpire.

l. The adjuster failed to comply with an administrative or court order imposing a child support obligation.

m. The adjuster failed to comply with an administrative or court order related to repayment of loans to the college student aid commission.

n. The adjuster failed to pay state income tax or to comply with any administrative or court order directing payment of state income tax.

o. The adjuster failed or refused to cooperate in an investigation conducted by the commissioner or the commissioner's designee.

p. The adjuster intentionally misrepresented the terms of an actual or proposed contract for services.

2. If the commissioner does not renew an adjuster's license or denies an application for a license, the commissioner shall notify the adjuster or applicant and advise, in writing, of the reason for the nonrenewal of the license or denial of the application for a license. The adjuster or applicant may request a hearing on the nonrenewal or denial by filing a written request for a hearing within thirty calendar days from the date of notice of the nonrenewal or denial. A hearing shall be conducted according to section 522C.15.

3. The license of a business entity may be suspended, revoked, placed on probation, or refused if the commissioner finds, after hearing, that an individual adjuster's violation was known or should have been known by a licensed partner, officer, or manager of the business entity and the violation was not reported to the commissioner and corrective action was not taken.

4. The license of a nonresident adjuster shall be immediately inactive if the nonresident adjuster is placed on probation, suspended, revoked, refused, or denied licensure in any other state. The nonresident adjuster shall have seven calendar days to alert the commissioner that the nonresident adjuster has been placed on probation, suspended, revoked, refused, nonrenewed, or denied licensure in another state. Failure to meet the reporting deadline shall be a violation of this section.

5. In addition to, or in lieu of, denial, probation, suspension, or revocation of a license under this section, an adjuster, after hearing, may be subject to a civil penalty as provided in section 522C.14.

6. The commissioner may enforce this chapter, may conduct an investigation of any suspected violation of this chapter, and may impose any penalty or remedy authorized by this chapter against any person who is under investigation for, or charged with, a violation of this chapter even if the person's license has been surrendered or has lapsed by operation of law.

7. *a.* All complaint files, investigation files, investigation reports, and other investigative information in the possession of the commissioner or the commissioner's agents that relates to adjuster discipline shall be privileged and confidential, and shall not be subject to discovery, subpoena, or other means of legal compulsion for release to a person other than the adjuster, and shall not be admissible in evidence in a judicial or administrative proceeding other than a proceeding involving adjuster discipline. A final written decision of the commissioner in a disciplinary proceeding shall be a public record.

b. Investigative information in the possession of the commissioner or the commissioner's agents that relates to adjuster discipline may be disclosed, at the commissioner's discretion. The commissioner may share documents, materials, or other information, including confidential and privileged documents and materials subject to this subsection, with other state, federal, and international regulatory agencies, with NAIC, its affiliates or subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information.

c. If the investigative information in the possession of the commissioner or the commissioner's agents indicates a crime has been committed, the information shall be reported to the proper law enforcement agency.

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8. *a.* Pursuant to section 17A.19, subsection 6, upon an appeal by the adjuster, the commissioner shall transmit the entire record of the contested case to the reviewing court.

b. Notwithstanding section 17A.19, subsection 6, if a waiver of privilege has been involuntary and evidence has been received at a disciplinary hearing, the court shall issue an order to withhold the identity of the individual whose privilege was waived.

2025 Acts, ch 28, §47, 52

Referred to in §522B.5A, 522C.5A, 522C.5B, 522C.5C, 522C.5D, 522C.10, 522C.11, 522C.12

Section applies beginning July 22, 2025, to a person currently doing business in this state as an independent adjuster or a staff adjuster as of January 1, 2025; 2025 Acts, ch 28, §52

522C.14 Civil and criminal penalties.

1. *a.* Upon a determination by the commissioner after a hearing conducted pursuant to chapter 17A that an adjuster has violated a provision of this chapter, the commissioner shall reduce the findings of the hearing to writing and deliver a copy of the findings to the adjuster.

b. Upon a determination by the commissioner that an adjuster has engaged, is engaging, or is about to engage in any act or practice constituting a violation of this chapter or a rule adopted or order issued under this chapter, the commissioner may take the following actions:

(1) Issue an order requiring the adjuster to cease and desist from engaging in the conduct resulting in the violation.

(2) Assess a civil penalty against the adjuster of not more than one thousand dollars for each violation of this chapter, not to exceed an aggregate of ten thousand dollars.

(3) If the adjuster knew or reasonably should have known the adjuster was in violation of this chapter, assess a civil penalty of not more than five thousand dollars for each violation of this chapter, not to exceed an aggregate penalty of fifty thousand dollars in any one six-month period.

(4) (a) Issue a summary order, including a brief statement of findings of fact, conclusions of law, and policy reasons for the decision, and directing the adjuster to cease and desist from engaging in the act or practice or to take affirmative action as is necessary in the judgment of the commissioner to comply with the requirements of this chapter.

(b) An adjuster may contest a summary order by filing, within thirty calendar days from the date of the issuance of the summary order, a written request for a contested case proceeding and hearing as provided in chapter 17A and in accordance with rules adopted by the commissioner. Section 17A.18A shall be inapplicable to a summary order issued under this subsection. If a hearing is not requested within thirty calendar days from the date of issuance of the summary order, the summary order shall become final by operation of law. A summary order shall remain effective from the date of issuance until the date the order becomes final by operation of law, or is modified or overturned by a presiding officer or court following a request for hearing.

(c) An adjuster violating a summary order issued under this subsection shall be deemed in contempt of the summary order. The commissioner may petition the district court to enforce the order as certified by the commissioner. The district court shall find the adjuster in contempt of the order if the court finds, after conducting a hearing, that the adjuster is not in compliance with the order. The court may assess a civil penalty against the adjuster and may issue further orders as the court deems appropriate.

c. In addition to any other penalty under this section, if the commissioner finds that a violation of this chapter was directed, encouraged, condoned, ignored, or ratified by the employer of the adjuster, the commissioner shall assess a penalty to the employer. Penalties under this paragraph may be retained by the commissioner under section 505.7, subsection 9.

2. *a.* A person acting as an adjuster without proper licensure, or an adjuster who willfully violates any provision of this chapter or an order issued under this chapter, is guilty of a class "D" felony. If the violation results in a loss of more than ten thousand dollars, the person or adjuster is guilty of a class "C" felony.

b. An adjuster who steals, converts, or misappropriates funds that should be held in trust under section 522C.11, is guilty of a class "D" felony. If the violation results in a loss of more than ten thousand dollars, the adjuster is guilty of a class "C" felony.

c. The commissioner may refer such evidence as is available concerning a violation of

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this chapter, or of any rule adopted or order issued under this chapter, or of the failure of a person to comply with the licensing requirements of this chapter, to the attorney general or the proper county attorney who may institute the appropriate criminal proceedings under this chapter.

d. This chapter does not limit the power of the state to punish any person for conduct that constitutes a crime under any other statute.

3. Any contract regulated by this chapter that is entered into by an insured with a person who is not a licensed public adjuster in this state shall be void. If a contract is void, the insured is not liable for the payment for any past services rendered, or future services to be rendered, by that person.

2025 Acts, ch 28, §48, 52
Referred to in §522C.10, 522C.11, 522C.12, 522C.13, 522C.15
Section applies beginning July 22, 2025, to a person currently doing business in this state as an independent adjuster or a staff adjuster as of January 1, 2025; 2025 Acts, ch 28, §52

522C.15 Reinstatement or reissuance of license after disciplinary matters — forfeiture in lieu of compliance.

1. *a.* A person licensed as an adjuster under this chapter whose license has been revoked or suspended by order, or who forfeited a license in connection with a disciplinary matter, may apply to the commissioner for reinstatement or reissuance in accordance with the terms of the order of revocation or suspension, or the order accepting the forfeiture, and submit to a criminal history check under section 522B.5A.

b. Proceedings for reinstatement or reissuance shall be initiated by the applicant who shall file with the commissioner an application for reinstatement or reissuance after disciplinary action. An applicant shall not be eligible for reinstatement or reissuance until the applicant satisfies the requirements under section 522C.5, 522C.5A, 522C.5B, 522C.5C, or 522C.5D, as applicable, and the examination requirements under section 522C.8. An applicant may also be required to submit a new or renewal adjuster application under section 522C.5A, 522C.5B, 522C.5C, or 522C.5D, as applicable.

c. An application for reinstatement or reissuance shall allege facts which, if established, are sufficient to enable the commissioner to determine that the basis of revocation, suspension, or forfeiture of the applicant's license no longer exists, and must disclose if the applicant has engaged in any conduct listed as a cause for licensing action that was not included in the order for suspension, revocation, or forfeiture.

d. An application for reinstatement or reissuance shall allege facts which, if established, are sufficient to enable the commissioner to determine that it is in the public interest for the application to be granted. The commissioner may determine that it is not in the public interest if the applicant has engaged in any conduct listed as a cause for licensing action that was not included in the order for suspension, revocation, or forfeiture, or if the applicant does not have the character and fitness to be a licensed adjuster in this state.

e. The burden of proof to establish facts identified in paragraphs "*c*" and "*d*" shall be on the applicant.

f. An adjuster may request reinstatement of a suspended license prior to the end of the suspension term.

g. Unless otherwise provided by law, if an order of revocation or suspension did not establish terms on which reinstatement or reissuance may occur, or if the license was forfeited, an initial application for reinstatement or reissuance shall not be made until at least one year from the date of the order of the suspension, revocation, or acceptance of the forfeiture of a license.

2. All proceedings on an application for reinstatement or reissuance, including preliminary and ancillary matters, shall be held in accordance with chapter 17A. The application shall be docketed in the original case in which the original license was suspended, revoked, or forfeited, if the case exists.

3. An order of reinstatement or reissuance shall be based on a written decision which incorporates findings of fact and conclusions of law. An order granting an application for reinstatement or reissuance may impose such terms and conditions as the commissioner or the commissioner's designee deems appropriate, and may include one or more penalties

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provided under section 522C.14. The order shall be a public record and may be disseminated in compliance with chapter 22.

4. If an adjuster's ordered suspension period ends prior to the adjuster's license expiration date and the adjuster applies for reinstatement prior to the license expiration date and meets all applicable requirements, the division shall reinstate the license as soon as practicable but no earlier than the end of the suspension period if the division, after a complete review, determines the license should be reinstated.

5. If an adjuster's license is suspended beyond the adjuster's license expiration date, whether due to an ordered suspension time period or failure to apply for reinstatement prior to expiration, the adjuster must apply for reissuance.

6. A submission of voluntary forfeiture of a license shall be made in writing to the commissioner. Forfeiture of a license is effective on the date of submission unless a contested case proceeding is pending on the date of submission. If a contested case proceeding is pending, the forfeiture shall become effective upon conditions as ordered by the commissioner. A forfeiture made during the pendency of a contested case proceeding shall be considered a disciplinary action and shall be published in the same manner as is applicable to any other form of disciplinary order.

7. The commissioner shall not be prohibited from denying an application for reinstatement or reissuance, or from bringing an additional immediate action, if an adjuster has engaged in an additional violation of chapter 507B or this chapter, or otherwise failed to meet all applicable requirements.

8. This section shall not apply to reinstatement of an expired license or issuance of a new license that is not in connection with a disciplinary matter.

2025 Acts, ch 28, §49, 52
Referred to in §522C.6, 522C.13, 522C.16
Section applies beginning July 22, 2025, to a person currently doing business in this state as an independent adjuster or a staff adjuster as of January 1, 2025; 2025 Acts, ch 28, §52

522C.16 Suspension for failure to pay child support or state debt.

1. The commissioner shall deny an adjuster's application for license issuance, renewal, reinstatement, or reissuance; suspend a current license; or revoke a currently suspended license, upon receipt of a certificate of noncompliance from the child support recovery unit pursuant to chapter 252J, or upon receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue pursuant to chapter 272D.

2. Upon receipt of a certificate of noncompliance under subsection 1, the commissioner shall issue a notice to the adjuster that the division will, unless the certificate of noncompliance is withdrawn, deny the adjuster's application for license issuance, renewal, reinstatement, or reissuance, suspend the adjuster's current license, or revoke the adjuster's currently suspended license, thirty calendar days after the date the notice is mailed. Notice shall be sent to the adjuster's last known address by restricted certified mail, return receipt requested, or in accordance with the division's rules for service. The notice shall contain all of the following:

a. A statement that the commissioner intends to deny the adjuster's application for license issuance, renewal, reinstatement, or reissuance; suspend the adjuster's current license; or revoke the adjuster's currently suspended license in thirty calendar days unless the certificate of noncompliance is withdrawn.

b. A statement that the adjuster must contact the agency that issued the certificate of noncompliance to request a withdrawal.

c. A statement that the adjuster does not have a right to a hearing before the division, but that the adjuster may file an application for a hearing in district court pursuant to section 252J.9 or 272D.9, as applicable, and that the filing of an application by the adjuster will stay the proceedings of the division.

d. A copy of the certificate of noncompliance.

3. An adjuster shall keep the commissioner informed of all actions taken by the district court or the issuing agency in connection with a certificate of noncompliance. Within seven calendar days of filing or issuance, an adjuster shall provide to the commissioner a copy of

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all applications filed with the district court pursuant to an application or hearing, all court orders entered in such action, and all withdrawals of a certificate of noncompliance.

4. If an applicant or licensed adjuster timely files an application for hearing in district court and the division is notified of the filing, the commissioner's denial, suspension, or revocation proceedings shall be stayed until the division is notified by the district court, the issuing agency, the licensee, or the applicant of the resolution of the application. Upon receipt of a court order lifting the stay or otherwise directing the commissioner to proceed, the commissioner shall continue with the intended action described in the notice.

5. If the commissioner does not receive a withdrawal of the certificate of noncompliance from the issuing agency, or a notice from a clerk of court, the issuing agency, the licensee, or the applicant that an application for hearing has been filed within thirty calendar days after the notice is issued, the commissioner shall deny the adjuster's application for license issuance, renewal, reinstatement, or reissuance; suspend a current license; or revoke a currently suspended license.

6. Upon receipt of a withdrawal of a certificate of noncompliance from the issuing agency, suspension or revocation proceedings shall halt and the named adjuster shall be notified that the proceedings have halted. If the adjuster's license has already been suspended, the adjuster must apply for reinstatement in accordance with section 522C.15, and the license shall be reinstated if the adjuster is otherwise in compliance with this chapter. If the adjuster's application for licensure was stayed, application processing shall resume. All fees required for license renewal, reinstatement, or reissuance must be paid by the adjuster, and all continuing education requirements shall be satisfied, before the adjuster's license is renewed or reinstated after a license suspension or revocation under this chapter.

7. The commissioner shall notify an adjuster in writing through regular first class mail, or such other means as the commissioner deems appropriate under the circumstances, within ten calendar days of the effective date of the suspension or revocation of the adjuster's license, and shall also notify the adjuster when the adjuster's license is reinstated following the commissioner's receipt of a withdrawal of the certificate of noncompliance.

8. Notwithstanding any provision of law to the contrary, the division may share information with the child support recovery unit or the centralized collection unit of the department of revenue for the sole purpose of identifying adjusters subject to enforcement under chapter 252J or 272D.

2025 Acts, ch 28, §50, 52

Section applies beginning July 22, 2025, to a person currently doing business in this state as an independent adjuster or a staff adjuster as of January 1, 2025; 2025 Acts, ch 28, §52

522C.17 Severability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

2025 Acts, ch 28, §51, 52

Section applies beginning July 22, 2025, to a person currently doing business in this state as an independent adjuster or a staff adjuster as of January 1, 2025; 2025 Acts, ch 28, §52

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CHAPTER 522D

LICENSING OF HEALTH PLAN NAVIGATORS

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

For future contingent repeal of chapter, see §522D.12

522D.1 Definitions.
522D.2 License required.
522D.3 Actions prohibited.
522D.4 Written examination.
522D.5 Application for license.
522D.6 License.
522D.7 License denial, nonrenewal, or revocation.
522D.8 Cease and desist orders — penalties.
522D.9 Injunctive relief.
522D.10 Rules.
522D.11 Severability.
522D.12 Future repeal.

522D.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Commissioner"* means the commissioner of insurance.

2. "*Navigator*" means a public or private entity or an individual that is qualified and licensed, if appropriate, to engage in the activities and meet the standards described in 45 C.F.R. §155.210.

2012 Acts, ch 1138, §121

522D.2 License required.

A person shall not act as a navigator in this state unless the person is licensed by the commissioner as required in this chapter.

2012 Acts, ch 1138, §122
Referred to in §522D.9

522D.3 Actions prohibited.

A navigator shall not perform the functions of a person required to be licensed as an insurance producer under chapter 522B unless the navigator is licensed as a navigator pursuant to this chapter and as an insurance producer pursuant to chapter 522B.

2012 Acts, ch 1138, §123

522D.4 Written examination.

1. An individual applying for a navigator license shall pass a written examination. The examination shall test the knowledge of the individual concerning the duties and responsibilities of a navigator and the insurance laws and regulations of this state. The commissioner shall adopt rules pursuant to chapter 17A related to the development and conduct of the examination.

2. The commissioner may make arrangements, including contracting with an outside testing service or other appropriate entity, for administering examinations and collecting fees.

3. An individual applying for an examination shall remit a nonrefundable fee as established by rule of the commissioner.

4. An individual who fails to appear for the examination as scheduled or fails to pass the examination shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

2012 Acts, ch 1138, §124
Referred to in §522D.5, 522D.6

522D.5 Application for license.

1. A person applying for a navigator license shall make application to the commissioner on an application form approved by the commissioner and declare under penalty of refusal, suspension, or revocation of the license that the statements made on the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find all of the following:

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a. The individual is at least eighteen years of age.

b. The individual has not committed any act that is a ground for denial, suspension, or revocation as set forth in section 522D.7.

c. The individual has paid the license fee, as established by the commissioner by rule.

d. The individual has successfully completed the initial training and education program for a license as established by the commissioner by rule.

e. The individual has successfully passed the examination as provided in section 522D.4.

f. In order to protect the public interest, the individual has the requisite character and competence to receive a license as a navigator.

2. A public or private entity acting as a navigator may elect to obtain a navigator license. Application shall be made using the application form approved by the commissioner. Prior to approving the application, the commissioner shall find both of the following:

a. The entity has paid the appropriate fees.

b. The entity has designated a licensed navigator responsible for the entity's compliance with this chapter.

2012 Acts, ch 1138, §125
Referred to in §522D.6

522D.6 License.

1. A person who meets the requirements of sections 522D.4 and 522D.5, unless otherwise denied licensure pursuant to section 522D.7, shall be issued a navigator license. A navigator license is valid for three years.

2. A navigator license remains in effect unless revoked or suspended as long as all required fees are paid and continuing education requirements are met by any applicable due date. A navigator is required to complete continuing education requirements required by law in order to be eligible for license renewal.

3. A licensed navigator who is unable to comply with license renewal procedures due to military service or other extenuating circumstances may request a waiver of those procedures. The licensed navigator may also request a waiver of any examination requirement or any other penalty or sanction imposed for failure to comply with renewal procedures.

4. The license shall contain the licensee's name, address, personal identification number, the date of issuance, the expiration date, and any other information the commissioner deems necessary.

5. A licensee shall inform the commissioner by any means acceptable to the commissioner of a change of legal name or address within thirty days of the change. Failure to timely inform the commissioner of a change of legal name or address may result in a penalty as specified in section 522D.7.

6. The commissioner shall require by rule that a licensed navigator furnish a surety bond or other evidence of financial responsibility that protects all persons against wrongful acts, misrepresentations, errors, omissions, or negligence of the navigator.

7. In order to assist with the commissioner's duties, the commissioner may contract with a nongovernmental entity, including the national association of insurance commissioners or any affiliate or subsidiary the national association of insurance commissioners oversees, to perform any ministerial functions, including the collection of fees, related to navigator licensing that the commissioner deems appropriate.

2012 Acts, ch 1138, §126

522D.7 License denial, nonrenewal, or revocation.

1. The commissioner may place on probation, suspend, revoke, or refuse to issue or renew a navigator's license or may levy a civil penalty as provided in section 522D.8 for any one or more of the following causes:

a. Providing incorrect, misleading, incomplete, or materially untrue information in the license application.

b. Violating any insurance laws, or violating any regulation, subpoena, or order of the commissioner or of a commissioner of another state.

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c. Obtaining or attempting to obtain a license through misrepresentation or fraud.

d. Improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance business.

e. Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.

f. Having been convicted of a felony.

g. Having admitted or been found to have committed any unfair insurance trade practice or fraud.

h. Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

i. Having a navigator license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory.

j. Forging another's name to an application for insurance or to any document related to an insurance transaction.

k. Improperly using notes or any other reference material to complete an examination for a navigator license.

l. Failing to comply with an administrative or court order imposing a child support obligation.

m. Failing to comply with an administrative or court order related to repayment of loans to the college student aid commission.

n. Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax.

o. Failing or refusing to cooperate in an investigation by the commissioner.

2. If the commissioner does not renew a license or denies an application for a license, the commissioner shall notify the applicant or licensee and advise, in writing, the licensee or applicant of the reason for the nonrenewal of the license or denial of the application for a license. The licensee or applicant may request a hearing on the nonrenewal or denial. A hearing shall be conducted according to section 507B.6.

3. The license of a public or private entity operating as a navigator may be suspended, revoked, or refused if the commissioner finds, after hearing, that an individual navigator licensee's violation was known or should have been known by a partner, officer, or manager acting on behalf of the entity and the violation was not reported to the commissioner and corrective action was not taken.

4. In addition to, or in lieu of, any applicable denial, suspension, or revocation of a license, a person, after hearing, may be subject to a civil penalty as provided in section 522D.8.

5. The commissioner may conduct an investigation of any suspected violation of this chapter pursuant to section 507B.6 and may enforce the provisions and impose any penalty or remedy authorized by this chapter and chapter 507B against any person who is under investigation for, or charged with, a violation of either chapter even if the person's license has been surrendered or has lapsed by operation of law.

6. *a.* In order to assure a free flow of information for accomplishing the purposes of this section, all complaint files, investigation files, other investigation reports, and other investigative information in the possession of the commissioner or the commissioner's employees or agents that relates to licensee discipline are privileged and confidential, and are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the licensee, and are not admissible in evidence in a judicial or administrative proceeding other than the proceeding involving licensee discipline. A final written decision of the commissioner in a disciplinary proceeding is a public record.

b. Investigative information in the possession of the commissioner or the commissioner's employees or agents that relates to licensee discipline may be disclosed, in the commissioner's discretion, to appropriate licensing authorities within this state, the appropriate licensing authority in another state, the District of Columbia, or a territory or country in which the licensee is licensed or has applied for a license.

c. If the investigative information in the possession of the commissioner or the

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commissioner's employees or agents indicates a crime has been committed, the information shall be reported to the proper law enforcement agency.

d. Pursuant to the provisions of section 17A.19, subsection 6, upon an appeal by the licensee, the commissioner shall transmit the entire record of the contested case to the reviewing court.

e. Notwithstanding the provisions of section 17A.19, subsection 6, if a waiver of privilege has been involuntary and evidence has been received at a disciplinary hearing, the court shall issue an order to withhold the identity of the individual whose privilege was waived.

2012 Acts, ch 1138, §127
Referred to in §522D.5, 522D.6

522D.8 Cease and desist orders — penalties.

1. A navigator who, after hearing, is found to have violated this chapter, may be ordered to cease and desist from engaging in the conduct resulting in the violation and may be assessed a civil penalty pursuant to chapter 507B.

2. If a person does not comply with an order issued pursuant to this section, the commissioner may petition a court of competent jurisdiction to enforce the order. The court shall not require the commissioner to post a bond in an action or proceeding under this section. If the court finds, after notice and opportunity for hearing, that the person is not in compliance with an order, the court may adjudge the person to be in civil contempt of the order. The court may impose a civil penalty against the person for contempt in an amount not less than three thousand dollars but not greater than ten thousand dollars for each violation and may grant any other relief that the court determines is just and proper in the circumstances.

2012 Acts, ch 1138, §128
Referred to in §522D.7, 522D.9

522D.9 Injunctive relief.

1. A person may bring an action in district court to enjoin another person from acting as a navigator in violation of section 522D.2. However, before bringing an action in district court to enjoin a person pursuant to this section, the person shall file a complaint with the insurance division alleging that another person is acting as a navigator in violation of section 522D.2.

2. If the division makes a determination to proceed administratively against the person for a violation of section 522D.2, the complainant shall not bring an action in district court against the person pursuant to this section based upon the allegations contained in the complaint filed with the division.

3. If the division does not make a determination to proceed administratively against the person for a violation of section 522D.2, the division shall issue, by ninety days from the date of filing of the complaint, a release to the complainant that permits the complainant to bring an action in district court pursuant to this section.

4. The filing of a complaint with the division pursuant to this section tolls the statute of limitations pursuant to section 614.1 as to the alleged violation for a period of one hundred twenty days from the date of filing the complaint.

5. Any action brought in district court by a complainant against a person pursuant to this section, based upon the allegations contained in the complaint filed with the division, shall be brought within one year after the ninety-day period following the filing of the complaint with the division, or the date of the issuance of a release by the division, whichever is earlier.

6. If the court finds that the person is in violation of section 522D.2 and enjoins the person from acting as a navigator in violation of that section, the court's findings of fact and law, and the judgment and decree, when final, shall be admissible in any proceeding initiated pursuant to section 522D.8 by the commissioner against the person enjoined and the person enjoined shall be precluded from contesting in that proceeding the court's determination that the person acted as a navigator in violation of section 522D.2.

2012 Acts, ch 1138, §129

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522D.10 Rules.

The commissioner may adopt rules pursuant to chapter 17A as are necessary or proper to carry out the purposes of this chapter.

2012 Acts, ch 1138, §130

522D.11 Severability.

If any provision of this chapter or its application to any person or circumstance is held invalid by a court of competent jurisdiction or by federal law, the invalidity does not affect other provisions or applications of the chapter that can be given effect without the invalid provision or application, and to this end the provisions of the chapter are severable and the valid provisions or applications shall remain in full force and effect.

2012 Acts, ch 1138, §131

522D.12 Future repeal.

If the federal law providing for the sale of qualified health benefit plans of the state is repealed by federal legislation or is ruled invalid by a decision of the United States supreme court, the commissioner shall notify the Iowa Code editor of the effective date of the repeal or the date of the ruling. This chapter is repealed on the effective date of such federal legislation or the date of the United States supreme court decision.

2012 Acts, ch 1138, §132

CHAPTER 522E

SALE OF PORTABLE ELECTRONICS INSURANCE

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 505B.1, 669.14, 670.7

522E.1 Definitions.
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522E.4 Application and fees.
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522E.13 Portable electronics insurance policy — changes — termination.
522E.14 Rules.
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522E.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Commissioner"* means the commissioner of insurance.

2. *"Consumer"* means a person who purchases portable electronics or portable electronics insurance in a retail transaction.

3. *"Delivered by electronic means"* or *"deliver by electronic means"* means the same as defined in section 505B.1.

4. *"Endorsee"* means an unlicensed employee or authorized representative of a licensed portable electronics vendor.

5. *"Enrollment"* means the process of soliciting or accepting enrollments or applications from a consumer under a portable electronics insurance policy, which includes informing the consumer of the availability of coverage, preparing and delivery of the certificate of insurance or notice of proposed insurance, or otherwise assisting the consumer in making an informed decision whether or not to elect to purchase portable electronics insurance.

6. *"Free-trial offer"* means an offer to a consumer under which portable electronics insurance is provided free of charge for a limited time period subsequent to which a charge is made to the consumer for the insurance.

7. *a. "License period"* means all of that three-year period beginning as described in

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paragraph *"b"*, subparagraph (1) or (2), as applicable, and ending the second succeeding year on the last calendar day of the month in which the initial license was issued.

b. A license period shall be determined for each person as follows:

(1) Upon initial licensing, the license period shall start on the date the license is issued.

(2) For a subsequent license, the license period shall start on the first day following the month in which the initial license was issued.

c. A license shall be renewed on or before the expiration date of the license period.

8. *a. "Portable electronics"* means any of the following devices:

(1) Personal, self-contained, easily carried by an individual, battery-operated electronic communication, viewing, listening, recording, gaming, computing, or global positioning devices, including cell or satellite phones, pagers, personal global positioning satellite units, portable computers, portable audio listening, video viewing or recording devices, digital cameras, video camcorders, portable gaming systems, docking stations, and automatic answering devices, including their accessories and service related to the use of the devices.

(2) Any other electronic device that is portable in nature that the commissioner approves.

b. "Portable electronics" does not include telecommunications switching equipment, transmission wires, cell site transceiver equipment, or other equipment and systems used by telecommunications companies to provide telecommunications service to consumers.

9. *a. "Portable electronics insurance"* means a contract providing coverage for the repair or replacement of portable electronics against any one or more of the following causes of loss: loss, theft, mechanical failure, malfunction, damage, or other applicable perils.

b. "Portable electronics insurance" does not include any of the following:

(1) A service contract or extended warranty providing coverage limited to the repair, replacement, or maintenance of property for the operational or structural failure of property due to a defect in materials, workmanship, accidental damage from handling, power surges, or normal wear and tear.

(2) A policy of insurance covering a seller's or a manufacturer's obligations under a warranty.

(3) A homeowner's, renter's, private passenger automobile, commercial multiperil, or similar policy.

10. *"Portable electronics insurance license"* means a document issued by the commissioner pursuant to this chapter authorizing a portable electronics vendor to offer or sell portable electronics insurance in this state.

11. *"Portable electronics vendor"* means any person in the business, directly or indirectly, of selling, reselling, soliciting, or leasing portable electronics, their accessories, and related services to consumers.

2015 Acts, ch 87, §1, 16; 2019 Acts, ch 16, §3, 4; 2020 Acts, ch 1063, §296
Referred to in §505B.1

522E.2 Licensure required.

A person shall not offer or sell any form of portable electronics insurance in this state unless the person is licensed as an insurance producer pursuant to chapter 522B, is issued a portable electronics insurance license pursuant to this chapter, or is an endorsee who is in compliance with section 522E.6.

2015 Acts, ch 87, §2, 16

522E.3 Portable electronics insurance license.

A portable electronics vendor that applies for a license and complies with the requirements of this chapter shall be issued a portable electronics insurance license by the commissioner that authorizes the licensee and the licensee's endorsees to offer or sell portable electronics insurance to a consumer in connection with, and incidental to, the sale of portable electronics or the sale and provision of accessories or services related to the use of portable electronics.

2015 Acts, ch 87, §3, 16

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522E.4 Application and fees.

1. A portable electronics vendor applying for a portable electronics insurance license under this chapter shall submit all of the following to the commissioner:

a. A written application for licensure, signed by the applicant or an officer of the applicant, in the form prescribed by the commissioner.

b. A certificate by the insurer that is to be named in the portable electronics insurance license, stating that the insurer is satisfied that the named applicant is trustworthy and competent to act as a portable electronics insurance licensee limited to this purpose and that the insurer will appoint the applicant to act as its agent to transact the kind or kinds of insurance that are permitted by this chapter if the portable electronics insurance license applied for is issued by the commissioner. The certification shall be subscribed by an officer or managing agent of the insurer on a form prescribed by the commissioner.

c. An application fee of the lesser of fifty dollars per each endorsee at a location of the vendor or five hundred dollars per location valid for a three-year period and, for each three-year period thereafter, a renewal fee in the same amount. A maximum fee of five thousand dollars shall apply for licensure of a portable electronics vendor with multiple locations. The fees collected shall be deposited as provided in section 505.7.

2. Costs associated with any enforcement action against or investigation of a portable electronics vendor licensed under this chapter shall be paid for by the portable electronics vendor.

2015 Acts, ch 87, §4, 16
Referred to in §522E.6

522E.5 License renewal.

1. Not less than sixty days before a portable electronics insurance license will expire, the commissioner may use an electronic delivery method, including electronic mail or other similar electronic method of delivery, to deliver, or may mail, to the latest electronic mail or mailing address appearing in the commissioner's records, an application to the licensee to renew a portable electronics insurance license for the appropriate succeeding license term. It is the licensee's responsibility to renew the license, whether or not a renewal notice is received.

2. The commissioner may accept a late renewal without penalty, provided that the licensee's failure to comply is due to a clerical error or inadvertence.

3. An application for renewal of a portable electronics insurance license may be filed on or before the expiration date of the license. An application for renewal of an expired license may be filed after the expiration date and until that same month and date of the next succeeding year.

4. The commissioner shall impose a penalty fee equal to one-half of the renewal fee for the portable electronics insurance license for any application for renewal that is filed after the expiration date of the license.

2015 Acts, ch 87, §5, 16

522E.6 Endorsee requirements.

An endorsee of a portable electronics vendor that has been issued a portable electronics insurance license pursuant to this chapter may sell or offer insurance products under the authority of the vendor's portable electronics insurance license if all of the following conditions have been met:

1. The endorsee is eighteen years of age or older.

2. The portable electronics vendor, at the time of submission of an application for a portable electronics insurance license pursuant to section 522E.4, includes a list of all locations in this state at which the vendor intends to offer coverage under a policy of portable electronics insurance. The list shall be maintained by the portable electronics vendor in a form prescribed by, or format acceptable to, the commissioner, shall be updated annually, and shall be made available to the commissioner for review and inspection upon request.

3. The portable electronics vendor provides for the training of its endorsees under a program developed by a licensed property and casualty insurance producer prior to allowing

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its endorsees to offer or sell portable electronics insurance. The training shall meet the following minimum standards:

a. Each endorsee shall receive instruction about the applicable kinds or types of portable electronics insurance authorized for sale to prospective consumers in this state as provided in section 522E.9, subsection 5.

b. Each endorsee shall receive training about ethical sales practices.

c. Each endorsee shall receive training about the disclosures to be given to prospective consumers pursuant to section 522E.9.

d. The retraining of endorsees shall be conducted whenever there is a material change in the insurance products sold that requires modification of the training materials, but in no event less frequently than every three years for each endorsee.

e. The portable electronics vendor shall maintain a list of its endorsees who have completed the required training, and make the list available to the commissioner upon request.

2015 Acts, ch 87, §6, 16
Referred to in §522E.2

522E.7 Endorsee conduct.

An endorsee may act on behalf of and under the supervision of a licensed portable electronics vendor in matters relating to transacting portable electronics insurance under that vendor's license. The conduct of an endorsee acting within the scope of the endorsee's employment or agency shall be deemed the conduct of the licensed portable electronics vendor for purposes of this chapter.

2015 Acts, ch 87, §7, 16

522E.8 Violations and penalties.

1. If a licensed portable electronics vendor or endorsee violates any provision of this chapter or any other provision of this title, the commissioner may do any of the following:

a. After notice and hearing, suspend or revoke the license of the portable electronics vendor.

b. After notice and hearing, impose penalties on the portable electronics vendor for its conduct or that of its endorsees.

c. After notice and hearing, impose other penalties that the commissioner deems necessary and convenient to carry out the purposes of this chapter, including suspending the privilege of transacting portable electronics insurance pursuant to this chapter at specific business locations of the portable electronics vendor where violations have occurred, imposing penalties on the portable electronics vendor, and suspending or revoking the ability of individual endorsees to act under the vendor's license.

2. If any person sells insurance in connection with, or incidental to, the sale of portable electronics or the sale or provision of accessories or services related thereto, or holds oneself or an organization out as a licensed portable electronics vendor without obtaining the license required by this chapter, or as being an insurance producer licensed pursuant to chapter 522B without obtaining that license, the commissioner may issue a cease and desist order.

2015 Acts, ch 87, §8, 16

522E.9 Requirements at time of sale.

A licensed portable electronics vendor shall not sell portable electronics insurance pursuant to this chapter unless, at the time of sale, or reasonably thereafter with respect to a sale or enrollment occurring by telephone, all of the following conditions are satisfied:

1. The portable electronics vendor provides brochures or other written materials to the prospective consumer that do all of the following:

a. Summarize the material terms and conditions of coverage offered, including the identity of the insurer.

b. Describe the process for filing a claim, including a toll-free telephone number to report a claim.

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c. Disclose any additional information on the price, benefits, exclusions, conditions, or other limitations of those policies that the commissioner may, by rule, prescribe.

d. Provide the name, address, telephone number, and license number of the portable electronics vendor or the property and casualty insurance broker-agent appointed by the insurer issuing portable electronics insurance coverage to the portable electronics vendor.

2. The portable electronics vendor or its endorsees make all of the following disclosures, which shall either be acknowledged in writing by the consumer, be provided in writing to the consumer, or, for sales made in person, shall be displayed by clear and conspicuous signs that are posted at every location where portable electronics insurance contracts are executed, such as the counter where the consumer signs the portable electronics insurance contract:

a. That the purchase by the consumer of the kinds of insurance prescribed in this chapter is not required in order to purchase portable electronics, accessories, or related services.

b. That the insurance policies offered by the portable electronics vendor may provide a duplication of coverage already provided by other insurance policies covering the consumer.

c. That the vendor or endorsee of the portable electronics vendor is not qualified or authorized to evaluate the adequacy of the consumer's existing insurance coverages, unless that person is licensed pursuant to chapter 522B.

d. That the consumer may cancel the insurance at any time. If the consumer cancels, any unearned premium will be refunded in accordance with applicable law.

3. The material terms and conditions of coverage are provided to every person who elects to purchase the coverage.

4. Costs for the insurance are separately itemized in any billing statement for the insurance. However, if the portable electronics insurance is included with the purchase or lease of portable electronics and accessories or related services, the portable electronics vendor shall clearly and conspicuously disclose to the consumer that the insurance coverage is included with the purchase of the portable electronics or related services and shall disclose the stand-alone cost of the premium for the same or similar insurance, if any, on the consumer's bill and in any marketing materials made available at the point of sale.

5. The portable electronics insurance is provided under an individual policy issued to the consumer, or under a group or master policy issued to an organization through a licensed insurance producer or through a licensed portable electronics vendor by an insurer authorized to transact the applicable kinds or types of insurance in this state.

6. Portable electronics insurance shall not be sold through a free-trial offer.

7. In order for portable electronic insurance notices and documents to be delivered by electronic means to the consumer, affirmative consent shall be obtained pursuant to section 505B.1, subsection 5.

2015 Acts, ch 87, §9, 16; 2019 Acts, ch 16, §5; 2020 Acts, ch 1063, §297
Referred to in §522E.6

522E.10 Charges and collection of moneys.

1. Charges for portable electronics insurance may be billed and collected by a licensed portable electronics vendor. A licensed vendor shall not be required to maintain those moneys in a segregated account if the insurer represented by the vendor has provided in writing that the moneys need not be segregated from moneys received by the portable electronics vendor on account of the sale or lease of portable electronics or related services or accessories.

2. All moneys received by a licensed portable electronics vendor from a consumer for the sale of portable electronics insurance shall be considered moneys held in trust by the portable electronics vendor in a fiduciary capacity for the benefit of the insurer. A licensed portable electronics vendor may receive compensation for billing and collection services.

2015 Acts, ch 87, §10, 16

522E.11 Other restrictions.

1. Under the authority of a portable electronics insurance license, a portable electronics vendor shall not do any of the following:

a. Offer to sell insurance except in conjunction with, and incidental to, the business of selling portable electronics, their accessories, or related services.

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b. Advertise, represent, or otherwise portray itself or its endorsees as licensed insurers or property and casualty insurance broker-agents.

c. Pay an endorsee compensation based primarily on the number of consumers electing coverage under the portable electronics vendor's license. However, this chapter does not prohibit the payment of compensation to an endorsee of a portable electronics vendor for activities under the vendor's license that is incidental to the endorsee's overall compensation. The incidental compensation shall not exceed fifteen dollars per transaction for portable electronics insurance coverage.

2. Unless lawfully transacting the business of insurance pursuant to a certificate of authority issued for the appropriate class of insurance, a person obligated to perform under a contract offered in or from this state that meets the definition of portable electronics insurance shall be deemed to be unlawfully transacting the business of insurance.

2015 Acts, ch 87, §11, 16

522E.12 Policy forms.

An insurer that provides insurance to be sold by a licensed portable electronics vendor shall file a copy of the policy form issued to a consumer, or of any policy or certificate issued under a group or master policy to an organization through an insurance producer licensed under chapter 522B or through a licensed portable electronics vendor, with the commissioner, who shall make the policy form available to the public.

2015 Acts, ch 87, §12, 16

522E.13 Portable electronics insurance policy — changes — termination.

1. An insurer may terminate a portable electronics insurance policy or otherwise change the terms and conditions of a portable electronics insurance policy only upon providing the licensed portable electronics vendor that is the policyholder and enrolled consumers with at least thirty calendar days' written notice.

2. If the insurer changes the terms and conditions of a policy of portable electronics insurance, the insurer shall provide the licensed portable electronics vendor that is the policyholder with a revised policy or endorsement and each enrolled consumer with a revised certificate, endorsement, updated brochure, or other evidence indicating that a change in the terms and conditions of the policy has occurred and a summary of those changes.

3. Notwithstanding subsection 1, an insurer may terminate an enrolled consumer's enrollment under a portable electronics insurance policy upon fifteen calendar days' notice for discovery of fraud or material misrepresentation in obtaining coverage or in the presentation of a claim under the policy.

4. Notwithstanding subsection 1, an insurer may immediately terminate an enrolled consumer's enrollment under a portable electronics insurance policy without prior notice for any of the following reasons:

a. Nonpayment of premium.

b. If the enrolled consumer ceases to have an active service with the licensed portable electronics vendor that is the policyholder.

c. If the enrolled consumer exhausts the aggregate limit of liability, if any, under the terms of the portable electronics insurance policy and the insurer sends notice of termination to the enrolled consumer within thirty calendar days after exhaustion of the limit. However, if notice is not sent within thirty calendar days, enrollment shall continue notwithstanding the aggregate limit of liability until thirty calendar days from the date the insurer sends notice of termination to the enrolled consumer.

5. If a portable electronics insurance policy is terminated by the licensed portable electronics vendor that is the policyholder, the portable electronics vendor shall deliver by mail or deliver by electronic means a written notice to each enrolled consumer advising the enrolled consumer of the termination of the policy and the effective date of termination. The written notice shall be delivered by the portable electronics vendor to the enrolled consumer at least thirty calendar days prior to the termination. However, if the notice is not sent within thirty calendar days, enrollment shall continue until thirty calendar days from the date the

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portable electronics vendor sends notice of termination to the enrolled consumer or until a new portable electronics insurance policy is in effect.

6. Whenever notice or correspondence with respect to a policy of portable electronics insurance is required pursuant to this section, it shall be in writing and sent within the notice period required pursuant to this section. Notices and correspondence shall be sent to the licensed portable electronics vendor that is the policyholder at the portable electronics vendor's mailing or electronic mail address specified for that purpose and to its affected enrolled consumers' last known mailing or electronic mail addresses on file with the insurer or the portable electronics vendor. All notices and documents that are delivered by electronic means shall comply with section 505B.1, except for the provisions in section 505B.1, subsection 4. The insurer or portable electronics vendor shall maintain proof that the notice or correspondence was sent for not less than three years from the date that the notice or correspondence was sent.

2015 Acts, ch 87, §13, 16; 2019 Acts, ch 16, §6; 2019 Acts, ch 89, §18; 2020 Acts, ch 1063, §298

522E.14 Rules.

The commissioner may adopt rules pursuant to chapter 17A to implement and administer this chapter.

2015 Acts, ch 87, §14, 16

522E.15 Application of other law.

Nothing in this chapter regulating the sale of portable electronics insurance shall be construed to impair or impede the application of any other law regulating the sale of portable electronics insurance.

2015 Acts, ch 87, §15, 16

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CHAPTER 522F

LICENSING AND REGULATION OF APPRAISERS AND UMPIRES

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 522C.5A, 522C.5B, 522C.5C, 522C.8, 669.14, 670.7

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SUBCHAPTER I

GENERAL PROVISIONS

522F.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Adjuster"* means a person licensed pursuant to chapter 522C.
2. *"Amount of loss"* means the monetary amount determined to be necessary to properly repair or replace damage related to the scope of a loss for a covered peril, and is limited to all applicable coverages for covered items associated with the claim.
3. *"Appraiser"* means a person licensed as an appraiser pursuant to section 522F.4.
4. *"Appraiser list"* means a list, maintained by the division, of all appraisers licensed by the division.
5. *"Claimant"* means a person who makes a first-party claim under a policy of property and casualty insurance.
6. *"Commissioner"* means the commissioner of insurance.
7. *"Disciplinary matter"* means an individual is the subject of an investigation, complaint, pending administrative action, or other such action in any state.
8. *"First-party claim"* means a claim filed by a named insured under an insurance policy against which a claim is made.
9. *"Good cause"* means a legally sufficient reason including but not limited to any of the following:
   a. A conflict of interest.
   b. A lack of independence or an inability to competently or promptly carry out the duties required under this chapter.
   c. Any other reason that would reasonably be expected to impair an appraisal.
10. *"Immediate family"* means an individual's parent, sibling, child, grandchild, spouse, spouses of the individual's children, or parents of the individual's spouse.
11. *"Insured"* means a person covered under an insurance policy against which a claim is made.
12. *"Insurer"* means a person engaged in the business of insurance and regulated under chapter 507A, 508, 512B, 515, 518, 518A, or 520.
13. *"NIPR gateway"* means the communication network developed and operated by the national insurance producer registry that links state insurance regulators with regulated entities to facilitate the electronic exchange of adjuster information, including but not limited to license applications, license renewals, appointments, and terminations.
14. *"Party"* means an insurer or a claimant, including an employee, contractor, and other representative of an insurer or claimant.
15. *"Person"* means an individual or a business entity.
16. *"Reinstatement"* means the reinstatement of a suspended license which was suspended in connection with a disciplinary matter, and that has not expired or been terminated during the suspension period.
17. *"Reissuance"* means the issuance of a new license following the revocation of a license, the suspension and subsequent termination of a license, or the forfeiture of a license in connection with a disciplinary matter.

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18. *"Umpire"* means a person licensed as an umpire pursuant to section 522F.9.

19. *"Umpire list"* means a list, maintained by the division, of all umpires licensed by the division.

2025 Acts, ch 28, §56

522F.2 Rules.

The commissioner may adopt rules pursuant to chapter 17A to administer this chapter.

2025 Acts, ch 28, §57

SUBCHAPTER II

APPRAISERS

522F.3 Appraiser's license — eligibility.

1. A person shall not act as, or represent that the person is, an appraiser in this state unless the person is licensed under this chapter. A person that acts as an appraiser in this state solely for a crop hail or multiperil crop insurance claim shall not be subject to this chapter.

2. A person applying for an appraiser license shall submit an application on a uniform individual application or a uniform business entity application in the form and manner prescribed by the commissioner.

3. To be eligible for licensure under this chapter, a person shall meet all of the following criteria:

a. Have experience or training in building construction, repair, or estimating property damage.

b. Unless waived by the commissioner based on the person's other professional qualifications, have a minimum of three years' experience as any of the following:

(1) A professional engineer licensed under chapter 542B or similarly licensed in another state.

(2) An architect licensed under chapter 544A or similarly licensed in another state.

(3) An adjuster licensed under chapter 522C or similarly licensed in another state.

(4) A residential contractor as defined in section 103A.71.

(5) A contractor registered under chapter 91C or similarly registered in another state.

c. (1) Pass a written examination as prescribed by the division. The examination shall test the knowledge of a person concerning the appraisal process, the duties and responsibilities of an appraiser, and the insurance laws and rules of this state. Examination results shall be valid for ninety calendar days from the date of examination.

(2) An individual who concurrently applies for an appraiser license, and a license as an adjuster under chapter 522C, may choose to take a joint examination conducted as prescribed by the division. The joint examination shall test the knowledge of the individual concerning the duties and responsibilities of an adjuster and of an appraiser, and the insurance laws and administrative rules of this state. An individual who successfully passes a joint examination, and who meets all other requirements for licensure as an appraiser, and as an adjuster under chapter 522C, shall be licensed as both an adjuster and as an appraiser.

d. Have the requisite character and competence, as determined by the division.

4. To determine an applicant's eligibility for licensure, the commissioner may require a criminal history check pursuant to section 522B.5A.

2025 Acts, ch 28, §58

Referred to in §522F.4, 522F.22

522F.4 Appraisers — licensure, license renewal, and fees.

1. A person who meets the requirements under section 522F.3, unless otherwise denied licensure pursuant to section 522F.20, shall be issued an appraiser license that is valid for two years from the date of issue.

2. The fee for a criminal history check shall be the same as any applicable fee for a criminal history check pursuant to section 522B.5A.

3. The fee for an initial appraiser license, or renewal of an appraiser license, shall be fifty

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dollars for a two-year license. An applicant who concurrently applies for both an appraiser license, and a license as an adjuster under chapter 522C, shall only be required to pay the fee required under this chapter or the fee required under chapter 522C.

4. The fee for reinstatement of an expired appraiser license shall be one hundred dollars.

5. The fee for a reinstatement or reissuance of an appraiser license suspended or revoked due to a disciplinary action shall be one hundred dollars.

6. An appraiser's license shall contain the licensee's name, business address, appraisal license number, the date of issuance, the expiration date, and any other information the division deems necessary.

7. An appraiser licensed under this chapter shall be required to complete continuing education requirements, as prescribed by the division, to be eligible for license renewal or reinstatement.

8. An appraiser licensed under this chapter shall inform the division, in the manner and form specified by the division, of a change of legal name or business address within thirty calendar days of the change. Failure to timely inform the division may result in a penalty as specified in section 522F.20.

9. The division shall publish an appraiser list on the division's internet site in a manner readily available to the public. The appraiser list shall include all of the following information for each licensed appraiser:

a. The business telephone number, business mailing address, business email address, and the county and state of residence of the appraiser as provided to the division by the appraiser for licensure.

b. The appraiser's area of training or expertise.

c. The date of the appraiser's initial licensure and the date the license expires.

10. Prior to approving a business entity's application for a license as an appraiser, the commissioner shall find that the business entity has designated an individual appraiser licensed in this state to be responsible for the business entity's compliance with the insurance laws and rules of this state.

2025 Acts, ch 28, §59; 2025 Acts, ch 159, §17
Referred to in §522F.1, 522F.5

522F.5 Appraiser license reinstatement — not related to disciplinary action.

1. An appraiser may apply for reinstatement of an expired license up to one year after the license expiration date by submitting a request through the NIPR gateway, paying a reinstatement fee and a license renewal fee, and submitting evidence to the division that the appraiser met the continuing education requirements under section 522F.4. An appraiser who fails to apply for license reinstatement within one year of the date of expiration of the appraiser's license must apply for a new license.

2. An appraiser who surrendered a license, not in connection with a disciplinary matter, and stated an intent to exit the appraiser business may file a request with the division to reactivate the appraiser license. The request must be received by the division within ninety calendar days of the date the appraiser's license was placed on inactive status. The request shall be granted if the former appraiser is otherwise eligible to receive an appraiser license. If the appraiser's request to reactivate the license is not received within ninety calendar days of the date the appraiser's license was placed on inactive status, the appraiser must apply for a new license.

3. An appraiser whose license is suspended, revoked, or forfeited in connection with a disciplinary matter, or forfeited in lieu of compliance, shall not be eligible for reinstatement under this section and must follow the procedures in section 522F.22.

2025 Acts, ch 28, §60
Referred to in §522F.22

522F.6 Appraisers — payment.

1. Each party to an appraisal shall be responsible for the following:

a. The party's own appraiser's fees and expenses.

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b. An equal share of all reasonable and necessary fees and expenses incurred by an umpire, if necessary.

c. An equal share of all reasonable and necessary costs incurred in the course of conducting the appraisal.

2. An appraiser shall not charge any party on a basis dependent on the outcome of the written itemized award, or charge in a manner that relies on a barter arrangement, gift, favor, or in-kind exchange.

3. An appraiser shall not charge, and is not entitled to, a fee, compensation, deposit, or other type of consideration if the appraiser abandons the appraisal prior to the umpire issuing a written itemized award.

2025 Acts, ch 28, §61
Referred to in §522F.11

522F.7 Appraisers — standards of conduct.

1. An appraiser shall act with due diligence, including but not limited to demonstrating accuracy, fairness, and timeliness throughout an appraisal process.

2. *a.* (1) No later than five business days after being hired by a party to an appraisal and before beginning work as an appraiser, an appraiser shall disclose to all parties to the appraisal any potential conflict of interest.

(2) An appraiser shall not engage in any act or practice that is a conflict of interest during the appraisal.

(3) If a conflict of interest arises after the start of the appraisal process, an appraiser shall disclose the conflict of interest to the parties and shall withdraw from the appraisal process no more than five business days after the conflict of interest arose.

b. A conflict of interest shall include but is not limited to all of the following:

(1) An appraiser is a party to a lawsuit against any party to an appraisal.

(2) An appraiser is a party to, or a member or employee of a law firm that represents a party to, a current lawsuit involving an insurer that is a party to the appraisal.

(3) An appraiser has personally investigated, prosecuted, or advocated in connection with the appraisal.

(4) An appraiser has acted as counsel to any party to an appraisal within the two years immediately preceding the appraisal.

(5) An appraiser has a personal financial interest in the outcome of the appraisal or any other significant interest that could be substantially affected by the outcome of the appraisal.

(6) A member of an appraiser's immediate family is any of the following:

(a) A party to the appraisal, or an officer, director, or trustee of a party.

(b) A current employee of an appraiser or an adjuster to the appraisal.

(c) A business entity licensed as an adjuster that adjusted the loss at issue in the appraisal.

(d) Known to have an interest that could be substantially affected by the outcome of the appraisal.

(e) An immediate family member that has a legally sufficient reason that requires the appraiser to withdraw from the appraisal.

3. An appraiser shall postpone an appraisal for a reasonable amount of time if any party demonstrates reasonable cause for a postponement. The appraiser shall notify all parties if the appraisal process is postponed. An appraiser's failure to timely notify all parties may result in a penalty under sections 522F.20 and 522F.21.

4. In the course of an appraisal, an appraiser shall consider all information provided by the parties and any other reasonably available evidence that is material to the appraisal.

5. In the course of an appraisal, an appraiser shall carefully decide all issues submitted for determination of the amount of loss and actual cash value.

6. In the course of an appraisal, an appraiser shall provide all parties a fair and reasonable itemized written appraisal detailing the amount of loss and actual cash value.

7. In the course of an appraisal, an appraiser shall ensure the appraiser's party is reasonably informed of all updates throughout the appraisal process.

8. An appraiser shall not permit outside influence to affect an appraisal.

9. An appraiser shall not allow a person other than the umpire for the appraisal to

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determine differences between the actual cash value and the amount of loss of each item on the appraisal.

10. *a.* An appraiser shall not communicate directly or indirectly with any of the following:

(1) An opposing party or representative of the opposing party other than the opposing party's appraiser.

(2) The umpire, unless reasonable notice and opportunity to participate in the communication is provided to an opposing appraiser.

b. Notwithstanding paragraph "*a*", an appraiser may communicate with an opposing party or an umpire in order to do any of the following:

(1) Identify the party's counsel or experts.

(2) Discuss logistical matters, including the time and place of a meeting or to make arrangements for the conduct of the appraisal. The appraiser initiating contact with the umpire shall promptly inform an opposing appraiser.

(3) If an opposing appraiser fails to participate in a meeting or conference call after receiving reasonable notice and opportunity to participate, or if all parties agree in writing in advance of a meeting or conference call, an appraiser may discuss a claim with the umpire.

11. An appraiser shall not act as, or have ever acted as, an adjuster or umpire on the same claim.

12. An appraiser shall not withdraw or abandon an appraisal unless compelled by unforeseen circumstances that would render it impossible or impracticable for the appraiser to continue.

13. During the appraisal process, an appraiser may hire an outside expert to provide subject matter expertise as necessary.

2025 Acts, ch 28, §62

SUBCHAPTER III

UMPIRES

522F.8 Umpire license — eligibility.

1. An individual shall not act as, or represent that the individual is, an umpire in this state unless the individual is licensed under this chapter. An individual that acts as an umpire in this state solely for a crop hail or multiperil crop insurance claim shall not be subject to this chapter.

2. An individual applying for an umpire license shall submit an application on a uniform individual application in the form and manner prescribed by the commissioner.

3. To be eligible for licensure under this chapter, an individual shall meet all of the following criteria:

a. Unless waived by the commissioner based on the individual's other professional qualifications, have a minimum of three years' experience as any of the following:

(1) A professional engineer licensed under chapter 542B or similarly licensed in another state.

(2) An architect licensed under chapter 544A or similarly licensed in another state.

(3) An adjuster licensed under chapter 522C or similarly licensed in another state.

(4) An appraiser licensed under this chapter or similarly licensed in another state.

(5) An attorney licensed in this state, or another state, with experience in first-party property damage litigation.

(6) An insurance regulator.

b. Pass a written examination as prescribed by the division. The examination shall test the knowledge of the individual concerning the appraisal process, the duties and responsibilities of an umpire, and the insurance laws and rules of this state. Examination results shall be valid for ninety calendar days from the date of examination.

c. Have the requisite character and competence, as determined by the division.

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4. To determine an applicant's eligibility for licensure, the commissioner may require a criminal history check pursuant to section 522B.5A.

2025 Acts, ch 28, §63
Referred to in §522F.9, 522F.22

522F.9 Umpires — licensure, license renewal, and fees.

1. An individual who meets the requirements of section 522F.8, unless otherwise denied licensure pursuant to section 522F.20, shall be issued an umpire license that is valid for two years from the date of issue.

2. The fee for a criminal history check shall be the same as any applicable fee for a criminal history check pursuant to section 522B.5A.

3. The fee for an initial umpire license, or renewal of an umpire license, shall be fifty dollars for a two-year license.

4. The fee for reinstatement of an expired umpire license shall be one hundred dollars.

5. The fee for a reinstatement or reissuance of an umpire license suspended or revoked due to a disciplinary action shall be one hundred dollars.

6. An umpire's license shall contain the licensee's name, business address, umpire license number, the date of issuance, the expiration date, and any other information the division deems necessary.

7. An umpire licensed under this chapter shall be required to complete continuing education requirements, as prescribed by the division to be eligible for license renewal or reinstatement.

8. An umpire licensed under this chapter shall inform the division, in the manner and form specified by the division, of a change of legal name or business address within thirty calendar days of the change. Failure to timely inform the division may result in a penalty as specified in sections 522F.20 and 522F.21.

9. The division shall publish an umpire list on the division's internet site in a manner that is readily available to the public. The umpire list shall include all of the following information for each licensed umpire:

a. The business telephone number, business mailing address, business email address, and the county and state of residence of the umpire as provided to the division by the umpire for licensure.

b. The umpire's area of training and expertise.

c. The date of the umpire's initial licensure and the date the license expires.

2025 Acts, ch 28, §64; 2025 Acts, ch 159, §18
Referred to in §522F.1, 522F.10

522F.10 Umpire license reinstatement — not related to disciplinary action.

1. An umpire may apply for reinstatement of an expired license up to one year after the license expiration date by submitting a request through the NIPR gateway, paying a reinstatement fee, and submitting evidence to the division that the umpire met the continuing education requirements under section 522F.9. An umpire who fails to apply for license reinstatement within one year of the date of expiration of the umpire's license must apply for a new license.

2. An umpire who surrendered a license, not in connection with a disciplinary matter, and stated an intent to exit the umpire business, may file a request with the division to reactivate the umpire license. The request must be received by the division within ninety calendar days of the date the umpire's license was placed on inactive status. The request shall be granted if the former umpire is otherwise eligible to receive an umpire license. If the umpire's request to reactivate the umpire's license is not received within ninety calendar days of the date the license was placed on inactive status, the umpire must apply for a new license.

3. An umpire whose license is suspended, revoked, or forfeited in connection with a disciplinary matter, or forfeited in lieu of compliance, shall not be eligible for reinstatement under this section and must follow the procedures in section 522F.22.

2025 Acts, ch 28, §65
Referred to in §522F.22

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522F.11 Umpires — payment.

1. In addition to the costs each party is responsible for under section 522F.6, each party to an appraisal that requires an umpire shall be responsible for an equal share of all reasonable and necessary fees and expenses incurred by the umpire.

2. If the parties settle before the appraisers direct the umpire to begin work, the umpire shall not charge a fee.

3. An umpire shall not charge any party on a basis dependent on the outcome of the written itemized award, or charge in a manner that relies on a barter arrangement, gift, favor, or in-kind exchange.

4. Prior to the conclusion of an appraisal process via final settlement, or issuance of a written itemized award by an umpire, an umpire shall not require, demand, or accept any fee, retainer, compensation, deposit, or other type of consideration, unless the loss is being handled by the umpire on a time-plus-expense basis.

5. An umpire shall not charge, and is not entitled to, a fee, compensation, deposit, or other type of consideration if the umpire abandons the appraisal prior to the umpire issuing a written itemized award.

2025 Acts, ch 28, §66
Referred to in §522F.13

522F.12 Umpires — objections.

A party or appraiser that objects for good cause to a selected umpire within the time limit specified in section 522F.14, subsection 3, paragraph *"b"*, shall send the objection to all parties involved in the appraisal and, if applicable, to the judge who appointed the umpire from the umpire list under section 522F.14, subsection 3, paragraph *"d"*. A copy of the objection shall be sent to the division electronically in the form and manner prescribed by the commissioner. The objection shall include all of the following information:

1. The names of all parties involved in the dispute.
2. The name of the person submitting the objection.
3. The insurer's claim number.
4. The name of the umpire that the party or appraiser objects to.
5. An explanation of the good cause basis for the objection.

2025 Acts, ch 28, §67
Referred to in §522F.13, 522F.14

522F.13 Umpires — standards of conduct.

1. An umpire shall act with due diligence, including but not limited to demonstrating accuracy, fairness, and timeliness throughout an appraisal process.

2. *a.* (1) No later than three business days after being hired by the parties to an appraisal and before beginning work as an umpire to the appraisal, an umpire shall disclose to all parties to the appraisal any potential conflict of interest. If a conflict of interest exists, the umpire shall withdraw from the appraisal.

(2) An umpire shall not engage in any act or practice that is a conflict of interest during the appraisal.

(3) If a conflict of interest arises after the start of an appraisal process, an umpire shall disclose the conflict of interest to the parties and shall withdraw from the appraisal process.

b. A conflict of interest shall include but is not limited to the following:

(1) An umpire is a party to a lawsuit against any party to an appraisal.

(2) An umpire is a party to, or a member or employee of a law firm that represents a party to, a current lawsuit involving an insurer that is party to the appraisal.

(3) An umpire has a personal open claim involving an insurer that is a party to the appraisal.

(4) An umpire has a personal bias or prejudice against a party.

(5) An umpire has personally investigated, prosecuted, or advocated in connection with the appraisal.

(6) An umpire has acted as counsel to any party to an appraisal within the two years immediately preceding the appraisal.

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(7) An umpire has a personal financial interest in the outcome of the appraisal or any other significant interest that could be substantially affected by the outcome of the appraisal.

(8) A member of an umpire's immediate family is any of the following:

(a) A party to the appraisal, or an officer, director, or trustee of a party.

(b) A current employee of an appraiser or an adjuster to the appraisal.

(c) A business entity licensed as an adjuster that adjusted the loss at issue in the appraisal.

(d) Known to have an interest that could be substantially affected by the outcome of the appraisal.

(e) An immediate family member that has a legally sufficient reason that requires the umpire to withdraw from the appraisal.

3. Prior to beginning work as an umpire, an umpire shall enter into a written contract with all parties to the appraisal that requires the parties and the umpire to comply with this section, and provides that each party shall pay costs as required under section 522F.11.

4. An umpire shall not begin work on a claim until the umpire receives each appraiser's differences in actual cash value and amount of loss of each item of the claim, and written approval from the parties for the umpire to begin work.

5. No later than three business days after receiving notice of selection for an appraisal, an umpire shall send notice to the parties and the appraisers that includes all of the following:

a. A statement informing each party if the umpire is insured by an insurer.

b. A statement informing each party of the party's respective right to object to the umpire under section 522F.12.

6. An umpire shall address only issues in an appraisal that the appraisers disagree on.

7. An umpire shall review all information submitted by the appraisers and parties related to the dispute, including but not limited to the itemized appraisals or estimates, supporting documents, photographs, and diagrams. The umpire shall review the differences between what each appraiser submitted and seek agreement by the appraisers regarding the disputed issues.

8. An umpire shall allow each appraiser to a claim a fair opportunity to present evidence and arguments regarding the appraisal.

9. An umpire shall ask questions, or request documents or other evidence, as the umpire deems necessary in the course of an appraisal.

10. An umpire may accept either appraiser's scope, quantity, value, or cost regarding an item in dispute, or develop an independent decision on each item in dispute.

11. An umpire shall decide all matters in an appraisal fairly, and shall exercise independent judgment and integrity.

12. An umpire shall prepare and distribute a written itemized award pursuant to section 522F.16.

13. An umpire shall not visit the claimant's damaged property without consent from all appraisers.

14. An umpire shall not withdraw or abandon an appraisal unless compelled by unforeseen circumstances that would render it impossible or impracticable for the umpire to continue on a claim.

15. An umpire shall not attend or participate in settlement discussions unless requested to do so by all parties.

16. An umpire shall not permit outside influences to affect an appraisal.

17. An umpire shall not delegate the umpire's duty to decide a claim to any other person.

18. Unless reasonable notice and opportunity to participate in a communication is provided to an opposing party and the opposing party's appraiser, an umpire shall not communicate, directly or indirectly, with any party or appraiser regarding a pending appraisal.

19. Unless reasonable notice and opportunity to participate in a communication is provided to all parties, an umpire shall not communicate, directly or indirectly, with any party, a representative of any party, or any other person with a direct or indirect interest in the claim, regarding an issue of fact or law in the appraisal.

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20. An umpire shall not act as, or have ever acted as, an adjuster or appraiser on the same claim.

2025 Acts, ch 28, §68

SUBCHAPTER IV

APPRAISALS

522F.14 Appraisal process.

1. This section provides for the appraisal process if all of the following apply:

a. The claimant's insurance policy is delivered, issued for delivery, or renewed in this state.

b. The property that is the subject of the claimant's claim is located in this state, or the dispute is subject to jurisdiction in this state.

c. A claimant gave proper notice to the claimant's insurer of a loss claim, and the claimant and insurer dispute the actual cash value of the scope of loss, or the amount of loss the insurer will pay, for the claimant's claim under the claimant's policy. The claimant and the insurer must both provide the other party with a scope of loss of a covered peril, including a list stating separately the actual cash value and the amount of claimed loss for each item.

d. The claimant or insurer demands in writing an appraisal.

2. Within twenty calendar days following either the claimant's or insurer's receipt of the other party's written demand for an appraisal, the claimant and the insurer shall each select an appraiser from the appraiser list. Upon selection, the appraiser shall attest in writing to the selecting party that the appraiser is competent and disinterested with regards to the appraisal in question.

3. *a.* Within fifteen calendar days of the selection of appraisers pursuant to subsection 2, both appraisers shall agree on an umpire from the umpire list.

b. A party or an appraiser may object to the agreed-upon umpire for good cause pursuant to section 522F.12 no later than five business days after the umpire has been selected. A replacement umpire from the umpire list shall then be agreed upon by both appraisers.

c. If both appraisers fail to agree on an umpire, either the claimant or insurer shall immediately provide written notice to the division, in the form and manner prescribed by the division, and the division shall randomly select an umpire from the umpire list and notify the parties.

d. If either appraiser requests that an umpire be selected by a judge in the state in which the property that is the subject of the claim is located, a judge shall give deference to the randomly selected umpire from the umpire list by the division unless either the claimant or the insurer provides good cause for the judge to make an alternative selection from the umpire list.

4. Within forty-five calendar days from the date the umpire is selected, both appraisers shall appraise the loss, stating separately the actual cash value and the amount of loss for each item. Each appraiser shall submit separately the appraiser's actual cash value and amount of loss of each item, along with any supporting information, to the umpire. Each appraiser shall also submit written authorization for the umpire to commence the umpire's work.

5. No later than forty-five calendar days after receipt of the actual cash value and amount of loss under subsection 4, the umpire shall prepare and provide to the parties and each appraiser a written itemized award showing the actual cash value and amount of loss. The written itemized award shall include but is not limited to all of the following:

a. Contact information for each appraiser and the umpire.

b. The insured's policy number and the insured's claim number.

c. The date of the insured's loss.

d. The type of covered peril that caused the loss.

e. The date the umpire commenced work.

f. The legal name of the insurer.

g. The physical address of the property on which the insured made a claim.

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h. The date of the umpire's written itemized award.

i. (1) A description and itemization of the final written itemized award by coverage type, including but not limited to:

(a) Coverage A — dwelling.

(b) Coverage B — other structures.

(c) Coverage C — personal property.

(2) The description and itemization by coverage type shall include contested items that have been resolved, sublimits, and other disputed items. Items, including but not limited to items with sublimits, shall be separately noted to avoid ambiguity in the final written itemized award.

j. The signature of the umpire and at least one appraiser.

6. Prior to the umpire issuing the written itemized award, the parties may agree to conclude the appraisal process when the parties reach a final settlement.

2025 Acts, ch 28, §69
Referred to in §522F.12

522F.15 Appraisal clause.

All property insurance policies delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2026, shall contain an appraisal clause that complies with this chapter.

2025 Acts, ch 28, §70

522F.16 Appraisal award.

1. An appraiser and umpire shall act with due diligence in achieving an appraisal award.

2. An insurer's payment of an appraisal award to an insured shall be subject to the limits of coverage, and other terms and conditions of the insured's policy, including reductions for deductibles and prior payments. The insurer shall provide the insured with an itemized and detailed written explanation of the payment of the settlement, including an explanation of any item that is specifically denied under the terms of the policy. Unless otherwise agreed upon by the parties in writing, an appraisal award shall be binding and paid by the insurer within sixty calendar days of the written itemized award being submitted to the insurer.

3. An insurer's motion to vacate an appraisal award for good cause shall be filed within thirty calendar days from the date the insurer receives the written itemized award in the court of record.

2025 Acts, ch 28, §71
Referred to in §522F.13

SUBCHAPTER V

DUTIES OF LICENSEES

522F.17 Reporting of actions.

1. An appraiser or umpire shall report to the commissioner any administrative action taken against the appraiser or umpire in another jurisdiction or by another administrative agency in this state within thirty calendar days of the final disposition of the matter. This report shall include a copy of the order, consent to the order, and other relevant legal documents.

2. Within thirty calendar days of the initial pretrial hearing date, an appraiser or umpire shall report to the commissioner any criminal prosecution of the appraiser or umpire taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.

3. An appraiser or umpire who willfully fails to comply with this section is subject to penalty under section 522F.20.

2025 Acts, ch 28, §72

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522F.18 Records — appraisers and umpires.

1. An appraiser or umpire shall have a continuing duty and obligation to keep, at the appraiser's or umpire's place of business, usual and customary records pertaining to appraisals undertaken by the appraiser or umpire. All such records shall be kept available for inspection by the commissioner or the commissioner's agent during regular business hours. The commissioner or the commissioner's agent shall not be entitled to inspect any records prepared in anticipation of litigation or that are subject to any privilege recognized in chapter 622. Such records shall be maintained for a minimum of three years following the date of final claim resolution.

2. An appraiser or umpire who willfully fails to comply with this section is subject to penalty under section 522F.20.

2025 Acts, ch 28, §73

SUBCHAPTER VI

HEARINGS AND PENALTIES

522F.19 Hearings — service of process, attendance of witnesses, and production of documents.

1. Whenever the commissioner believes that a person has been engaged, or is engaging, in a violation of this chapter or a rule adopted or an order issued under this chapter, and that a proceeding by the commissioner would be in the public interest, the commissioner shall issue and serve upon the person a statement of the charges and a notice of a hearing on the charges to be held at the time and place set in the notice, which shall not be less than ten business days after the date of service of such notice.

2. At the time and place of such hearing, the person shall have an opportunity to be heard and to show cause why an order should not be made by the commissioner requiring the person to cease and desist from the violation of the chapter, rule, or order. Upon a showing of good cause, the commissioner shall permit any person, by counsel or in person, to intervene, appear, and be heard at such hearing.

3. A hearing under this section shall not be required to observe formal rules of pleading or evidence.

4. The commissioner, at a hearing under this section, may administer oaths, examine and cross-examine witnesses, receive oral and documentary evidence, and may subpoena witnesses, compel their attendance, and require the production of books, papers, records, correspondence, or other documents which the commissioner deems relevant. The commissioner may, and upon the request of any party shall, cause to be made a stenographic record of the evidence and proceedings of a hearing under this section. If no stenographic record is made and if a judicial review is sought, the commissioner shall prepare a statement of the evidence and proceeding for use on review. If a person refuses to comply with a subpoena issued under this section, or to testify to a matter for which the person may lawfully be interrogated, the district court of Polk county or the district court of the county where the person resides, on application of the commissioner, may issue an order requiring such person to comply with such subpoena or to testify. Failure of a person to obey such order of the court may be punished by the court as contempt.

5. Statements of charges, notices, orders, subpoenas, and other processes of the commissioner under this chapter may be served by anyone authorized by the commissioner, either in the manner provided by law for service of process in civil actions, or by mailing a copy by restricted certified mail to the person affected by the statement, notice, order, subpoena, or other process at the person's residence or principal office or place of business. The verified return by the person serving the statement, notice, order, subpoena, or other process, setting forth the manner of such service, shall be proof of service, and the return

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receipt for the statement, notice, order, subpoena, or other process, mailed by restricted certified mail, shall be proof of the service.

2025 Acts, ch 28, §74
Referred to in §522F.20

522F.20 License denial, nonrenewal, or revocation — penalties.

1. The division may place on probation, suspend, revoke, or refuse to issue or renew an appraiser's license or an umpire's license, and may levy a civil penalty against an appraiser or umpire as provided in section 522F.21, for one or more of the following causes:

a. The appraiser or umpire provided incorrect, misleading, incomplete, or materially untrue information in a license application.

b. The appraiser or umpire violated an insurance law, regulation, subpoena, or order of the commissioner or of a commissioner of another state.

c. The appraiser or umpire obtained or attempted to obtain a license through misrepresentation or fraud.

d. The appraiser or umpire improperly withheld, misappropriated, or converted money or property received from an insured in the course of doing business.

e. The appraiser or umpire was convicted of a felony.

f. The appraiser or umpire committed, or was found to have committed, any unfair trade practice or fraud.

g. The appraiser or umpire used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business.

h. The appraiser or umpire had any professional license, or its equivalent, denied, suspended, or revoked in this state or any other state, province, district, or territory.

i. The appraiser or umpire forged another's name to any document related to an appraisal.

j. The appraiser or umpire improperly used notes or any other reference material to complete an examination for an appraisal license or umpire license.

k. The appraiser knowingly negotiated as an appraiser with an individual who is not, but is required to be, licensed as an appraiser during an appraisal.

l. The umpire knowingly acted as an umpire during the conduct of an appraisal with an individual who is not, but is required to be, licensed as an appraiser during an appraisal.

m. The appraiser or umpire failed to comply with an administrative or court order related to repayment of loans to the college student aid commission.

n. The appraiser or umpire failed to pay state income tax or comply with any administrative or court order directing payment of state income tax.

o. The appraiser or umpire failed to comply with an administrative or court order imposing a child support obligation.

p. The appraiser or umpire failed or refused to cooperate in an investigation conducted by the commissioner or the commissioner's designee.

q. The appraiser or umpire used an appraiser license or umpire license for the principal purpose of procuring, receiving, or forwarding appraisals, or placing or affecting such appraisals, directly or indirectly, on or in connection with the property of the licensee or the property of a relative, employer, or employee of the licensee, or upon or in connection with property for which the licensee or a relative, employer, or employee of the licensee is an agent, custodian, vendor, bailee, trustee, or payee.

2. If the commissioner does not renew a license or denies an application for a license, the commissioner shall notify the applicant, appraiser, or umpire in writing of the reason for the nonrenewal of the license or denial of the application for a license. The applicant, appraiser, or umpire may request a hearing on the nonrenewal or denial. The applicant, appraiser, or umpire shall have thirty calendar days from the date of receipt of the notice to file a written request for a hearing. A hearing shall be conducted according to section 522F.19.

3. The license of an umpire, an appraiser, or an appraiser business entity may be suspended, revoked, placed on probation, or refused if the commissioner finds, after hearing, that an umpire's, appraiser's, or appraiser business entity's violation was known or should

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have been known by a partner, officer, or manager of the business entity and the violation was not reported to the commissioner and corrective action was not taken.

4. In addition to, or in lieu of, denial, probation, suspension, or revocation of a license under this section, an appraiser or umpire, after hearing, may be subject to a civil penalty as provided in section 522F.21.

5. The commissioner may enforce this chapter, may conduct an investigation of any suspected violation of this chapter, and may impose any penalty or remedy authorized by this chapter against any person who is under investigation for, or charged with, a violation of this chapter even if the person's license has been surrendered or has lapsed by operation of law.

6. *a.* All complaint files, investigation files, investigation reports, and other investigative information in the possession of the commissioner or the commissioner's agents that relates to appraiser or umpire discipline shall be privileged and confidential, and shall not be subject to discovery, subpoena, or other means of legal compulsion for release to a person other than the appraiser or umpire, and shall not be admissible in evidence in a judicial or administrative proceeding other than the proceeding involving the appraiser or umpire discipline. A final written decision of the commissioner in a disciplinary proceeding shall be a public record.

b. Investigative information in the possession of the commissioner or the commissioner's agent that relates to appraiser or umpire discipline may be disclosed at the discretion of the commissioner. The commissioner may share documents, materials, or other information, including confidential and privileged documents, materials, or information under this subsection with other state, federal, and international regulatory agencies, with NAIC and its affiliates or subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information.

c. If the investigative information in the possession of the commissioner or the commissioner's agents indicates a crime has been committed, the information shall be reported to the proper law enforcement agency.

7. *a.* Pursuant to section 17A.19, subsection 6, upon an appeal by the appraiser or umpire, the commissioner shall transmit the entire record of the contested case to the reviewing court.

b. Notwithstanding section 17A.19, subsection 6, if a waiver of privilege has been involuntary and evidence has been received at a disciplinary hearing, the court shall issue an order to withhold the identity of the individual whose privilege was waived.

2025 Acts, ch 28, §75
Referred to in §522B.5A, 522F.4, 522F.7, 522F.9, 522F.17, 522F.18

522F.21 Civil and criminal penalties.

1. *a.* Upon a determination by the commissioner, after a hearing conducted pursuant to chapter 17A, that a person violated this chapter, the commissioner shall reduce the findings of the hearing to writing and deliver a copy of the findings to the person.

b. Upon a determination by the commissioner that a person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of this chapter or a rule adopted or order issued under this chapter, the commissioner may take the following actions:

(1) Issue an order requiring the person to cease and desist from engaging in the conduct resulting in the violation.

(2) Assess a civil penalty against the person of not more than one thousand dollars for each violation not to exceed an aggregate of ten thousand dollars.

(3) If the person knew or reasonably should have known the person was in violation of this chapter, assess a civil penalty of not more than five thousand dollars for each violation of this chapter not to exceed an aggregate penalty of fifty thousand dollars in any one six-month period.

(4) (a) Issue a summary order, including a brief statement of findings of fact, conclusions of law, and policy reasons for the decision, and directing the person to cease and desist from engaging in the act or practice or to take affirmative action as is necessary in the judgment of the commissioner to comply with the requirements of this chapter.

(b) A person may contest a summary order by filing, within thirty calendar days from

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the date of the issuance of the summary order, a written request for a contested case proceeding and hearing as provided in chapter 17A and in accordance with rules adopted by the commissioner. Section 17A.18A shall be inapplicable to a summary order issued under this subsection. If a hearing is not requested within thirty calendar days from the date of issuance of the summary order, the summary order shall become final by operation of law. A summary order shall remain effective from the date of issuance until the date the order becomes final by operation of law, or is modified or overturned by a presiding officer or court following a request for hearing.

(c) A person violating a summary order issued under this subsection shall be deemed in contempt of the summary order. The commissioner may petition the district court to enforce the order as certified by the commissioner. The district court shall find the person in contempt of the order if the court finds, after conducting a hearing, that the person is not in compliance with the order. The court may assess a civil penalty against the person and may issue further orders as the court deems appropriate.

c. In addition to any other penalty under this section, if the commissioner finds that a violation of this chapter was directed, encouraged, condoned, ignored, or ratified by the employer of the appraiser or umpire, the commissioner shall assess a penalty to the employer. Penalties under this paragraph may be retained by the commissioner under the fund described in section 505.7, subsection 9.

2. *a.* A person acting as an appraiser or an umpire without proper licensure, or an appraiser or an umpire who willfully violates any provision of this chapter or an order issued under this chapter, is guilty of a class "D" felony. If the violation results in a loss of more than ten thousand dollars, the appraiser or an umpire is guilty of a class "C" felony.

b. The commissioner may refer such evidence as is available concerning a violation of this chapter, or of any rule adopted or order issued under this chapter, or of the failure of a person to comply with the licensing requirements of this chapter, to the attorney general or the proper district attorney who may institute the appropriate criminal proceedings under this chapter.

c. This chapter shall not limit the power of the state to punish any person for any conduct that constitutes a crime under any other statute.

2025 Acts, ch 28, §76
Referred to in §522F.7, 522F.9, 522F.20

522F.22 Reinstatement or reissuance of license after disciplinary matters — forfeiture in lieu of compliance.

1. *a.* A person licensed under this chapter as an appraiser or umpire whose license has been revoked or suspended by order, or who forfeited a license in connection with a disciplinary matter, may apply to the commissioner for reinstatement or reissuance in accordance with the terms of the order of revocation or suspension, or the order accepting the forfeiture, and submit to a criminal history check under section 522B.5A.

b. (1) Proceedings for reinstatement or reissuance shall be initiated by the applicant who shall file with the commissioner an application for reinstatement or reissuance after disciplinary action.

(2) An appraiser shall not be eligible for reinstatement or reissuance until the appraiser satisfies the requirements under section 522F.3 and pays any required fees. An appraiser may be required to submit a new or renewal appraiser application under section 522F.5.

(3) An umpire shall not be eligible for reinstatement or reissuance until the umpire satisfies the requirements under section 522F.8 and pays any required fees. An umpire may be required to submit a new or renewal umpire application under section 522F.10.

c. An application for reinstatement or reissuance shall allege facts which, if established, are sufficient to enable the commissioner to determine that the basis of revocation, suspension, or forfeiture of the applicant's license no longer exists, and must disclose if the applicant has engaged in any conduct listed as a cause for licensing action that was not included in the order for suspension, revocation, or forfeiture.

d. An application for reinstatement or reissuance shall allege facts which, if established, are sufficient to enable the commissioner to determine that it is in the public interest for the

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application to be granted. The commissioner may determine that it is not in the public interest if the applicant has engaged in any conduct listed as a cause for licensing action that was not included in the order for suspension, revocation, or forfeiture, or if the applicant does not have the character and fitness to be a licensed appraiser or umpire in this state.

e. The burden of proof to establish facts identified in paragraphs *"c"* and *"d"* shall be on the applicant.

f. A person licensed as an appraiser or an umpire may request reinstatement of a suspended license prior to the end of the suspension term.

g. Unless otherwise provided by law, if an order of revocation or suspension did not establish terms upon which reinstatement or reissuance may occur, or if the license was forfeited, an initial application for reinstatement or reissuance shall not be made until at least one year from the date of the order of the suspension, revocation, or acceptance of the forfeiture of a license.

2. All proceedings upon the application for reinstatement or reissuance, including preliminary and ancillary matters, shall be held in accordance with chapter 17A. The application shall be docketed in the original case in which the original license was suspended, revoked, or forfeited, if the case exists.

3. An order of reinstatement or reissuance shall be based on a written decision which incorporates findings of fact and conclusions of law. An order granting an application for reinstatement or reissuance may impose such terms and conditions as the commissioner or the commissioner's designee deems appropriate, which may include one or more penalties provided under this chapter. The order shall be a public record and may be disseminated in compliance with chapter 22.

4. If an appraiser's or umpire's ordered suspension period ends prior to the appraiser's or umpire's license expiration date and the appraiser or umpire applies for reinstatement prior to the license expiration date and meets all applicable requirements, the division shall reinstate the license as soon as practicable but no earlier than the end of the suspension period if the division, after a complete review, determines the license should be reinstated.

5. If an appraiser's or umpire's license is suspended beyond the appraiser's or umpire's license expiration date, whether due to an ordered suspension time period or failure to apply for reinstatement prior to expiration, the appraiser or umpire must apply for reissuance.

6. A submission of voluntary forfeiture of a license shall be made in writing to the commissioner. Forfeiture of a license is effective upon the date of submission unless a contested case proceeding is pending on the date of submission. If a contested case proceeding is pending, the forfeiture shall become effective upon conditions as required by order of the commissioner. A forfeiture made during the pendency of a contested case proceeding shall be considered a disciplinary action and shall be published in the same manner as is applicable to any other form of disciplinary order.

7. The commissioner shall not be prohibited from denying an application for reinstatement or reissuance, or bringing an additional immediate action, if an appraiser or umpire has engaged in an additional violation of chapter 507B or this chapter or otherwise failed to meet all applicable requirements.

8. This section shall not apply to reinstatement of an expired license or issuance of a new license that is not in connection with a disciplinary matter.

2025 Acts, ch 28, §77
Referred to in §522F.5, 522F.10, 522F.23

522F.23 Suspension for failure to pay child support or state debt.

1. The commissioner shall deny an appraiser's or umpire's application for license issuance, renewal, reinstatement, or reissuance; suspend a current license; or revoke a currently suspended license upon receipt of a certificate of noncompliance from the child support recovery unit pursuant to chapter 252J, or upon receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue pursuant to chapter 272D.

2. Upon receipt of a certificate of noncompliance under subsection 1, the commissioner shall issue a notice to the appraiser or umpire that the division will, unless the certificate

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of noncompliance is withdrawn, deny the appraiser's or umpire's application for license issuance, renewal, reinstatement, or reissuance, suspend the appraiser's or umpire's current license, or revoke the appraiser's or umpire's currently suspended license, thirty calendar days after the date the notice is mailed. Notice shall be sent to the appraiser's or umpire's last known address by restricted certified mail, return receipt requested, or in accordance with the division's rules for service. The notice shall contain all of the following:

a. A statement that the commissioner intends to deny the appraiser's or umpire's application for license issuance, renewal, reinstatement, or reissuance; suspend the appraiser's or umpire's current license; or revoke the appraiser's or umpire's currently suspended license in thirty calendar days unless the certificate of noncompliance is withdrawn.

b. A statement that the appraiser or umpire must contact the agency that issued the certificate of noncompliance to request a withdrawal.

c. A statement that the appraiser or umpire does not have a right to a hearing before the division, but that the appraiser or umpire may file an application for a hearing in district court pursuant to section 252J.9 or 272D.9, as applicable, and that the filing of an application by the appraiser or umpire will stay the proceedings of the division.

d. A copy of the certificate of noncompliance.

3. An appraiser or umpire shall keep the commissioner informed of all actions taken by the district court or the issuing agency in connection with a certificate of noncompliance. An appraiser or umpire shall provide to the commissioner, within seven calendar days of filing or issuance, a copy of all applications filed with the district court pursuant to an application or hearing, all court orders entered in such action, and all withdrawals of a certificate of noncompliance.

4. If an applicant, appraiser, or umpire timely files an application for hearing in district court and the division is notified of the filing, the commissioner's denial, suspension, or revocation proceedings shall be stayed until the division is notified by the district court, the issuing agency, the licensee, or the applicant of the resolution of the application. Upon receipt of a court order lifting the stay or otherwise directing the commissioner to proceed, the commissioner shall continue with the intended action described in the notice.

5. If the commissioner does not receive a withdrawal of the certificate of noncompliance from the issuing agency, or a notice from a clerk of court, the issuing agency, the appraiser, the umpire, or the applicant that an application for hearing has been filed within thirty calendar days after the notice is issued, the commissioner shall deny the applicant's, appraiser's, or umpire's application for license issuance, renewal, reinstatement, or reissuance; suspend a current license; or revoke a currently suspended license.

6. Upon receipt of a withdrawal of a certificate of noncompliance from the issuing agency, suspension or revocation proceedings shall halt and the named appraiser or umpire shall be notified that the proceedings have halted. If the appraiser's or umpire's license has already been suspended, the appraiser or umpire must apply for reinstatement in accordance with section 522F.22, and the license shall be reinstated if the appraiser or umpire is otherwise in compliance with this chapter. If the appraiser's or umpire's application for licensure was stayed, application processing shall resume. All fees required for license renewal, reinstatement, or reissuance must be paid by an appraiser or umpire, and all continuing education requirements shall be satisfied, before the appraiser's or umpire's license is renewed or reinstated after a license suspension or revocation under this chapter.

7. The commissioner shall notify an appraiser or umpire in writing through regular first class mail, or such other means as the commissioner deems appropriate under the circumstances, within ten calendar days of the effective date of the suspension or revocation of the appraiser's or umpire's license, and shall also notify the appraiser or umpire when the appraiser's or umpire's license is reinstated following the commissioner's receipt of a withdrawal of the certificate of noncompliance.

8. Notwithstanding any provision of law to the contrary, the division may share information with the child support recovery unit or the centralized collection unit of the

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department of revenue for the sole purpose of identifying appraisers or umpires subject to enforcement under chapter 252J or 272D.

2025 Acts, ch 28, §78

SUBCHAPTER VII

MISCELLANEOUS PROVISIONS

522F.24 Severability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

2025 Acts, ch 28, §79

CHAPTER 523

ELECTIONS AND INSIDER TRADING

Referred to in §87.4, 296.7, 331.301, 364.4, 505.28, 505.29, 669.14, 670.7

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523.7 Statement of stock ownership filed with commissioner.
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523.1 Proxies authorized.

Any insurance company or association organized under the laws of this state, may provide in its articles of incorporation, that its members or stockholders may vote by proxies, voluntarily given, upon all matters of business coming before the stated or called meetings of the stockholders or members, including the election of directors.

[S13, §1821-x; C24, 27, 31, 35, 39, §**9124;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §523.1]

523.2 Conditions.

The commissioner of insurance shall promulgate such rules with respect to the solicitation and voting of proxies as will in the commissioner's opinion best protect the interests of all stockholders or policyholders from whom they are solicited. Any violation of any rule promulgated hereunder shall be deemed a simple misdemeanor.

[S13, §1821-x; C24, 27, 31, 35, 39, §**9125;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §523.2]

523.3 and 523.4 Reserved.

523.5 Proportionate representation. Repealed by 2007 Acts, ch 137, §30.

523.6 Amendment of articles. Repealed by 2007 Acts, ch 137, §30.

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523.7 Statement of stock ownership filed with commissioner.

1. Every person who is directly or indirectly the beneficial owner of more than ten percent of any class of any equity security of a domestic stock insurance company, or who is a director or an officer of such company, shall file in the office of the commissioner of insurance as prescribed by rule a statement, in a form as the commissioner may prescribe, of the amount of all equity securities of the company of which the person is the beneficial owner.

2. Within the time frame prescribed by rule, if there has been a change in the ownership during a time period prescribed by rule, a person who is directly or indirectly the beneficial owner of more than ten percent of any class of any equity security of a domestic stock insurance company, or who is a director or an officer of such company, shall file in the office of the commissioner a statement, in a form as the commissioner may prescribe, indicating the person's ownership at the close of the time period prescribed by rule and any changes in the person's ownership as have occurred during the time period prescribed by rule.

[C66, 71, 73, 75, 77, 79, 81, §523.7]
2003 Acts, ch 91, §50
Referred to in §523.11, 523.12, 523.13, 523.14

523.8 Profit in trading stock to inure to company.

For the purpose of preventing the unfair use of information which may have been obtained by such beneficial owner, director or officer by reason of the relationship to such company, any profit realized by the beneficial owner, director or officer from any purchase and sale, or any sale and purchase, of any equity security of such company within any period of less than six months, unless such security was acquired in good faith in connection with a debt previously contracted, shall inure to and be recoverable by the company, irrespective of any intention on the part of such beneficial owner, director or officer in entering into such transaction of holding the security purchase or of not repurchasing the security sold for a period exceeding six months. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the company, or by the owner of any security of the company in the name and in behalf of the company if the company shall fail or refuse to bring such suit within sixty days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than two years after the date such profit was realized. This section shall not be construed to cover any transaction where such beneficial owner was not such both at the time of the purchase and sale, or the sale and purchase, of the security involved, or any transaction or transactions which the commissioner by rules and regulations may exempt as not comprehended within the purpose of this section.

[C66, 71, 73, 75, 77, 79, 81, §523.8]
Referred to in §523.10, 523.11, 523.12, 523.13, 523.14

523.9 Penalty for selling stock not directly owned by seller.

It shall be unlawful for any such beneficial owner, director or officer, directly or indirectly, to sell any equity security of such company if the person selling the security or the person's principal does not own the security sold, or if owning the security, does not deliver it against such sale within twenty days thereafter, or does not within five days after such sale deposit it in the mails or other usual channels of transportation; but no person shall be deemed to have violated this section if the person proves that notwithstanding the exercise of good faith the person was unable to make such delivery or deposit within such time, or that to do so would cause undue inconvenience or expense.

[C66, 71, 73, 75, 77, 79, 81, §523.9]
Referred to in §523.10, 523.11, 523.12, 523.13, 523.14

523.10 Exceptions — rules by commissioner.

The provisions of section 523.8 shall not apply to any purchase and sale, or sale and purchase, and the provisions of section 523.9 shall not apply to any sale, of an equity security of a domestic stock insurance company not then or theretofore held in an investment account by a dealer in the ordinary course of the dealer's business and incident to the establishment or maintenance by the dealer of a primary or secondary market (otherwise

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than on an exchange as defined in the Securities Exchange Act of 1934) for such security. The commissioner may, by such rules and regulations as the commissioner deems necessary or appropriate in the public interest, define and prescribe terms and conditions with respect to securities held in an investment account and transactions made in the ordinary course of business and incident to the establishment or maintenance of a primary or secondary market.

[C66, 71, 73, 75, 77, 79, 81, §523.10]
Referred to in §523.11, 523.12, 523.14

523.11 Arbitrage transactions excepted.

The provisions of sections 523.7, 523.8, and 523.9 shall not apply to foreign or domestic arbitrage transactions unless made in contravention of such rules and regulations as the commissioner may adopt in order to carry out the purposes of sections 523.7 through 523.10, this section, and sections 523.12 through 523.14.

[C66, 71, 73, 75, 77, 79, 81, §523.11]
2021 Acts, ch 80, §334
Referred to in §523.12, 523.14

523.12 Equity security defined.

The term *"equity security"* when used in sections 523.7 through 523.11, this section, and sections 523.13 and 523.14 means any stock or similar security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right; or any other security which the commissioner shall deem to be of similar nature and consider necessary or appropriate, by such rules and regulations as the commissioner may prescribe in the public interest or for the protection of investors, to treat as an equity security.

[C66, 71, 73, 75, 77, 79, 81, §523.12]
2021 Acts, ch 80, §335
Referred to in §523.11, 523.14

523.13 Exceptions as to domestic stock companies.

The provisions of sections 523.7, 523.8, and 523.9 shall not apply to equity securities of a domestic stock insurance company if either of the following apply:

1. The securities are registered, or are required to be registered, pursuant to section 12 of the Securities Exchange Act of 1934, 48 Stat. 881, 15 U.S.C. §77b et seq., as amended.

2. The domestic stock insurance company does not have any class of its equity securities held of record by one hundred or more persons on the last business day of the year next preceding the year in which equity securities of the company would be subject to the provisions of sections 523.7, 523.8, and 523.9 except for the provisions of this subsection 2.

[C66, 71, 73, 75, 77, 79, 81, §523.13]
2006 Acts, ch 1010, §144
Referred to in §523.11, 523.12, 523.14

523.14 Rules.

The commissioner shall have the power to make such rules and regulations as may be necessary for the execution of the functions vested in the commissioner by sections 523.7 through 523.13, and may for such purpose classify domestic stock insurance companies, securities, and other persons or matters, within the commissioner's jurisdiction. No provisions of sections 523.7, 523.8, and 523.9 imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule or regulation of the commissioner, notwithstanding that such rule or regulation may, after such act or omission, be amended or rescinded or determined by judicial or other authority to be invalid for any reason.

[C66, 71, 73, 75, 77, 79, 81, §523.14]
2021 Acts, ch 80, §336
Referred to in §523.11, 523.12

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CHAPTER 523A

CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL SERVICES

Referred to in §87.4, 144C.4, 144C.6, 156.12, 296.7, 331.301, 364.4, 505.28, 505.29, 507E.8, 523I.212, 523I.306, 523I.312, 523I.314, 555A.1, 669.14, 670.7

Former chapter 523A repealed by 2001 Acts, ch 118, §17 – 54, 57

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SUBCHAPTER I

SHORT TITLE AND DEFINITIONS

523A.101 Short title.

This chapter may be cited as the *"Iowa Cemetery and Funeral Merchandise and Funeral Services Act"*.

2001 Acts, ch 118, §17

523A.102 Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. *"Authorized to do business within this state"* means a person licensed, registered, or subject to regulation by an agency of the state of Iowa or who has filed a consent to service of process with the commissioner for purposes of this chapter.

2. *"Beneficiary"* means any natural person specified or included in a purchase agreement, upon whose future death cemetery merchandise, funeral merchandise, funeral services, or a combination thereof are to be provided under the purchase agreement.

3. *"Burial account"* means an account established by a person with a financial institution for the purpose of funding the future purchase of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof without any related trust agreement.

4. *"Burial trust fund"* means an irrevocable burial trust fund established by a person with a financial institution for the purpose of funding the future purchase of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof upon the death of the person named in the burial trust fund's records or a related purchase agreement. *"Burial trust fund"* does not include or imply the existence of any oral or written purchase agreement for cemetery merchandise, funeral merchandise, funeral services, or a combination thereof between the person and a seller.

5. *"Cemetery merchandise"* means foundations, grave markers, tombstones, ornamental merchandise, memorials, and monuments sold under a purchase agreement that does not require installation within twelve months of the purchase.

6. *"Commissioner"* means the commissioner of insurance or the commissioner's designee.

7. *"Delivery"* occurs when:

a. The cemetery merchandise, funeral merchandise, or the title document establishing an easement for burial rights is physically delivered to the purchaser or installed, except that burial of any item at the site of its ultimate use shall not constitute delivery for purposes of this chapter.

b. If authorized by a purchaser under a purchase agreement, cemetery merchandise has been permanently identified with the name of the purchaser or the beneficiary and delivered to a bonded warehouse or storage facility approved by the commissioner and both title to the merchandise and a warehouse receipt have been delivered to the purchaser or beneficiary and a copy of the warehouse receipt has been delivered to the seller for retention in its files.

c. If authorized by a purchaser under a purchase agreement, a polystyrene or polypropylene outer burial container has been permanently identified with the name of the purchaser or the beneficiary and delivered to a bonded warehouse or storage facility approved by the commissioner and both title to the merchandise and a warehouse receipt have been delivered to the purchaser or beneficiary and a copy of the warehouse receipt has been delivered to the seller for retention in its files.

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8. *"Doing business in this state"* means issuing or performing wholly or in part any term of a purchase agreement executed within the state of Iowa.

9. *"Financial institution"* means a state or federally insured bank, savings association, credit union, trust department thereof, or a trust company authorized to do business within this state and which has been granted trust powers under the laws of this state or the United States, which holds funds under a trust agreement. *"Financial institution"* does not include:

a. A seller.

b. Anyone employed by or directly involved with the seller in the seller's cemetery merchandise, funeral merchandise, or funeral services business.

10. *"Funeral merchandise"* means personal property used for the final disposition of a dead human body, including but not limited to clothing, caskets, vaults, urns, and interment receptacles. *"Funeral merchandise"* does not include easements for burial rights in a completed space or cemetery merchandise.

11. *"Funeral services"* means services provided for the final disposition of a dead human body, including but not limited to services necessarily or customarily provided for a funeral, or for the interment, entombment, or cremation of a dead human body, or any combination thereof. *"Funeral services"* does not include perpetual care or maintenance.

12. *"Inner burial container"* means a container in which human remains are placed for burial or entombment. Where only one container is used for burial or entombment, *"inner burial container"* includes a container serving as a burial vault, urn vault, grave box, grave liner, or lawn crypt.

13. *"Insolvent"* means the inability to pay debts as they become due in the usual course of business.

14. *"Interest or income"* means unrealized net appreciation or loss in the fair value of cemetery merchandise, funeral merchandise, and funeral services trust assets for which a market value may be determined with reasonable certainty, plus the return in money or property derived from the use of trust principal or income, net of investment losses, taxes, and expenses incurred in the sale of trust assets, any cost of the operation of the trust, and any annual audit fee. *"Interest or income"* includes but is not limited to:

a. Rent of real or personal property, including sums received for cancellation or renewal of a lease and any royalties.

b. Interest on money lent, including sums received as consideration for prepayment of principal.

c. Cash dividends paid on corporate stock.

d. Interest paid on deposit funds or debt obligations.

e. Gain realized from the sale of trust assets.

15. *"Next of kin"* means the surviving spouse and heirs at law of the deceased.

16. *"Nonguaranteed"* means that the price of the merchandise and services selected has not been fixed or guaranteed and will be determined by existing prices at the time the merchandise and services are delivered or provided.

17. *"Outer burial container"* means a container used for the burial of human remains that is used exclusively to surround or enclose an inner burial container and to support the earth above the container, commonly known as a burial vault, urn vault, grave box, or grave liner, but not including a lawn crypt.

18. *"Parent company"* means a corporation that has a controlling interest in a seller.

19. *"Personal representative"* means a personal representative as defined in section 633.3.

20. *"Provider"* means a person that provides funeral services, funeral merchandise, or cemetery merchandise purchased in a purchase agreement.

21. *"Purchase agreement"* means an agreement to furnish cemetery merchandise, funeral merchandise, funeral services, or a combination thereof when performance or delivery may be more than one hundred twenty days following the initial payment on the account.

22. *"Purchase price"* means the negotiated price for the item of merchandise or service, if itemized in the purchase agreement, or the price of the item listed in the seller's general price list at the time the purchase agreement is signed.

23. *"Purchaser"* means a person who purchases cemetery merchandise, funeral

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merchandise, funeral services, or a combination thereof. The purchaser need not be a beneficiary of the agreement.

24. *"Sales agent"* means a person, including an employee, who is authorized by a seller to sell cemetery merchandise, funeral merchandise, funeral services, or a combination thereof, on behalf of the seller.

25. *"Seller"* or *"preneed seller"* means a person doing business within this state, including a person doing business within this state who sells insurance, who advertises, sells, promotes, or offers to furnish cemetery merchandise, funeral merchandise, funeral services, or a combination thereof when performance or delivery may be more than one hundred twenty days following the initial payment on the account whether the transaction is completed or offered in person, through the mail, over the telephone, by the internet, or through any other means of commerce. *"Seller"* or *"preneed seller"* includes any person performing any term of a purchase agreement executed within this state, and any person identified under a burial account as the provider of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof. *"Seller"* or *"preneed seller"* does not include a person who has an ownership interest in a seller or preneed seller but who is not actively engaged in advertising, selling, promoting, or offering to furnish such cemetery merchandise, funeral merchandise, funeral services, or a combination thereof.

26. *"Total purchase price"* means the aggregate amount the purchaser is obligated to pay for merchandise or services pursuant to the purchase agreement, excluding any taxes, administrative charges, or financing charges.

2001 Acts, ch 118, §18; 2002 Acts, ch 1119, §78; 2004 Acts, ch 1104, §1; 2007 Acts, ch 175, §2 – 5, 51, 52; 2008 Acts, ch 1103, §1; 2012 Acts, ch 1017, §101; 2015 Acts, ch 128, §26, 50, 51; 2026 Acts, ch 1111, §2

Referred to in §422.7(34)

Subsection 7 stricken and former subsections 8 – 27 renumbered as 7 – 26

523A.103 through 523A.200 Reserved.

SUBCHAPTER II

ESTABLISHMENT OF TRUSTS — DEPOSIT, INVESTMENT, AND REPORTING REQUIREMENTS

523A.201 Establishment of trust funds.

Unless proceeding under section 523A.401, 523A.402, or 523A.403, a seller must establish a trust fund prior to advertising, selling, promoting, or offering cemetery merchandise, funeral merchandise, funeral services, or a combination thereof in this state as follows:

1. The trust fund must be established at a financial institution.

2. If a seller agrees to furnish cemetery merchandise, funeral merchandise, funeral services, or a combination thereof and performance or delivery may be more than one hundred twenty days following the initial payment on the account, a minimum of eighty percent of all payments made under a guaranteed purchase agreement or a minimum of one hundred percent of all payments made under a nonguaranteed purchase agreement shall be placed and remain in trust until the person for whose benefit the funds were paid dies.

3. If a purchase agreement for cemetery merchandise, funeral merchandise, funeral services, or a combination thereof provides that payments are to be made in installments, the seller shall deposit eighty percent of each payment made under a guaranteed purchase agreement and one hundred percent of each payment made under a nonguaranteed purchase agreement in the trust fund until the full amount required to be placed in trust has been deposited. If the purchase agreement is financed with or sold to a financial institution, the purchase agreement shall be considered paid in full and the trust requirements shall be satisfied within fifteen days after the seller receives funds from the financial institution.

4. A seller shall not invade the trust principal for any purpose.

5. Unless a seller deposits all of each payment in a trust fund that meets the requirements

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of this section and section 523A.202, the seller shall have a fidelity bond or similar insurance in an amount of not less than fifty thousand dollars to protect against the loss of purchaser payments not placed in trust within the time period required by this section and section 523A.202. The commissioner may require a greater amount as the commissioner determines is necessary. If the seller changes ownership, the fidelity bond or similar insurance shall continue in force for at least one year after the transfer of ownership.

6. Payments otherwise subject to this section are not exempt merely because they are held in certificates of deposit.

7. Commingling of trust funds with other funds of the seller is prohibited.

8. Interest or income earned on amounts deposited in trust shall remain in trust under the same terms and conditions as payments made under the purchase agreement, except that a seller may withdraw so much of the interest or income as represents the difference between the amount needed to adjust the trust funds for inflation based on the most recently released consumer price index for all urban consumers published by the United States department of labor, bureau of labor statistics, and the interest or income earned during the immediately preceding year not to exceed fifty percent of the total interest or income on a calendar-year basis. Early withdrawal of interest or income under this subsection shall not affect the purchaser's right to a credit of such interest or income in the event of a nonguaranteed price agreement, cancellation, or nonperformance by the seller.

9. The commissioner may require amendments to a trust agreement not in accord with the provisions of this chapter.

10. If a seller voluntarily or involuntarily ceases doing business and the seller's obligation to provide merchandise or services has not been assumed by another seller holding a current preneed seller's license, all trust funds, including accrued interest or income, shall be repaid to the purchaser within thirty days following the seller's cessation of business. A seller may petition the commissioner, upon a showing of good cause, for a longer period of time for repayment. A seller shall notify the commissioner at least thirty days prior to ceasing business.

2001 Acts, ch 118, §19; 2007 Acts, ch 175, §6 – 8; 2011 Acts, ch 62, §1, 2; 2026 Acts, ch 1111, §3

Referred to in §523A.202, 523A.203, 523A.207, 523A.503, 523A.807, 523A.811, 523A.901
Subsection 8 amended

523A.202 Trust fund deposit requirements.

1. All funds held in trust pursuant to section 523A.201 shall be deposited in a financial institution within fifteen days following receipt of the funds. The financial institution shall hold the funds for the designated beneficiary until released.

2. All funds required to be deposited by the purchaser or the seller for a purpose described in section 523A.201 shall be deposited consistent with one of the following methods:

a. The payments shall be deposited directly into an interest-bearing burial account in the purchaser's name.

b. The purchaser or the seller shall deposit payments directly into a separate trust account in the purchaser's name. The account may be made payable to the seller upon the death of the purchaser or the designated beneficiary, provided that, until death, the purchaser retains the exclusive power to hold, manage, pledge, and invest the trust account funds and may revoke the trust and withdraw the funds, in whole or in part, at any time during the term of the agreement.

c. The purchaser or the seller shall deposit payments directly into a separate trust account in the name of the purchaser, as trustee, for the named beneficiary, to be held, invested, and administered as a trust account for the benefit and protection of the beneficiary. The depositor shall notify the financial institution of the existence and terms of the trust, including at a minimum, the name of each party to the agreement, the name and address of the trustee, and the name and address of the beneficiary. The account may be made payable to the seller upon the beneficiary's death.

d. The payments shall be deposited in the name of the trustee, as trustee, under the terms

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of a master trust agreement and the trustee may invest, reinvest, exchange, retain, sell, and otherwise manage the trust fund for the benefit and protection of the named beneficiary.

3. The commissioner may by rule authorize other methods of deposit upon a finding that such methods provide equivalent safety of the principal and interest or income and the seller lacks access to the proceeds prior to performance.

4. This section does not prohibit moving trust funds from one financial institution to another if the commissioner is notified of the change within thirty days of the transfer of the trust funds.

2001 Acts, ch 118, §20; 2002 Acts, ch 1119, §79; 2007 Acts, ch 175, §9; 2009 Acts, ch 145, §53

Referred to in §523A.201, 523A.807

523A.203 Financial institution trustees — qualification and investment requirements.

1. A financial institution may serve as a trustee if granted those powers under the laws of this state or of the United States. A financial institution acting as a trustee of trust funds under this chapter shall invest the funds in accordance with applicable law.

2. A financial institution acting as a trustee of trust funds under this chapter has a fiduciary duty to make reasonable investment decisions and to properly oversee and manage the funds entrusted to it. The trustee shall use the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. The commissioner may take enforcement action against a financial institution in its capacity as trustee for a breach of fiduciary duty proven under this chapter.

3. Moneys deposited under a master trust agreement may be commingled by the financial institution for investment purposes if each deposit includes a detailed listing of the amount deposited in trust for each beneficiary and maintenance of a separate accounting of each purchaser's principal, interest, and income.

4. Subject to a master trust agreement, the seller may appoint an independent investment adviser to advise the financial institution about investment of the trust funds.

5. Subject to agreement between the parties, the financial institution may receive a reasonable fee from the trust funds for services rendered as trustee. The trust shall pay the trust operation costs and any annual audit fees.

6. A financial institution acting as a trustee of trust funds under this chapter shall notify each purchaser within sixty days from the date of deposit confirming that a deposit has been made establishing a trust fund for the purchaser's payments made under the purchase agreement.

7. The seller or any officer, director, agent, employee, or affiliate of the seller shall not serve as trustee. A financial institution holding trust funds shall not do any of the following:

a. Be owned, under the control of, or affiliated with a seller.

b. Use any funds required to be held in trust under this chapter to purchase an interest in any contract or agreement to which a seller is a party.

c. Otherwise invest, directly or indirectly, in a seller's business operations.

d. Use any funds required to be held in trust pursuant to section 523A.201 to purchase an insurance policy or annuity.

8. Unless proceeding under section 523A.403, investment and management decisions for all trust funds shall be made in accordance with the provisions of section 633A.4302.

2001 Acts, ch 118, §21; 2005 Acts, ch 128, §3; 2007 Acts, ch 175, §10; 2008 Acts, ch 1103, §2, 3

Referred to in §523A.807

523A.204 Preneed seller annual reporting requirements.

1. A preneed seller shall file an annual report with the commissioner not later than April 15 on a form prescribed by the commissioner.

2. A preneed seller filing an annual report shall pay a filing fee of ten dollars per purchase agreement sold during the year covered by the report. Duplicate filing fees are not required

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for the same purchase agreement. If a purchase agreement has multiple sellers, the filing fee shall be paid by the preneed seller actually providing the merchandise and services.

3. All records maintained by the commissioner under this section shall be confidential pursuant to section 22.7, subsection 58, and shall not be made available for inspection or copying except upon the approval of the commissioner or the attorney general, or except when sought by the preneed seller to whom the records relate. Such records shall be privileged and confidential in any judicial or administrative proceeding except any of the following:

a. An action commenced by the commissioner.

b. An administrative proceeding brought by the insurance division.

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

d. An action brought by the insurance division or the attorney general to recover moneys for embezzlement, misappropriation, or misuse of trust funds.

4. The commissioner may impose a late fee of five dollars for each day after April 15 that a preneed seller fails to file the preneed seller's annual report. The maximum late fee that may be imposed under this subsection is five hundred dollars. The fee shall be collected by the commissioner and deposited pursuant to section 505.7.

2001 Acts, ch 118, §22; 2007 Acts, ch 175, §11; 2009 Acts, ch 102, §1, 3; 2009 Acts, ch 181, §91; 2010 Acts, ch 1121, §23; 2015 Acts, ch 128, §27, 28, 50, 51; 2021 Acts, ch 181, §34, 35

Referred to in §22.7(58), 523A.404, 523A.501, 523A.807, 523A.812, 523A.814

Payment of examination fee also required, see §523A.814

523A.205 Financial institution annual reporting requirements.

1. A financial institution shall file with the commissioner not later than March 1 of each year an annual report on a form prescribed by the commissioner showing all funds deposited by a seller under a trust agreement during the previous year. Each report shall contain all information requested.

2. All records maintained by the commissioner under this section shall be confidential pursuant to section 22.7, subsection 58, and shall not be made available for inspection or copying except upon approval of the commissioner or the attorney general, or except when sought by the financial institution to whom the records relate. Such records shall be privileged and confidential in any judicial or administrative proceeding except any of the following:

a. An action commenced by the commissioner.

b. An administrative proceeding brought by the insurance division.

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

d. An action brought by the insurance division or the attorney general to recover moneys for embezzlement, misappropriation, or misuse of trust funds.

2001 Acts, ch 118, §23; 2007 Acts, ch 175, §53; 2015 Acts, ch 128, §29, 30, 50, 51

Referred to in §22.7(58)

523A.206 Examinations — authority and scope.

1. The commissioner may conduct an examination under this chapter of any seller as often as the commissioner deems appropriate. The commissioner may require a seller to provide a certified copy of an audit of the seller conducted by an independent certified public accountant to verify compliance with this chapter, including rules adopted and orders issued pursuant to this chapter.

2. A seller shall reimburse the division for the expense of conducting the examination, including an audit conducted by a certified public accountant, unless the commissioner waives this requirement, or the seller has previously provided to the commissioner a certified copy of an audit conducted by an independent certified public accountant verifying compliance with this chapter for each year in question and the examination conducted by the commissioner does not disclose that the seller has not complied with this chapter for the years in question. The expense of an examination involving multiple sellers or other persons shall be prorated among them upon any reasonable basis as determined by the commissioner.

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3. For purposes of completing an examination under this chapter, the commissioner may examine or investigate any person, or the business of any person, if the examination or investigation is, in the sole discretion of the commissioner, necessary or material to the examination of the seller.

4. Upon determining that an examination should be conducted, the commissioner may appoint one or more examiners to perform the examination and instruct those examiners as to the scope of the examination.

5. A seller, or other person from whom information is sought, and its officers, directors, employees, and agents shall provide to the examiners appointed under subsection 4, timely, convenient, and free access at their offices, at all reasonable hours, to all books, records, accounts, papers, documents, and all electronic or other recordings related to the property, assets, business, and affairs of the seller being examined and shall facilitate the examination as much as possible.

a. The refusal of a seller, by its officers, directors, employees, or agents, to submit to an examination or to comply with a reasonable written request of an examiner shall constitute grounds for the suspension, revocation, or denial of an application to renew any license held by the seller to engage in business subject to the commissioner's jurisdiction.

b. If a seller declines or refuses to submit to an examination as provided in this chapter, the commissioner shall immediately suspend, revoke, or deny an application to renew any license held by the seller or business to engage in business subject to the commissioner's jurisdiction, and shall report the commissioner's action to the attorney general, who shall immediately apply to the district court for the appointment of a receiver to administer the final affairs of the seller.

6. All records maintained by the commissioner under this section, including work papers, notes, recorded information, documents, and copies thereof that are produced or obtained by or disclosed to the commissioner or another person in the course of a compliance examination, shall be confidential pursuant to section 22.7, subsection 58, and shall not be made available for inspection and copying except upon the approval of the commissioner or the attorney general. Such records shall be privileged and confidential in any judicial or administrative proceeding except any of the following:

a. An action commenced by the commissioner.

b. An administrative proceeding brought by the insurance division.

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

d. An action brought by the insurance division or the attorney general to recover moneys for embezzlement, misappropriation, or misuse of trust funds.

7. This section shall not be construed to limit the commissioner's authority to terminate or suspend any examination in order to pursue other legal or regulatory actions pursuant to this chapter. Findings of fact and conclusions made pursuant to an examination are deemed to be prima facie evidence in any legal or regulatory action.

2001 Acts, ch 118, §24; 2007 Acts, ch 175, §12; 2008 Acts, ch 1123, §43; 2011 Acts, ch 70, §46; 2015 Acts, ch 128, §31, 50, 51; 2026 Acts, ch 1111, §4

Referred to in §22.7(58)
Subsection 1 amended

523A.207 Transfer of preneed purchase agreements — sale of a business or business assets.

1. A purchase agreement shall not be sold or transferred as part of the sale of a business, or of the assets of a business, until the seller of the business has provided all of the following to the buyer of the business:

a. A copy of the most recent annual report filed with the commissioner by the seller.

b. The aggregate amount of any interest income withdrawn to date from trust accounts pursuant to section 523A.201, subsection 8.

c. Copies of all purchase agreements to be assumed by the buyer.

d. A list of the purchase agreements provided under paragraph "*c*" that includes all of the following:

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(1) The name of the purchaser and the name of the seller of each purchase agreement.
(2) The total dollar amount of each purchase agreement.
(3) The date each purchase agreement was executed.
(4) Whether each purchase agreement is guaranteed, nonguaranteed, or mixed, and affirm or deny one hundred percent trusting of any guaranteed items and specify the lesser amount or percentage placed in trust, if applicable.

e. A list of insurance policies that are applicable to the purchase agreements provided under paragraph "*c*". The list shall identify the purchase agreement to which each insurance policy applies, the named policyholder on each insurance policy, and the face amount of each insurance policy.

f. A list of trust fund beneficiaries and the amount in trust for each beneficiary.

g. A list that identifies and describes any items of presold merchandise that are not fully funded with insurance or trust funds in compliance with this chapter, and the amount or percentage that is either unfunded or underfunded.

2. *a.* The seller of a business shall file a disclosure with the commissioner that contains the information required under subsection 1, paragraphs *"d"* and *"e"*, at least thirty calendar days prior to the date of the transfer of any purchase agreements to the buyer.

b. If the seller fails to file the disclosure required under paragraph *"a"*, the commissioner may suspend the buyer's preneed seller's license, the seller's preneed seller's license, and the license of any sales agent authorized to sell for the buyer or seller until the disclosure is filed. In addition, the commissioner may assess a penalty against the buyer or seller in an amount up to one hundred dollars for each calendar day that the disclosure remains unfiled. The commissioner shall allow a thirty-day grace period after the date that a purchase agreement is sold or transferred before the commissioner suspends the preneed seller's license of the buyer, seller, or of a sales agent authorized to sell for the buyer or seller, or assesses a penalty against the buyer or seller. Upon good cause, the commissioner may issue an order waiving the disclosure requirement.

3. All records maintained by the commissioner under this section shall be confidential pursuant to section 22.7, subsection 58, and shall not be made available for inspection or copying except upon prior written approval of either the commissioner or the attorney general, or if sought by the preneed seller to whom the records relate. Such records shall be privileged and confidential in a judicial or administrative proceeding except for any of the following:

a. An action commenced by the commissioner.

b. An administrative proceeding brought by the division.

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

d. An action brought by the division or the attorney general to recover moneys from embezzlement, misappropriation, or misuse of trust funds.

2007 Acts, ch 175, §13; 2010 Acts, ch 1067, §2; 2015 Acts, ch 128, §32, 50, 51; 2016 Acts, ch 1073, §158; 2018 Acts, ch 1074, §7; 2022 Acts, ch 1047, §1, 8
Referred to in §22.7(58), 523A.807

523A.208 through 523A.300 Reserved.

SUBCHAPTER III

DISBURSEMENT OF REMAINING BURIAL TRUST FUNDS OR INSURANCE OR ANNUITY PROCEEDS — MEDICAL ASSISTANCE DEBTS

523A.301 Definition.

As used in sections 523A.302 and 523A.303, *"director"* means the director of health and human services.

2001 Acts, ch 118, §25; 2023 Acts, ch 19, §1219

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523A.302 Identification of merchandise and service provider.

If a burial trust fund identifies, either in the trust fund records or in a related purchase agreement, the seller who will provide the cemetery merchandise, funeral merchandise, funeral services, or a combination thereof, the trust fund records or the related purchase agreements must contain a statement signed by an authorized representative of the seller agreeing to furnish the cemetery merchandise, funeral merchandise, funeral services, or a combination thereof upon the death of the beneficiary. The burial trust fund shall not identify a specific seller as payee unless the trust fund records or the related purchase agreements, if any, contain the signature of an authorized representative of the seller and, if the agreement is for mortuary science services as mortuary science is defined in section 156.1, the name of a funeral director licensed to deliver those services. A person may enter into agreements authorizing the establishment of more than one burial trust fund and agreeing to furnish the applicable merchandise and services.

2001 Acts, ch 118, §26; 2002 Acts, ch 1119, §80
Referred to in §523A.301

523A.303 Disbursement of remaining funds.

1. If funds remain in a nonguaranteed irrevocable burial trust fund or from the proceeds of an insurance policy or annuity made payable or assigned to the seller or a provider after the payment of funeral and burial expenses in accordance with the conditions and terms of the purchase agreement for cemetery merchandise, funeral merchandise, or funeral services, the seller shall comply with all of the following:

a. The seller shall provide written notice by mail to the director under subsection 2.

b. At least sixty days after mailing notice to the director, the seller shall disburse any remaining funds from the burial trust fund as follows:

(1) If within the sixty-day period the seller receives a claim from the personal representative of the deceased, any remaining funds shall be disbursed to the personal representative, notwithstanding any claim by the director.

(2) If within the sixty-day period the seller has not received a claim from the personal representative of the deceased but receives a claim from the director, the seller shall disburse the remaining funds up to the amount of the claim to the director.

(3) Any remaining funds not disposed of pursuant to subparagraphs (1) and (2) shall be disbursed to any person who is identified as the next of kin of the deceased in an affidavit submitted in accordance with subsection 5.

2. The notice mailed to the director shall meet all of the following requirements and is subject to all of the following conditions:

a. The notice shall be mailed with postage prepaid.

b. If the notice is sent by regular mail, the sixty-day period for receipt of a response is deemed to commence three days following the date of mailing.

c. If the notice is sent by certified mail, the sixty-day period for receipt of a response is deemed to commence on the date of mailing.

d. The notice shall provide all of the following information:

(1) Current name, address, and telephone number of the seller.

(2) Full name of the deceased.

(3) Date of the deceased's death.

(4) Amount of funds remaining in the burial trust fund.

(5) Statement that any claim by the director must be received by the seller within sixty days after the date of mailing of the notice.

e. A notice in substantially the following form complies with this subsection:

> TO: THE DIRECTOR OF HEALTH AND HUMAN SERVICES
>
> FROM: (SELLER'S NAME, CURRENT ADDRESS, AND TELEPHONE NUMBER)
>
> You are hereby notified that (name of deceased), who had an irrevocable burial trust fund, has died, that final payment for cemetery merchandise, funeral merchandise, and funeral services

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has been made, and that (remaining amount) remains in the irrevocable burial trust fund.

The above-named seller must receive a written response regarding any claim by the director within sixty days after the mailing of this notice to the director.

If the above-named seller does not receive a written response regarding a claim by the director within sixty days after the mailing of this notice, the seller may dispose of the remaining funds in accordance with section 523A.303, Code of Iowa.

3. Upon receipt of the seller's written notice, the director shall determine if a debt is due the department of health and human services pursuant to section 249A.53. If the director determines that a debt is owing, the director shall provide a written response to the seller within sixty days after the mailing of the seller's notice. If the director does not respond with a claim within the sixty-day period, any claim made by the director shall not be enforceable against the seller, the trust, or a trustee.

4. A personal representative who wishes to make a claim shall send written notice of the claim to the seller. If the seller does not receive any claim from a personal representative within the sixty-day period provided for response by the director regarding a claim, the claim of the personal representative shall not be enforceable against the seller, the trust, or a trustee.

5. Any person other than a personal representative or the director claiming an interest in the remaining funds shall submit an affidavit claiming an interest which provides the following information:

a. Full name, current address, and telephone number of the claimant.

b. Claimant's relationship to the deceased.

c. Name of any surviving next of kin of the deceased, and the relationship of any named surviving next of kin.

d. That the claimant has no knowledge of the existence of a personal representative for the deceased's estate.

6. The seller may retain not more than fifty dollars of the remaining funds in the burial trust fund for the administrative expenses associated with the requirements of this section.

7. If the funds remaining in a burial trust fund are disbursed under the requirements of this section, the seller, the provider, the burial trust fund, and any trustee shall not be liable to the director, the estate of the deceased, any personal representative, or any other interested person for the remaining funds and any lien imposed by the director shall be unenforceable against the seller, the burial trust fund, or any trustee.

2001 Acts, ch 118, §27; 2023 Acts, ch 19, §1220, 1221
Referred to in §523A.301

523A.304 through 523A.400 Reserved.

SUBCHAPTER IV

TRUSTING ALTERNATIVES

523A.401 Purchase agreements funded by insurance proceeds.

1. A purchase agreement may be funded by insurance proceeds derived from a new or existing insurance policy issued by an insurance company authorized to do business and doing business within this state.

2. Such funding may be in lieu of the trusting requirements of this chapter when the purchaser assigns the proceeds of an existing insurance policy.

3. Such funding may be in lieu of the trusting requirements of this chapter when a new insurance policy is purchased to fund the purchase agreement, with a face amount equal to or greater than the current retail price of the cemetery merchandise, funeral merchandise, and funeral services to be delivered under the purchase agreement or, if less, a face amount

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equal to the total of all payments to be submitted by the purchaser pursuant to the purchase agreement.

4. If a preneed funeral purchase agreement contains a provision stating that the agreement will be funded by the purchase of a new insurance policy, the insurance producer who sells the insurance policy that will fund the purchase agreement shall require that any payment made by the purchaser shall be made payable only to the insurance company designated in the purchase agreement. The insurance producer shall remit the insurance policy application and the premium made payable to the insurance company designated in the purchase agreement to the insurance company within thirty calendar days after execution of the purchase agreement or, with respect to a purchase agreement that provides for periodic payments, the premiums shall be paid directly by the purchaser to the insurance company that issues the insurance policy.

5. Any new insurance policy shall satisfy the following conditions:

a. Except as necessary and appropriate to satisfy the requirements regarding burial trust funds under Tit. XIX of the federal Social Security Act, the policy shall not be owned by the seller, the policy shall not be irrevocably assigned to the seller, and the assignment of proceeds from the insurance policy to the seller shall be limited to the seller's interests as they appear in the purchase agreement, and conditioned on the seller's delivery of cemetery merchandise, funeral merchandise, and funeral services pursuant to a purchase agreement.

b. The policy shall provide that any assignment of benefits is contingent upon the seller's delivery of cemetery merchandise, funeral merchandise, and funeral services pursuant to a purchase agreement.

c. The policy shall have an increasing death benefit or similar feature that provides some means for increasing the funding as the cost of cemetery merchandise, funeral merchandise, and funeral services increases.

6. With the written consent of the purchaser, an existing prepaid purchase agreement with trust-funded benefits may be converted to a prepaid purchase agreement with insurance-funded benefits provided the seller and the insurance benefits comply with the following provisions:

a. The transfer of the trust funds to the insurance company must be at least equal to the full sum required to be deposited as trust principal under the trust-funded prepaid purchase agreement plus all net earnings accumulated with respect thereto, as of the transfer date. Commissions, allowances, surrender charges or other forms of compensation or expense loads, premium expense, administrative charges or expenses, or policy fees shall not be deducted from the trust funds transferred pursuant to the conversion.

b. The face amount of any insurance policy issued on an individual must be no less than the amount of principal and interest transferred for that individual to the insurance company, and any supplemental insurance policy issued to cover the unfunded portion of the purchase agreement must have a face amount that is at least as great as the unfunded principal balance. The face amount of the insurance purchased shall not, under any circumstances, be less than the total of all payments made by the purchaser pursuant to the agreement plus all net earnings accumulated with respect thereto, as of the transfer date.

c. The insurance policy shall not be contestable, or limit death benefits in the case of suicide, with respect to that portion of the face amount of the policy that is required by paragraph "*b*". The policy shall not refer to physical examination, or otherwise operate as an exclusion, limitation, or condition other than requiring submission of proof of death or surrender of policy at the time the prepaid purchase agreement is funded, matures, or is canceled, as the case may be.

d. The seller shall maintain a copy of any prepaid trust-funded purchase agreement that was converted to a prepaid insurance-funded purchase agreement and retain the payment history records for each converted purchase agreement prior to conversion until the cemetery merchandise, funeral merchandise, and funeral services have been delivered.

7. The seller of a purchase agreement subject to this chapter which is to be funded by insurance proceeds shall obtain all licenses required to be obtained and comply with all reporting requirements under this chapter. A parent company, provider, or seller shall

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not pledge, borrow from, or otherwise encumber an insurance policy funding a purchase agreement.

8. An insurance company issuing policies funding purchase agreements subject to this chapter shall file an annual report with the commissioner on a form prescribed by the commissioner. The report shall list the applicable insurance policies outstanding for each seller.

9. The commissioner, by rule, may require written trust agreements and establish conditions for trusts holding insurance policies or maintaining ownership rights under insurance policies. The seller or any officer, director, agent, employee, or affiliate of the seller shall not serve as a trustee. The commissioner may require amendments to a trust agreement that is not in accord with the provisions of this chapter or rules adopted under this chapter.

10. All records maintained by the commissioner under this section shall be confidential pursuant to section 22.7, subsection 58, and shall not be made available for inspection or copying except upon approval of the commissioner or the attorney general, or except when sought by the insurance company to whom the records relate. Such records shall be privileged and confidential in any judicial or administrative proceeding except any of the following:

a. An action commenced by the commissioner.

b. An administrative proceeding brought by the insurance division.

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

d. An action brought by the insurance division or the attorney general to recover moneys for embezzlement, misappropriation, or misuse of trust funds.

2001 Acts, ch 118, §28; 2001 Acts, ch 176, §73; 2004 Acts, ch 1110, §64; 2007 Acts, ch 175, §54 – 57; 2008 Acts, ch 1123, §44; 2010 Acts, ch 1061, §180; 2010 Acts, ch 1121, §24; 2015 Acts, ch 128, §33, 34, 50, 51; 2022 Acts, ch 1047, §2

Referred to in §22.7(58), 523A.201, 523A.605, 523A.807

523A.402 Purchase agreements funded by annuity proceeds.

1. A purchase agreement may be funded by proceeds derived from a new or existing annuity issued by an insurance company authorized to do business and doing business within this state.

2. Such funding may be in lieu of the trust requirements of this chapter when the purchaser assigns the proceeds of an existing annuity.

3. Such funding may be in lieu of the trust requirements of this chapter when a new annuity is purchased to fund the purchase agreement, with a face amount equal to or greater than the current retail price of the cemetery merchandise, funeral merchandise, and funeral services to be delivered under the purchase agreement or, if less, a face amount equal to the total of all payments to be submitted by the purchaser pursuant to the purchase agreement.

4. If a preneed funeral purchase agreement contains a provision stating that the agreement will be funded by the purchase of a new annuity, the insurance producer who sells the annuity that will fund the purchase agreement shall require that any payment made by the purchaser shall be made payable only to the insurance company designated in the purchase agreement. The insurance producer shall remit the annuity application and the premium made payable to the insurance company designated in the purchase agreement to the insurance company within thirty calendar days after execution of the purchase agreement or, with respect to a purchase agreement that provides for periodic payments, the premiums shall be paid directly by the purchaser to the insurance company that issues the annuity.

5. The annuity shall satisfy the following conditions:

a. Except as necessary and appropriate to satisfy the requirements regarding burial trust funds under Tit. XIX of the federal Social Security Act, the annuity shall not be owned by the seller or irrevocably assigned to the seller and any designation of the seller as a beneficiary shall not be made irrevocable.

b. The annuity shall provide that any assignment of benefits is contingent upon the seller's

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delivery of cemetery merchandise, funeral merchandise, and funeral services pursuant to a purchase agreement.

c. The annuity shall have an increasing death benefit or similar feature that provides some means for increasing the funding as the cost of cemetery merchandise, funeral merchandise, and funeral services increases.

6. With the written consent of the purchaser, an existing prepaid purchase agreement with trust-funded benefits may be converted to a prepaid purchase agreement with annuity-funded benefits provided the seller and the annuity benefits comply with the following provisions:

a. The transfer of the trust funds to the insurance company must be at least equal to the full sum required to be deposited as trust principal under the trust-funded prepaid purchase agreement plus all net earnings accumulated with respect thereto, as of the transfer date. Commissions, allowances, surrender charges or other forms of compensation or expense loads, premium expense, administrative charges or expenses, or fees shall not be deducted from the trust funds transferred pursuant to the conversion.

b. The face amount of any annuity issued on an individual must be no less than the amount of principal and interest transferred for that individual to the insurance company, and any supplemental annuity issued to cover the unfunded portion of the purchase agreement must have a face amount that is at least as great as the unfunded principal balance. The face amount of the annuity purchased shall not, under any circumstances, be less than the total of all payments made by the purchaser pursuant to the agreement plus all net earnings accumulated with respect thereto, as of the transfer date.

c. The annuity shall not be contestable, or limit death benefits in the case of suicide, with respect to that portion of the face amount of the annuity which is required by paragraph "*b*". The annuity shall not refer to physical examination, or otherwise operate as an exclusion, limitation, or condition other than requiring submission of proof of death or surrender of the annuity at the time the prepaid purchase agreement is funded, matures, or is canceled, as the case may be.

d. The seller shall maintain a copy of any prepaid trust-funded purchase agreement that was converted to a prepaid annuity-funded purchase agreement and retain the payment history records for each converted purchase agreement prior to conversion until the cemetery merchandise, funeral merchandise, and funeral services have been delivered.

7. The seller of a purchase agreement subject to this chapter which is to be funded by annuity proceeds shall obtain all licenses required to be obtained and comply with all reporting requirements under this chapter. A parent company, provider, or seller shall not pledge, borrow from, or otherwise encumber an annuity funding a purchase agreement.

8. An insurance company issuing annuities funding purchase agreements subject to this chapter shall file an annual report with the commissioner on a form prescribed by the commissioner. The report shall list the applicable annuities outstanding for each seller.

9. The commissioner, by rule, may require written trust agreements and establish conditions for trusts holding annuities or maintaining ownership rights under annuities. The seller or any officer, director, agent, employee, or affiliate of the seller shall not serve as a trustee. The commissioner may require amendments to a trust agreement that is not in accord with the provisions of this chapter or rules adopted under this chapter.

2001 Acts, ch 118, §29; 2002 Acts, ch 1119, §81; 2004 Acts, ch 1110, §65; 2005 Acts, ch 19, §107; 2005 Acts, ch 70, §50; 2007 Acts, ch 175, §58 – 61; 2008 Acts, ch 1123, §45; 2010 Acts, ch 1061, §180; 2010 Acts, ch 1121, §25; 2015 Acts, ch 128, §35, 50, 51; 2022 Acts, ch 1047, §3

Referred to in §523A.201, 523A.605, 523A.807

523A.403 Purchase agreements funded by certificates of deposit.

1. A purchase agreement may be funded by proceeds derived from a certificate of deposit in the name of the purchaser made payable to the seller upon the purchaser's death.

2. The seller of a purchase agreement subject to this chapter which is to be funded by a certificate of deposit shall obtain all permits required to be obtained and comply with all reporting requirements under this chapter, implementing rules, and orders.

2001 Acts, ch 118, §30

Referred to in §523A.201, 523A.203, 523A.807

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523A.404 Merchandise delivered to the purchaser or warehoused.

1. Trust requirements do not apply to payments made pursuant to a purchase agreement executed prior to July 1, 2007, for outer burial containers made of either polystyrene or polypropylene or cemetery merchandise delivered to the purchaser or stored in an independent third-party storage facility not owned or controlled by the seller when approved by the commissioner. The seller or the storage facility must demonstrate that they will do all of the following:

a. Issue a receipt of ownership in the name of the purchaser and deliver it to the purchaser.

b. Insure the merchandise against loss.

c. Protect the merchandise against damage.

d. Transfer title to the purchaser.

e. Appropriately identify and describe the merchandise in a manner that it can be distinguished from other similar items.

f. Use a method of storage that allows for visual examinations of the merchandise.

g. Have adequate, computerized recordkeeping systems in place to identify, describe, and count each item in storage, including the ownership of each item, and provide an aggregate listing with numerical totals.

h. File a consent to be examined and inspected by the commissioner.

i. Provide reports to the commissioner, annually, by an independent certified public accountant, which shall include a physical count of merchandise held in storage and a review of information, including the seller's revenue and sales records, as necessary to verify the adequacy of the number of items held at the storage facility.

j. Satisfy the annual reporting requirements of section 523A.204.

2. Lawn crypts may be delivered in lieu of trusting. For this purpose, delivery means installation in a grave owned by the purchaser. The seller shall do all of the following:

a. Notify the administrator before the lawn crypts are installed.

b. Identify the intended location of the lawn crypts within the cemetery.

c. Provide documentation adequately demonstrating delivery has occurred. Adequate documentation includes but is not limited to photographs and third-party certifications.

3. Cemetery merchandise and funeral merchandise shall not be deemed delivered to the purchaser or warehoused if the merchandise is subject to a lien or security interest by any party other than the seller.

4. A seller is prohibited from requiring delivery as a condition of the sale.

5. A seller shall provide services necessary for the installation or burial of outer burial containers sold by the seller. This subsection shall not require the seller to provide for the opening or closing of the interment or entombment space, unless the purchase agreement provides otherwise.

2001 Acts, ch 118, §31; 2007 Acts, ch 175, §14, 15, 62
Referred to in §523A.503, 523A.807

523A.405 Bond in lieu of trust fund.

The commissioner shall, by rule, establish terms and conditions under which a seller may, in lieu of trust requirements, file with the commissioner a surety bond issued by a surety company authorized to do business and doing business in this state.

2001 Acts, ch 118, §32; 2001 Acts, ch 176, §74; 2007 Acts, ch 175, §63, 64; 2008 Acts, ch 1103, §4; 2008 Acts, ch 1123, §46; 2011 Acts, ch 62, §3; 2015 Acts, ch 128, §36, 50, 51
Referred to in §523A.807

523A.406 through 523A.500 Reserved.

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SUBCHAPTER V

PRENEED SELLERS AND SALES AGENTS

523A.501 Preneed sellers — licenses.

1. A person shall not advertise, sell, promote, or offer to furnish cemetery merchandise, funeral merchandise, funeral services, or a combination thereof when performance or delivery may be more than one hundred twenty days following the initial payment on the account unless the person has a preneed seller's license.

2. An application for a preneed seller's license shall be filed on a form and in a format prescribed by the commissioner and be accompanied by a filing fee in an amount set by the commissioner by rule. The application shall include the name of the natural person or legal entity to be licensed as the preneed seller and, if applicable, any other name under which the preneed seller will be transacting business, including any names registered with the secretary of state or a county clerk. The application shall be updated as necessary to ensure that the commissioner has been notified of all names under which the preneed seller is operating and doing business.

3. *a.* The commissioner shall request and obtain, notwithstanding section 692.2, subsection 5, criminal history data for any director of, or person with a financial interest in, a preneed seller who is an applicant for an initial license issued pursuant to this section, an applicant for reinstatement of a license issued pursuant to this section, or a licensee who is being monitored as a result of an order of the commissioner or agreement resolving an administrative disciplinary action, for the purpose of evaluating the applicant's or licensee's eligibility for licensure or suitability for continued practice as a preneed seller, as required by the commissioner by rules adopted pursuant to chapter 17A. The commissioner may limit this requirement to those persons who have the ability to control or direct control of trust funds under this chapter. The commissioner shall inform an applicant or licensee to whom the criminal history requirement applies and obtain a signed waiver from the applicant or licensee prior to submitting a criminal history data request.

b. A request for criminal history data shall be submitted to the department of public safety, division of criminal investigation, pursuant to section 692.2, subsection 1. The commissioner may also require such applicants or licensees to provide a full set of fingerprints, in a form and manner prescribed by the commissioner. Such fingerprints may be submitted to the federal bureau of investigation through the state criminal history repository for a national criminal history check. The commissioner may authorize alternate methods or sources for obtaining criminal history record information. The commissioner may, in addition to any other fees, charge and collect such amounts as may be incurred by the commissioner, the department of public safety, or the federal bureau of investigation in obtaining criminal history information. Amounts collected shall be considered appropriated receipts as defined in section 8.2.

c. Criminal history information relating to an applicant or licensee obtained by the commissioner pursuant to this section is confidential. The commissioner may, however, use such information in a license denial proceeding.

4. The commissioner shall request and obtain a financial history for any director of, or person with a financial interest in, a preneed seller who is an applicant for an initial license issued pursuant to this section, an applicant for reinstatement of a license issued pursuant to this section, or a licensee who is being monitored as a result of an order of the commissioner or agreement resolving an administrative disciplinary action, for the purpose of evaluating the applicant's or licensee's eligibility for licensure or suitability for continued practice as a preneed seller, as required by the commissioner by rules adopted pursuant to chapter 17A. The commissioner may limit this requirement to those persons who have the ability to control or direct control of trust funds under this chapter. *"Financial history"* means the record of a person's current loans, the date of a person's loans, the amount of the loans, the person's payment record on the loans, current liens against the person's property, and the person's most recent financial statement setting forth the assets, liabilities, and the net worth of the person.

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SUBJECT TO FINAL EDIT

5. A preneed seller's license is not assignable or transferable. A licensee selling all or part of a business entity that has a preneed seller's license shall cancel the license, and the purchaser shall apply for a new license in the purchaser's name within thirty days of the sale.

6. If no denial order is in effect and no proceeding is pending under section 523A.503, the application becomes effective at noon of the thirtieth day after a completed application or an amendment completing the application is filed, unless waived by the applicant. The commissioner may specify an earlier effective date. Automatic effectiveness under this subsection shall not be deemed approval of the application. If the commissioner does not grant the license, the commissioner shall notify the person in writing of the reasons for the denial.

7. A preneed seller's license shall expire annually on April 30. If a preneed seller has filed an annual report pursuant to section 523A.204, subsection 1, and paid the required fees the commissioner shall renew the preneed seller's license until April 30 of the following year.

8. The commissioner may by rule create or accept a multijurisdiction preneed seller's license. If the preneed seller's license is issued by another jurisdiction, the rules shall require the filing of an application or notice form and payment of the applicable filing fee of fifty dollars for an application. The application or notice form utilized and the effective dates and terms of the license may vary from the provisions set forth in this section.

9. Fees collected under this section shall be deposited as provided in section 505.7.

2001 Acts, ch 118, §33; 2002 Acts, ch 1119, §82; 2004 Acts, ch 1104, §2; 2004 Acts, ch 1110, §66; 2007 Acts, ch 175, §16; 2008 Acts, ch 1103, §5, 6; 2008 Acts, ch 1123, §47, 48; 2009 Acts, ch 181, §92; 2015 Acts, ch 128, §37, 38, 50, 51; 2021 Acts, ch 181, §36; 2023 Acts, ch 66, §130; 2024 Acts, ch 1185, §182

Referred to in §523A.503, 523A.704, 523A.807

523A.502 Sales agents — licenses.

1. *a.* A person shall not advertise, sell, promote, or offer to furnish cemetery merchandise, funeral merchandise, funeral services, or a combination thereof when performance or delivery may be more than one hundred twenty days following initial payment on the account unless the person has a sales license and is a sales agent of a person holding a preneed seller's license.

b. A preneed seller licensee is liable for the acts of the licensee's sales agents performed in advertising, selling, promoting, or offering to furnish, upon the future death of a person named or implied in a purchase agreement, cemetery merchandise, funeral merchandise, funeral services, or a combination thereof.

c. (1) Prior to being issued a sales license, an applicant for a sales license shall be designated by at least one preneed seller to sell, negotiate, or solicit purchase agreements on behalf of the preneed seller. At the time an individual submits an application for a sales license, the preneed seller shall file, in a format approved by the commissioner, documentation of the designation of the applicant to sell, negotiate, or solicit purchase agreements on behalf of the preneed seller.

(2) A sales license shall not be issued to a sales license applicant until the applicant has met all licensure requirements of this chapter.

(3) The preneed seller shall disclose to the commissioner any changes made to the designation for a sales agent to sell, negotiate, or solicit preneed contracts on the preneed seller's behalf within thirty calendar days of the date of the change in designation.

d. The license of a sales agent shall not be effective during any time period during which the sales agent is not employed by or associated with a preneed seller licensed under this chapter.

2. This chapter does not permit a person to practice mortuary science without a license. A person holding a current sales license may advertise, sell, promote, or offer to furnish a funeral director's services as an employee or agent of a funeral establishment furnishing the funeral services under chapter 156.

3. An application for a sales license shall be filed on a form prescribed by the commissioner and be accompanied by a filing fee in an amount set by the commissioner by rule. The fees collected under this subsection shall be deposited as provided in section 505.7.

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4. *a.* The commissioner shall request and obtain, notwithstanding section 692.2, subsection 5, criminal history data for any applicant for an initial license issued pursuant to this section, any applicant for reinstatement of a license issued pursuant to this section, or any licensee who is being monitored as a result of an order of the commissioner or agreement resolving an administrative disciplinary action, for the purpose of evaluating the applicant's or licensee's eligibility for licensure or suitability for continued practice as a sales agent. The commissioner shall adopt rules pursuant to chapter 17A to implement this section. The commissioner shall inform the applicant or licensee of the criminal history requirement and obtain a signed waiver from the applicant or licensee prior to submitting a criminal history data request.

b. A request for criminal history data shall be submitted to the department of public safety, division of criminal investigation, pursuant to section 692.2, subsection 1. The commissioner may also require such applicants or licensees, to provide a full set of fingerprints, in a form and manner prescribed by the commissioner. Such fingerprints may be submitted to the federal bureau of investigation through the state criminal history repository for a national criminal history check. The commissioner may authorize alternate methods or sources for obtaining criminal history record information. The commissioner may, in addition to any other fees, charge and collect such amounts as may be incurred by the commissioner, the department of public safety, or the federal bureau of investigation in obtaining criminal history information. Amounts collected shall be considered appropriated receipts as defined in section 8.2.

c. Criminal history information relating to an applicant or licensee obtained by the commissioner pursuant to this section is confidential. The commissioner may, however, use such information in a license denial proceeding.

5. A sales license shall expire annually on April 30. If a sales agent has fulfilled the continuing education requirements pursuant to subsection 6 and has paid the required renewal fee, the commissioner shall renew the sales agent's sales license.

6. A sales agent licensed pursuant to this section shall satisfactorily fulfill continuing education requirements for the license as prescribed by the commissioner by rule. However, this continuing education requirement is not applicable to a sales agent who is also a licensed insurance producer under chapter 522B or a licensed funeral director under chapter 156.

7. A sales licensee shall inform the commissioner of changes in the information required to be provided in the application within thirty days of the change.

8. A sales license is not assignable or transferable.

9. If no denial order is in effect and no proceeding is pending under section 523A.503, the application becomes effective at noon of the thirtieth day after a completed application or an amendment completing the application is filed, unless waived by the applicant. The commissioner may specify an earlier effective date. Automatic effectiveness under this subsection shall not be deemed approval of the application. If the commissioner does not grant the license, the commissioner shall notify the applicant in writing of the reasons for the denial.

10. The commissioner may by rule create or accept a multijurisdiction sales license. If the sales license is issued by another jurisdiction, the rules shall require the filing of an application or notice form and payment of the applicable filing fee. The application or notice form utilized and the effective dates and terms of the license may vary from the provisions set forth in subsections 3 and 5.

2001 Acts, ch 118, §34; 2002 Acts, ch 1119, §83; 2004 Acts, ch 1104, §3; 2007 Acts, ch 175, §17; 2008 Acts, ch 1103, §7; 2008 Acts, ch 1123, §49, 50; 2009 Acts, ch 181, §93; 2015 Acts, ch 128, §39, 50, 51; 2021 Acts, ch 181, §37; 2024 Acts, ch 1185, §183; 2026 Acts, ch 1111, §5, 6

Referred to in §523A.503, 523A.704, 523A.807
Subsections 1 and 5 amended

523A.502A Sales agent annual reporting requirements. Repealed by 2026 Acts, ch 1111, §20.

UNOFFICIAL VERSION 2027 NOT RELEASED

523A.503 Denial, suspension, revocation, and surrender of licenses.

1. The commissioner may, pursuant to chapter 17A, deny any license application, or immediately suspend, revoke, or otherwise impose disciplinary action related to any license issued under section 523A.501 or 523A.502 for several reasons, including but not limited to:

a. Committing a fraudulent act, engaging in a fraudulent practice, or violating any provision of this chapter or any implementing rule or order issued under this chapter.

b. Violating any other state or federal law applicable to the conduct of the applicant's or licensee's business.

c. Insolvency or financial condition.

d. The licensee, for the purpose of avoiding the trust requirement for funeral services, attributes amounts paid under the purchase agreement to cemetery merchandise or funeral merchandise that is delivered under section 523A.404 rather than to funeral services sold to the purchaser. The sale of funeral services at a lower price when the sale is made in conjunction with the sale of cemetery merchandise or funeral merchandise to be delivered under section 523A.404 than the services are regularly and customarily sold for when not sold in conjunction with cemetery merchandise or funeral merchandise is evidence that the licensee is acting with the purpose of avoiding the trust requirement for funeral services under section 523A.201.

e. Engaging in a deceptive act or practice or deliberately misrepresenting or omitting a material fact regarding the sale of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof under this chapter.

f. Conviction of a criminal offense involving dishonesty or a false statement including but not limited to fraud, theft, misappropriation of funds, falsification of documents, deceptive acts or practices, or other related offenses.

g. Inability to provide the cemetery merchandise, funeral merchandise, funeral services, or a combination thereof which the applicant or licensee purports to sell.

h. The applicant or licensee sells the business without filing a prior notice of sale with the commissioner. The license shall be revoked thirty days following such sale.

i. Selling by a person who is not a licensed sales agent.

j. The applicant or licensee is named in an order issued pursuant to section 523A.807, subsection 3, paragraph *"b"*.

2. The commissioner may, for good cause shown, suspend any license for a period not exceeding thirty days, pending investigation.

3. Except as provided in subsection 2, a license shall not be revoked, suspended, or otherwise be the subject of disciplinary action except after notice and hearing under chapter 17A.

4. Any licensee may surrender a license by delivering to the commissioner written notice that the licensee surrenders the license, but the surrender shall not affect the licensee's civil or criminal liability for acts committed before the surrender.

5. Denial, revocation, suspension, or surrender of a license does not impair or affect the obligation of any preexisting lawful agreement between the licensee and any person.

2001 Acts, ch 118, §35; 2004 Acts, ch 1110, §68 – 70; 2007 Acts, ch 175, §19
Referred to in §523A.501, 523A.502

523A.504 Appointment of sales agents — fee. Repealed by 2015 Acts, ch 128, §50, 51, 53.

523A.505 Duty to disclose.

1. A sales agent, and any person who owns at least five percent of a preneed seller business, shall have an ongoing duty to disclose to the commissioner all felony crimes and those misdemeanor-level crimes involving dishonesty or false statement for which the sales agent or person has been found guilty, or for which the sales agent or person has pled guilty or no contest. Such disclosure shall be made to the commissioner within thirty calendar days of the date that the sales agent or person has been found guilty by a court of competent jurisdiction, or of the date the sales agent or person pleads guilty or no contest.

2. A sales agent, and any person who owns at least five percent of a preneed seller business, shall have an ongoing duty to disclose to the commissioner all liens and judgments

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over twenty thousand dollars that have been entered against the sales agent or person, and all bankruptcy petitions that have been filed by the sales agent or person. Such disclosure shall be made to the commissioner within thirty calendar days of the date on which the lien or judgment is entered, or of the date on which the sales agent or person files a petition for bankruptcy.

2022 Acts, ch 1047, §4; 2022 Acts, ch 1153, §53
Referred to in §523A.807

523A.506 Business continuity planning.

A preneed seller shall establish, implement, and maintain written procedures relating to business continuity and succession planning. The business continuity and succession plan shall be based upon the specific facts and circumstances of the preneed seller's business model including the size of the preneed seller's business, the types of services provided, and the number of physical locations established and maintained by the preneed seller. The plan must provide for all of the following:

1. The protection, secure backup, and recovery of the preneed seller's business records.
2. Alternative forms of communication to ensure timely notice of all of the following to customers, key personnel, employees, vendors, and service providers:
a. A significant business interruption.
b. The death or unavailability of key personnel.
c. A disruption of service.
d. The cessation of business activities.
3. Reassignment of key duties to qualified individuals in the event of the death or unavailability of key personnel.
4. Minimization and mitigation of service disruptions and negative impacts to clients that may result from a significant business interruption.

2022 Acts, ch 1047, §5

523A.507 through 523A.600 Reserved.

SUBCHAPTER VI
PURCHASE AGREEMENTS

523A.601 Disclosures.

1. A purchase agreement for cemetery merchandise, funeral merchandise, funeral services, or a combination thereof shall be written in clear, understandable language, and shall be printed or typed in an easy-to-read font, size, and style, and shall:
a. Identify the preneed seller by name and license number, the sales agent by name and license number, the purchaser, and the person for whom the cemetery merchandise, funeral merchandise, funeral services, or a combination thereof is purchased, if other than the purchaser.
b. Specify the cemetery merchandise, funeral merchandise, funeral services, or a combination thereof to be provided, and the cost of each merchandise item or service.
c. State clearly the conditions upon which substitution will be allowed.
d. State the total purchase price and the terms under which it is to be paid.
e. State clearly whether the purchase agreement is a guaranteed price agreement or a nonguaranteed price agreement. A nonguaranteed price agreement shall contain in twelve point boldface type an explanation of the consequences of such agreement in substantially the following language:

> The prices of merchandise and services under this agreement are subject to change in the future. Any funds paid under this agreement are only a deposit to be applied, together with accrued income, toward the final costs of the merchandise or services agreed upon. Additional charges may be incurred when additional

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merchandise or services or both are provided or when prices have increased more than accrued income.

f. State that the purchase of the cemetery merchandise, funeral merchandise, and funeral services is revocable and specify the damages for cancellation, if any.

g. State clearly who has the authority to cancel, amend, or revoke the purchase agreement to purchase cemetery merchandise, funeral merchandise, and funeral services.

h. State clearly that the purchaser is entitled to rescind the purchase agreement under terms and conditions specified by section 523A.602.

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 contact the Iowa insurance division with inquiries or complaints at iid.iowa.gov.

2. A purchase agreement that is funded by a trust shall also:

a. State the percentage of money to be placed in trust.

b. Explain the disposition of the income generated from investments and include a statement of the purchaser's responsibility for income taxes owed on the income if applicable.

c. State that if, after all payments are made under the conditions and terms of the purchase agreement for cemetery merchandise, funeral merchandise, funeral services, or a combination thereof, any funds remain in the nonguaranteed irrevocable burial trust fund, the seller shall disburse the remaining funds according to law.

d. State clearly the terms of the funeral and burial trust agreement and whether it is revocable or irrevocable.

e. State clearly that the purchaser is entitled to transfer the trust funding, insurance funding, or other trust assets or select another seller to receive the trust funding, insurance funding, or any other trust assets.

f. State clearly who has the authority to amend or revoke the trust agreement, if revocable, and who has the authority to appoint successor trustees if the purchase agreement is canceled.

3. The commissioner may adopt rules establishing disclosure and format requirements to promote consumer understanding of the merchandise and services purchased and the available funding mechanisms for a purchase agreement under this chapter.

4. All purchase agreements, including a purchase agreement delivered or executed by electronic means, must have a sales agent identified. A purchase agreement, including a purchase agreement delivered or executed by electronic means, shall be reviewed by the sales agent identified and named in the purchase agreement pursuant to subsection 1, paragraph "*a*", and be signed by the purchaser and seller. If the purchase agreement is for mortuary science services as "*mortuary science*" is defined in section 156.1, the purchase agreement must also be signed by a person licensed to deliver funeral services.

5. The seller shall disclose the following information prior to accepting the initial payment under a purchase agreement:

a. The specific method or methods, including but not limited to trust deposits, certificates of deposit, life insurance or an annuity, a surety bond, or warehousing, that will be used to fund the purchase agreement.

b. The relationship between the soliciting agent or agents, the provider of the cemetery merchandise, funeral merchandise, or funeral services, or combination thereof, the commissioner, and any other person.

c. The relationship of the life insurance policy or other trust assets to the funding of the purchase agreement and the nature and existence of any guarantees regarding the purchase agreement.

d. The impact on the purchase agreement of the following:

(1) Changes in the funding, including but not limited to changes in the assignment, beneficiary designation, trustee, or use of proceeds.

(2) Any penalties to be incurred by the purchaser as a result of the failure to make any additional payments required.

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(3) Penalties to be incurred upon cancellation.

e. A list of cemetery merchandise, funeral merchandise, and funeral services which are agreed upon under the purchase agreement and all relevant information concerning the price of the cemetery merchandise, funeral merchandise, funeral services, or a combination thereof, including a statement that the purchase price is either guaranteed at the time of purchase or to be determined at the time of need.

f. All relevant information concerning what occurs and whether any entitlements or obligations arise if there is a difference between the funding and the amount actually needed to fund the purchase agreement.

g. Any penalties or restrictions, including but not limited to geographic restrictions or the inability of the provider to perform, upon delivery of cemetery merchandise, funeral merchandise, or funeral services, or the purchase agreement guarantee.

h. If the funding is being transferred from another seller, any material facts related to the revocation of the prior purchase agreement and the transfer of the existing trust funds.

6. *a.* (1) A guaranteed purchase agreement that is funded by a trust shall include a conspicuous statement in language substantially similar to the following language:

> For your prearranged funeral agreement, we will deposit not less than eighty percent of your payments in trust at (name of financial institution), (street address), (city), (state) (zip code) within fifteen days following receipt of the funds. For your protection, you will be notified within sixty days from the date of deposit by the financial institution, if acting as a trustee of trust funds under this chapter, to confirm that the deposit of these funds has been made establishing a trust fund as required by law. If you do not receive this notification, you may contact the Iowa insurance division for assistance by calling the insurance division at (telephone number) or by mail at (street address), (city), Iowa (zip code), or you may contact the financial institution by calling the financial institution at (telephone number) or by mail at the address indicated above.

(2) A nonguaranteed purchase agreement that is funded by a trust shall include a conspicuous statement in language substantially similar to the following language:

> For your prearranged funeral agreement, we will deposit all of your payments in trust at (name of financial institution), (street address), (city), (state) (zip code) within fifteen days following receipt of the funds. For your protection, you will be notified within sixty days from the date of deposit by the financial institution, if acting as a trustee of trust funds under this chapter, to confirm that the deposit of these funds has been made establishing a trust fund as required by law. If you do not receive this notification, you may contact the Iowa insurance division for assistance by calling the insurance division at (telephone number) or by mail at (street address), (city), Iowa (zip code), or you may contact the financial institution by calling the financial institution at (telephone number) or by mail at the address indicated above.

b. A purchase agreement that is funded with an insurance policy or an annuity shall include a conspicuous statement in language substantially similar to the following language:

> An (insurance policy or annuity) will be purchased from (name of issuer of the policy or annuity), (street address), (city), (state) (zip code). You should receive confirmation of the purchase of an insurance policy or certificate or an annuity within sixty days of making payment. Delivery of the actual insurance policy or certificate or annuity shall also constitute confirmation. For your protection, you have the right to confirm that the insurance policy or annuity is issued as required by law. If you do not receive

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confirmation that an insurance policy or certificate or an annuity has been purchased or receive the insurance policy or certificate or the annuity, you should report this fact to the Iowa insurance division by calling the insurance division at (telephone number). Written reports should be mailed to the Iowa insurance division at (street address), (city), Iowa (zip code).

c. A purchase agreement that is funded with a surety bond shall include a conspicuous statement in language substantially similar to the following language:

Coverage under a surety bond in the amount of $(amount) will be purchased from (name of issuer of surety bond), (street address), (city), (state) (zip code) to fund your purchase. If you pay pursuant to your purchase agreement with a single payment, you should receive confirmation of the purchase of a surety bond within sixty days of making the payment. If you pay pursuant to your purchase agreement with multiple, periodic payments, you should receive confirmation of the purchase of a surety bond within sixty days of making the first payment and within sixty days of making the last payment pursuant to the agreement. For your protection, you have the right to confirm that the surety bond is issued as required by law. If you do not receive confirmation of coverage under a surety bond within sixty days of making the first payment and within sixty days of making the last payment, you should report this fact to the Iowa insurance division by calling the insurance division at (telephone number). Written reports should be mailed to the Iowa insurance division at (street address), (city), Iowa (zip code).

2001 Acts, ch 118, §36; 2002 Acts, ch 1119, §84; 2006 Acts, ch 1117, §116; 2007 Acts, ch 175, §21, 22, 65, 66; 2008 Acts, ch 1103, §8; 2008 Acts, ch 1191, §140; 2010 Acts, ch 1121, §27; 2011 Acts, ch 62, §4; 2013 Acts, ch 90, §157; 2019 Acts, ch 24, §79; 2021 Acts, ch 181, §40; 2022 Acts, ch 1032, §88; 2026 Acts, ch 1111, §7

Referred to in §523A.602
Subsection 1, paragraph i amended

523A.602 Consumer rescission, cancellation, and refund rights — purchase agreement compliance with other laws.

1. A seller shall furnish the purchaser with a completed copy of a purchase agreement pertaining to the sale at the time the purchase agreement is signed. The seller shall comply with the following terms:

a. The same language shall be used in both the oral sales representation and the written purchase agreement.

b. The seller shall give notice in the purchase agreement of the purchaser's right to rescind after signing the purchase agreement. The rescission period must be, but may be greater than, three business days after the date of the purchase agreement. The notice must:

(1) Be located close to the signature line.

(2) Be printed in twelve point boldface type.

(3) State in language that is substantially similar to the following language:

You, the purchaser, have the right to rescind this agreement at any time prior to midnight of the (insert relevant number, not less than three) business days after the date of this agreement.

c. All moneys shall be refunded without penalty within ten days after rescission.

2. *Cancellation refund.*

a. A purchase agreement must include a statement that the purchaser has the right to cancel the agreement for the purchase of cemetery merchandise, funeral merchandise, and funeral services upon written demand and designate or appoint a trustee to hold, manage, invest, and distribute the trust assets.

b. (1) If a purchase agreement is canceled, a purchaser requests a transfer of the trust

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assets upon cancellation of a purchase agreement, or another seller provides merchandise or services designated in a purchase agreement, the seller shall refund or transfer within thirty days of receiving a written demand no less than the purchase price of the applicable cemetery merchandise, funeral merchandise, and funeral services adjusted for inflation, using the most recently released consumer price index for all urban consumers published by the United States department of labor, bureau of labor statistics, 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 purchase price of the applicable cemetery merchandise, funeral merchandise, and funeral services. 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.

(2) 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 seller provides 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.

(3) For the purposes of this paragraph *"b"*, *"actual expenses"* means all reasonable business expenses of a seller that are associated with the sale of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof. *"Actual expenses"* includes but is not limited to the following:

(a) Marketing and promotional expenses.

(b) Investment management fees.

(c) Annual reporting fees related to accounting and regulatory requirements.

(d) Licensing fees of the seller.

(e) Administration, regulatory reporting, and custody expenses related to purchase agreements.

(f) Computer and software expenses.

(g) Expenses related to employees of the seller such as licensing fees, continuing education, and salaries and commissions.

(h) Miscellaneous office expenses.

c. A purchase agreement must include a statement that the purchaser is entitled to a refund of the purchase price of the applicable funeral merchandise adjusted for inflation, using the most recently released consumer price index for all urban consumers published by the United States department of labor, bureau of labor statistics, for any item of funeral merchandise that cannot be delivered to the location specified in the purchase agreement within forty-eight hours of notice of the individual's death, unless the delay is caused by weather conditions or a natural disaster. The seller must return such refund to the purchaser within thirty days of receiving the written demand.

3. This section does not prohibit a purchaser who is or may become eligible for benefits under Tit. XIX of the federal Social Security Act from making a guaranteed price purchase agreement irrevocable to the extent that federal law or regulations require that such an agreement be irrevocable for purposes of a purchaser's eligibility for benefits under Tit. XIX of the federal Social Security Act, as permitted under federal law. The seller of credit sale agreements shall comply with the requirements of chapter 537, the Iowa consumer

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credit code, and is subject to the remedies and penalties provided in that chapter for noncompliance.

2001 Acts, ch 118, §37; 2003 Acts, ch 58, §1; 2006 Acts, ch 1117, §117; 2007 Acts, ch 175, §67 – 69; 2010 Acts, ch 1061, §180; 2013 Acts, ch 90, §158; 2017 Acts, ch 54, §76; 2026 Acts, ch 1111, §8, 9

Referred to in §523A.601
Subsection 2, paragraph b, subparagraph (1) amended
Subsection 2, paragraph c amended

523A.603 Security and notice requirements.

1. If a purchase agreement is funded with an insurance policy or an annuity, the purchaser shall receive a notice thereof from the insurance company within sixty days of making payment. The notice shall include the name and address of the insurance company, the policy number of the insurance policy that secures the agreement, the name of the insured under the insurance policy or annuity, and the amount of the accumulated death benefit. Delivery of the insurance policy or certificate or annuity shall satisfy this notice requirement.

2. If a purchase agreement is funded by a surety bond, the purchaser shall receive a notice from the surety company that evidences coverage under the bond, the name of the purchaser or beneficiary, and the amount of coverage. If the purchase agreement is paid with a single payment, the purchaser shall receive notice of the surety bond within sixty days of making the payment. If the purchase agreement is being paid with multiple, periodic payments, the purchaser shall receive notice of the surety bond within sixty days of making the first payment and within sixty days of making the last payment. Compliance with this notice requirement does not require a seller to purchase individual surety bonds for each purchaser and beneficiary. A seller may file a single bond with the commissioner.

2007 Acts, ch 175, §23; 2008 Acts, ch 1123, §51

523A.604 Purchase agreements — numbering.

Purchase agreements for cemetery merchandise, funeral merchandise, funeral services, or a combination thereof shall be sequentially numbered by each seller in compliance with procedures specified by the commissioner by rules adopted under chapter 17A.

2007 Acts, ch 175, §24

523A.605 Allocation of growth or interest.

If a purchase agreement funded by insurance proceeds under section 523A.401 or by annuity proceeds under section 523A.402 includes nonguaranteed merchandise or services, the purchaser, beneficiary, or the beneficiary's estate shall receive a credit for, and the benefit of, any growth in death benefits that is at least equal to the percentage of the total price under the purchase agreement that is attributable to the nonguaranteed merchandise or services.

2022 Acts, ch 1047, §6

Referred to in §523A.807

523A.606 through 523A.700 Reserved.

SUBCHAPTER VII

FRAUDULENT PRACTICES AND OTHER VIOLATIONS

523A.701 Misleading filings.

It is unlawful for a person to make or cause to be made, in any document filed with the commissioner or in any proceeding under this chapter, any statement of material fact which is, at the time and in the light of the circumstances under which it is made, false or misleading, or in connection with such statement, to omit to state a material fact necessary in order to

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make the statements made, in the light of the circumstances under which they are made, not misleading.

2001 Acts, ch 118, §38

523A.702 Misrepresentations of government approval.

It is unlawful for a seller under this chapter to represent or imply in any manner that the seller has been sponsored, recommended, or approved, or that the seller's abilities or qualifications have in any respect been passed upon, by the commissioner.

2001 Acts, ch 118, §39

523A.703 Fraudulent practices.

Except as otherwise provided in section 523A.704, a person who willfully commits any of the following acts commits a fraudulent practice and is punishable as provided in chapter 714:

1. Fails to comply with any requirement of this chapter, or any rule adopted or order issued under this chapter.
2. Makes, causes to be made, or subscribes to a false statement or representation in a report or other document required under this chapter, implementing rules, or orders, or renders such a report or document misleading through the deliberate omission of information properly belonging in the report or document.
3. In connection with the sale of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof, directly or indirectly makes an untrue statement of a material fact or omits to state a material fact that is necessary to make the statements made, in light of the circumstances under which they were made, not misleading.
4. Unless the purchase agreement expressly provides otherwise, excludes in the sale of cemetery merchandise, funeral merchandise, or a combination thereof, funeral services that are necessary for the delivery, use, or installation of the cemetery merchandise or funeral merchandise at the time of the burial or funeral.

2001 Acts, ch 118, §40; 2007 Acts, ch 175, §25

523A.704 Violations.

A person who willfully violates section 523A.501, subsection 1, or section 523A.502, subsection 1, is guilty of a class "D" felony.

2007 Acts, ch 175, §26
Referred to in §523A.703

523A.705 through 523A.800 Reserved.

SUBCHAPTER VIII

ADMINISTRATION AND ENFORCEMENT

523A.801 Administration.

1. This chapter shall be administered by the commissioner. The commissioner may employ officers, attorneys, accountants, and other employees as needed for administering this chapter.
2. It is unlawful for the commissioner or any administrative staff to use for personal benefit any information which is filed with or obtained by the commissioner and which is not made public. This chapter does not authorize the commissioner or any such staff member to disclose any such information except among themselves or to other cemetery and funeral administrators, regulatory authorities, or governmental agencies, or when necessary and appropriate in a proceeding or investigation under this chapter or as required by chapter 22. This chapter neither creates nor derogates any privileges that exist at common law or otherwise when documentary or other evidence is sought under a subpoena directed to the commissioner or any administrative staff.
3. The commissioner shall submit an annual report to the general assembly's standing

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committees on government oversight by October 1 of each year reporting on the administration of this chapter. The report shall set forth any recommendations for changes in the law that the commissioner deems necessary or desirable to prevent abuses or evasions of this chapter or rules implementing this chapter or to rectify undesirable conditions in connection with the administration of this chapter or rules implementing this chapter.

2001 Acts, ch 118, §41; 2007 Acts, ch 175, §27, 28; 2009 Acts, ch 86, §5

523A.802 Scope.

1. This chapter applies to any advertisement, sale, promotion, or offer made by a person to furnish, upon the future death of a person named or implied in a purchase agreement, cemetery merchandise, funeral merchandise, funeral services, or a combination thereof. Burial accounts and insurance policies are included if the account records or related documents identify the seller that will provide the cemetery merchandise, funeral merchandise, funeral services, or a combination thereof.

2. This chapter applies when a purchase agreement is executed within this state or an advertisement, promotion, or offer to furnish is made or accepted within this state. An offer to furnish is made within this state, whether or not either party is then present in this state, when the offer originates from this state or is directed by the offeror to this state and received by the offeree in this state through the mail, over the telephone, by the internet, or through any other means of commerce.

3. If a foreign person does not have a registered agent or agents in the state of Iowa, doing business within this state shall constitute the person's appointment of the secretary of state of the state of Iowa to be its true and lawful attorney upon whom may be served all lawful process of original notice in actions or proceedings arising or growing out of any contract or tort.

2001 Acts, ch 118, §42; 2007 Acts, ch 175, §70

523A.802A Service of process made on the commissioner as the agent for service of process.

Service of process made on the commissioner as the agent for service of process shall be made as provided in section 505.30.

2018 Acts, ch 1018, §15

523A.803 Investigations and subpoenas.

1. The commissioner may, for the purpose of discovering violations of this chapter, implementing rules, or orders issued under this chapter:

a. Make such public or private investigations within or outside of this state as the commissioner deems necessary to determine whether any person has violated or is about to violate this chapter, implementing rules, or orders issued under this chapter, or to aid in enforcement of this chapter or in the prescribing of rules and forms under this chapter.

b. Require or permit any person to file a statement in writing, under oath or otherwise as the commissioner or attorney general determines, as to all the facts and circumstances concerning the matter to be investigated.

c. Investigate the seller and examine the books, accounts, papers, correspondence, memoranda, purchase agreements, files, or other documents or records used by every applicant and licensee under this chapter.

d. Administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, accounts, papers, correspondence, memoranda, purchase agreements, files, or other documents or records which the commissioner deems relevant or material to any investigation or proceeding under this chapter and implementing rules, all of which may be enforced under chapter 17A.

e. Apply to the district court for an order requiring a person's appearance before the commissioner or attorney general, or a designee of either or both, in cases where the person has refused to obey a subpoena issued by the commissioner or attorney general. The person may also be required to produce documentary evidence germane to the subject of the

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investigation. Failure to obey a court order under this subsection constitutes contempt of court.

2. All records maintained by the commissioner under this section, including work papers, notes, recorded information, documents, and copies thereof that are produced or obtained by or disclosed to the commissioner or another person in the course of an investigation, shall be confidential pursuant to section 22.7, subsection 58, and shall not be made available for inspection and copying except upon the approval of the commissioner or the attorney general. Such records shall be privileged and confidential in any judicial or administrative proceeding except any of the following:

a. An action commenced by the commissioner.

b. An administrative proceeding brought by the insurance division.

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

d. An action brought by the insurance division or the attorney general to recover moneys for embezzlement, misappropriation, or misuse of trust funds.

3. The commissioner may issue and bring an action in district court to enforce subpoenas within this state at the request of an agency or administrator of another state, if the activity constituting an alleged violation for which the information is sought would be a violation of this chapter had the activity occurred in this state.

2001 Acts, ch 118, §43; 2007 Acts, ch 175, §71; 2015 Acts, ch 128, §42, 43, 50, 51
Referred to in §22.7(58)

523A.804 Mediation.

1. The commissioner may order a seller to participate in mediation in any dispute regarding a purchase agreement. Mediation performed under this section shall be conducted by a mediator appointed by the commissioner and shall comply with the provisions of chapter 679C.

2. Mediation of these disputes shall include attendance at a mediation session with the mediator and the parties to the dispute, listening to the mediator's explanation of the mediation process, presentation of one party's view of the dispute, and listening to the response of the other party. Participation in mediation does not require that the parties reach a mediation agreement.

3. Parties to the mediation shall have the right to advice and presence of counsel at all times. The parties to the mediation shall present any mediation agreement reached through the mediation to the commissioner. If a mediation agreement is not reached, the mediator shall file a report with the commissioner. The costs of the mediation shall be approved by the commissioner and shall be borne by the insurance division's regulatory fund.

2001 Acts, ch 118, §44; 2007 Acts, ch 175, §72

523A.805 Cease and desist orders — injunctions.

If it appears to the commissioner that a person has engaged or is about to engage in an act or practice constituting a violation of this chapter, implementing rules, or orders issued under this chapter, the commissioner or the attorney general may do either or both of the following:

1. Issue a summary order directed at the person requiring the person to cease and desist from engaging in such act or practice. A person may request a hearing within thirty days of issuance of the summary order. If a hearing is not timely requested, the summary order shall become final by operation of law. The order shall remain effective from the date of issuance until the date the order becomes final by operation of law or is overturned by a presiding officer following a request for hearing. Section 17A.18A is inapplicable to summary cease and desist orders issued under this section.

2. Bring an action in the district court in any county of the state for an injunction to restrain a person subject to this chapter and any agents, employees, or associates of the person from engaging in conduct or practices deemed contrary to the public interest. In any proceeding for an injunction, the commissioner or attorney general may apply to the court for a subpoena to require the appearance of a defendant and the defendant's agents and

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for any books, accounts, papers, correspondence, memoranda, purchase agreements, files, or other documents or records germane to the hearing upon the petition for an injunction. Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver may be appointed for the defendant or the defendant's assets. The commissioner or attorney general shall not be required to post a bond.

2001 Acts, ch 118, §45

523A.806 Court action for failure to cooperate.

1. If a person fails or refuses to file any statement or report or to produce any books, accounts, papers, correspondence, memoranda, purchase agreements, files, or other documents or records, or to obey any subpoena issued by the commissioner, the commissioner may refer the matter to the attorney general, who may apply to a district court to enforce compliance. The court may order any or all of the following:

a. Injunctive relief, restricting or prohibiting the offer or sale of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof.

b. Revocation or suspension of any license issued under this chapter.

c. Production of documents or records including but not limited to books, accounts, papers, correspondence, memoranda, purchase agreements, files, or other documents or records.

d. Such other relief as may be required.

2. Such an order shall be effective until the person files the statement or report or produces the documents requested, or obeys the subpoena.

2001 Acts, ch 118, §46; 2007 Acts, ch 175, §73

523A.807 Prosecution for violations of law.

1. A violation of this chapter or rules adopted or orders issued under this chapter is a violation of section 714.16, subsection 2, paragraph *"a"*. The remedies and penalties provided by section 714.16, including but not limited to injunctive relief and penalties, apply to violations of this chapter.

2. If the commissioner believes that grounds exist for the criminal prosecution of persons subject to this chapter for violations of this chapter or any other law of this state, the commissioner may forward to the attorney general or the county attorney the grounds for the belief, including all evidence in the commissioner's possession, so that the attorney general or the county attorney may proceed with the matter as deemed appropriate.

3. If the commissioner finds that a person has violated section 523A.201, 523A.202, 523A.203, 523A.204, 523A.207, 523A.401, 523A.402, 523A.403, 523A.404, 523A.405, 523A.501, 523A.502, 523A.505, or 523A.605, or any rule adopted pursuant thereto, the commissioner may order any or all of the following:

a. Payment of a civil penalty of not more than one thousand dollars for each violation, not exceeding an aggregate of ten thousand dollars during any six-month period, except if the commissioner finds that the person knew or reasonably should have known that the person was in violation of a section or rules adopted pursuant to a section, the penalty shall be not more than five thousand dollars for each violation, and not exceed an aggregate of fifty thousand dollars during any six-month period. Any civil penalties collected under this subsection shall be deposited as provided in section 505.7.

b. Issuance of an order prohibiting the person committing a violation from selling funeral merchandise, cemetery merchandise, funeral services, or a combination thereof, and from managing, operating, or otherwise exercising control over any business entity that is subject to regulation under this chapter or chapter 523I. A person who has been named in such an order may contest the order by filing a request for a contested case proceeding as provided in chapter 17A and in accordance with rules adopted by the commissioner. The commissioner may, pursuant to chapter 17A, deny any application filed under section 523A.501 or 523A.502 if the applicant, or an officer, director, or owner of the applicant, is named in a final order issued pursuant to this subsection.

4. The commissioner shall post on the internet site of the division of insurance of the

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department of insurance and financial services a list of all persons licensed under this chapter and an index of orders issued by the commissioner pertaining to such persons.

2001 Acts, ch 118, §47; 2007 Acts, ch 175, §29; 2008 Acts, ch 1123, §52; 2009 Acts, ch 181, §96; 2010 Acts, ch 1121, §28; 2013 Acts, ch 90, §257; 2015 Acts, ch 128, §44, 50, 51; 2016 Acts, ch 1073, §159; 2021 Acts, ch 181, §41; 2022 Acts, ch 1047, §7; 2023 Acts, ch 19, §2738; 2024 Acts, ch 1031, §3; 2026 Acts, ch 1111, §10

Referred to in §523A.503
Subsection 3, unnumbered paragraph 1 amended

523A.808 Cooperation with other agencies.

1. To encourage uniform interpretation and administration of this chapter and effective regulation of the sale of cemetery merchandise, funeral merchandise, and funeral services, the commissioner may cooperate with any governmental law enforcement or regulatory agency.

2. This cooperation includes but is not limited to:

a. Making a joint examination or investigation.

b. Holding a joint administrative hearing.

c. Filing and prosecuting a joint civil or administrative proceeding.

d. Sharing and exchanging personnel.

e. Sharing and exchanging relevant information and documents.

f. Formulating, in accordance with chapter 17A, rules or proposed rules on matters such as statements of policy, regulatory standards, guidelines, and interpretive opinions.

2001 Acts, ch 118, §48

523A.809 Rules, forms, and orders.

1. Under chapter 17A, the commissioner may from time to time make, amend, and rescind such rules, forms, and orders as are necessary or appropriate for the protection of purchasers and the public and to administer the provisions of this chapter, its implementing rules, and orders issued under this chapter.

2. A rule, form, or order shall not be made, amended, or rescinded unless the commissioner finds that the action is necessary or appropriate in the public interest or for the protection of purchasers and consistent with the purposes fairly intended by the policies and provisions of this chapter, its implementing rules, and orders issued under this chapter.

3. A provision of this chapter imposing any liability does not apply to any act done or omitted in good faith in conformity with any rule, form, or order of the commissioner, notwithstanding that the rule, form, or order may later be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

2001 Acts, ch 118, §49

523A.810 Date of filing — interpretive opinions.

1. A document is filed when it is received by the commissioner.

2. Requests for interpretive opinions may be granted in the commissioner's discretion.

2001 Acts, ch 118, §50

523A.810A Electronic filing.

The commissioner shall, by rule, develop a system and procedures and a format for electronic filing of documents required to be filed with the commissioner under this chapter.

2008 Acts, ch 1103, §9

523A.811 Receiverships.

1. The commissioner may notify the attorney general of the potential need for establishment of a receivership if a receivership is requested or consented to by a seller subject to this chapter.

2. The commissioner shall notify the attorney general of the potential need for establishment of a receivership if the commissioner finds that a seller subject to this chapter meets one or more of the following conditions:

a. Is insolvent.

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b. Has utilized trust funds for personal or business purposes in a manner inconsistent with this chapter.

c. The amount of funds currently held in trust for cemetery merchandise, funeral merchandise, and funeral services is less than the amount required in section 523A.201, subsection 2 or 3, as applicable.

d. Has refused to pay any just claim or demand based on a purchase agreement referred to in section 523A.201.

e. The commissioner finds upon investigation that a seller is unable to pay any claim or demand based on a purchase agreement which has been legally determined to be just and outstanding.

f. A receivership has been established for a cemetery subject to chapter 523I that is owned or operated by a seller who is subject to this chapter.

3. The commissioner or attorney general may apply to the district court in any county of the state for the establishment of a receivership. Upon proof of any of the grounds for a receivership described in this section, the court may grant a receivership.

4. If a seller who is subject to this chapter owns or operates a cemetery subject to chapter 523I, for which a receivership has been established, the receivership provisions of section 523I.212 shall apply to any receivership established under this section.

2001 Acts, ch 118, §51; 2007 Acts, ch 175, §30, 31; 2008 Acts, ch 1103, §10; 2017 Acts, ch 14, §1

Referred to in §523A.812

523A.812 Insurance division regulatory fund.

The insurance division may authorize the creation of a special revenue fund in the state treasury, to be known as the insurance division regulatory fund. The commissioner shall allocate annually from the filing fees paid pursuant to section 523A.204, two dollars for each purchase agreement reported on a preneed seller's annual report filed pursuant to section 523A.204 for deposit to the regulatory fund. The remainder of the fees collected pursuant to section 523A.204 shall be deposited as provided in section 505.7. The commissioner shall also allocate annually the examination fees paid pursuant to section 523A.814 and any examination expense reimbursement for deposit to the regulatory fund. The moneys in the regulatory fund shall be retained in the fund. The moneys are appropriated and, subject to authorization by the commissioner, may be used to pay examiners, examination expenses, investigative expenses, the expenses of mediation ordered by the commissioner, consumer education expenses, the expenses of a toll-free telephone line to receive consumer complaints, and the expenses of receiverships established under section 523A.811. If the commissioner determines that funding is not otherwise available to reimburse the expenses of a person who receives title to a cemetery subject to chapter 523I, pursuant to such a receivership, the commissioner shall use moneys in the regulatory fund as necessary to preserve, protect, restore, and maintain the physical integrity of that cemetery and to satisfy claims or demands for cemetery merchandise, funeral merchandise, and funeral services based on purchase agreements which the commissioner determines are just and outstanding.

2001 Acts, ch 118, §52; 2005 Acts, ch 128, §4; 2007 Acts, ch 175, §32; 2009 Acts, ch 181, §97; 2021 Acts, ch 181, §42

523A.813 License revocation — recommendation by commissioner to board of mortuary science.

Upon a determination by the commissioner that grounds exist for an administrative license revocation or suspension action by the board of mortuary science under chapter 156, the commissioner may forward to the board the grounds for the determination, including all evidence in the possession of the commissioner, so that the board may proceed with the matter as deemed appropriate.

2001 Acts, ch 118, §53; 2007 Acts, ch 10, §178

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523A.814 Examination fee.

In addition to the filing fee paid pursuant to section 523A.204, subsection 2, a seller filing an annual report shall pay an examination fee in the amount of five dollars for each purchase agreement subject to a filing fee that is sold between July 1, 2005, and December 31, 2007, and in the amount of ten dollars for each purchase agreement subject to a filing fee that is sold after December 31, 2007.

2005 Acts, ch 128, §5; 2007 Acts, ch 175, §33
Referred to in §523A.812

523A.815 through 523A.900 Reserved.

SUBCHAPTER IX

LIQUIDATION PROCEDURES

523A.901 Liquidation.

1. *Grounds for liquidation.* The commissioner may petition the district court for an order directing the commissioner to liquidate the business of a seller on either of the following grounds:

a. The seller did not deposit funds pursuant to section 523A.201 or withdrew funds in a manner inconsistent with this chapter and is insolvent.

b. The seller did not deposit funds pursuant to section 523A.201 or withdrew funds in a manner inconsistent with this chapter and the condition of the seller is such that further transaction of business would be hazardous, financially or otherwise, to purchasers or the public.

2. *Liquidation order.*

a. An order to liquidate the business of a seller shall appoint the commissioner as liquidator and shall direct the liquidator to immediately take possession of the assets of the seller and to administer them under the general supervision of the court. The liquidator is vested with the title to the property, contracts, and rights of action and the books and records of the seller ordered liquidated, wherever located, as of the entry of the final order of liquidation. The filing or recording of the order with the clerk of court and the recorder of deeds of the county in which its principal office or place of business is located, or in the case of real estate, with the recorder of deeds of the county where the property is located, is notice as a deed, bill of sale, or other evidence of title duly filed or recorded with the recorder of deeds.

b. Upon issuance of an order, the rights and liabilities of a seller and of the seller's creditors, purchasers, owners, and other persons interested in the seller's estate shall become fixed as of the date of the entry of the order of liquidation, except as provided in subsection 14.

c. At the time of petitioning for an order of liquidation, or at any time after the time of petitioning, the commissioner, after making appropriate findings of a seller's insolvency, may petition the court for a declaration of insolvency. After providing notice and hearing as it deems proper, the court may make the declaration.

d. An order issued under this section shall require accounting to the court by the liquidator. Accountings, at a minimum, must include all funds received or disbursed by the liquidator during the current period. An accounting shall be filed within one year of the liquidation order and at such other times as the court may require.

e. Within five days after the initiation of an appeal of an order of liquidation, which order has not been stayed, the commissioner shall present for the court's approval a plan for the continued performance of the seller's obligations during the pendency of an appeal. The plan shall provide for the continued performance of purchase agreements in the normal course of events, notwithstanding the grounds alleged in support of the order of liquidation including the ground of insolvency. If the defendant seller's financial condition, in the judgment of the commissioner, will not support the full performance of all obligations

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during the appeal pendency period, the plan may prefer the claims of certain purchasers and claimants over creditors and interested parties as well as other purchasers and claimants, as the commissioner finds to be fair and equitable considering the relative circumstances of such purchasers and claimants. The court shall examine the plan submitted by the commissioner and if it finds the plan to be in the best interests of the parties, the court shall approve the plan. An action shall not lie against the commissioner or any of the commissioner's deputies, agents, clerks, assistants, or attorneys by any party based on preference in an appeal pendency plan approved by the court.

3. *Powers of liquidator.*

a. The liquidator may do any of the following:

(1) Appoint a special deputy to act for the liquidator under this chapter and determine the special deputy's reasonable compensation. The special deputy shall have all the powers of the liquidator granted by this section. The special deputy shall serve at the pleasure of the liquidator.

(2) Hire employees and agents, legal counsel, accountants, appraisers, consultants, and other personnel as the commissioner may deem necessary to assist in the liquidation.

(3) With the approval of the court, fix reasonable compensation of employees and agents, legal counsel, accountants, appraisers, and consultants.

(4) Pay reasonable compensation to persons appointed and defray from the funds or assets of the seller all expenses of taking possession of, conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and property of the seller. If the property of the seller does not contain sufficient cash or liquid assets to defray the costs incurred, the commissioner may advance the costs so incurred out of the insurance division regulatory fund. Amounts so advanced for expenses of administration shall be repaid to the insurance division regulatory fund for the use of the division out of the first available moneys of the seller.

(5) Hold hearings, subpoena witnesses and compel their attendance, administer oaths, examine a person under oath, and compel a person to subscribe to the person's testimony after it has been correctly reduced to writing, and in connection to the proceedings require the production of books, accounts, papers, correspondence, memoranda, purchase agreements, files, or other documents or records which the liquidator deems relevant to the inquiry.

(6) Collect debts and moneys due and claims belonging to the seller, wherever located. Pursuant to this subparagraph, the liquidator may do any of the following:

(a) Institute timely action in other jurisdictions to forestall garnishment and attachment proceedings against debts.

(b) Perform acts as are necessary or expedient to collect, conserve, or protect its assets or property, including the power to sell, compound, compromise, or assign debts for purposes of collection upon terms and conditions as the liquidator deems best.

(c) Pursue any creditor's remedies available to enforce claims.

(7) Conduct public and private sales of the property of the seller.

(8) Use assets of the seller under a liquidation order to transfer obligations of purchase agreements to a solvent seller, if the transfer can be accomplished without prejudice to the applicable priorities under subsection 18.

(9) Acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon, or otherwise dispose of or deal with property of the seller at its market value or upon terms and conditions as are fair and reasonable. The liquidator shall also have power to execute, acknowledge, and deliver deeds, assignments, releases, and other instruments necessary to effectuate a sale of property or other transaction in connection with the liquidation.

(10) Borrow money on the security of the seller's assets or without security and execute and deliver documents necessary to that transaction for the purpose of facilitating the liquidation. Money borrowed pursuant to this subparagraph shall be repaid as an administrative expense and shall have priority over any other class 1 claims under the priority of distribution established in subsection 18.

(11) Enter into contracts as necessary to carry out the order to liquidate and affirm or disavow contracts to which the seller is a party.

(12) Continue to prosecute and to institute in the name of the seller or in the liquidator's

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own name any and all suits and other legal proceedings, in this state or elsewhere, and to abandon the prosecution of claims the liquidator deems unprofitable to pursue further.

(13) Prosecute an action on behalf of the creditors, purchasers, or owners against an officer of the seller or any other person.

(14) Remove records and property of the seller to the offices of the commissioner or to other places as may be convenient for the purposes of efficient and orderly execution of the liquidation.

(15) Deposit in one or more banks in this state sums as are required for meeting current administration expenses and distributions.

(16) Unless the court orders otherwise, invest funds not currently needed.

(17) File necessary documents for recording in the office of the recorder of deeds or record office in this state or elsewhere where property of the seller is located.

(18) Assert defenses available to the seller against third persons including statutes of limitations, statutes of fraud, and the defense of usury. A waiver of a defense by the seller after a petition in liquidation has been filed shall not bind the liquidator.

(19) Exercise and enforce the rights, remedies, and powers of a creditor, purchaser, or owner, including the power to avoid transfer or lien that may be given by the general law and that is not included within subsections 7 through 9.

(20) Intervene in a proceeding wherever instituted that might lead to the appointment of a receiver or trustee, and act as the receiver or trustee whenever the appointment is offered.

(21) Exercise powers now held or later conferred upon receivers by the laws of this state which are not inconsistent with this chapter.

b. This subsection does not limit the liquidator or exclude the liquidator from exercising a power not listed in paragraph *"a"* that may be necessary or appropriate to accomplish the purposes of this chapter.

4. *Notice to creditors and others.*

a. Unless the court otherwise directs, the liquidator shall give notice of the liquidation order as soon as possible by doing both of the following:

(1) Mailing notice, by first-class mail, to all persons known or reasonably expected to have claims against the seller, including purchasers, at their last known address as indicated by the records of the seller.

(2) Publication of notice in a newspaper of general circulation in the county in which the seller has its principal place of business and in other locations as the liquidator deems appropriate.

b. Notice to potential claimants under paragraph *"a"* shall require claimants to file with the liquidator their claims together with proper proofs of the claim under subsection 13 on or before a date the liquidator shall specify in the notice. Claimants shall keep the liquidator informed of their changes of address, if any.

c. If notice is given pursuant to this subsection, the distribution of assets of the seller under this chapter shall be conclusive with respect to claimants, whether or not a claimant actually received notice.

5. *Actions by and against liquidator.*

a. After issuance of an order appointing a liquidator of the business of a seller, an action at law or equity shall not be brought against the seller within this state or elsewhere, and existing actions shall not be maintained or further presented after issuance of the order. Whenever in the liquidator's judgment, protection of the estate of the seller necessitates intervention in an action against the seller that is pending outside this state, the liquidator may intervene in the action. The liquidator may defend, at the expense of the estate of the seller, an action in which the liquidator intervenes under this section.

b. Within two years or such additional time as applicable law may permit, the liquidator, after the issuance of an order for liquidation, may institute an action or proceeding on behalf of the estate of the seller upon any cause of action against which the period of limitation fixed by applicable law has not expired at the time of the filing of the petition upon which the order is entered. If a period of limitation is fixed by agreement for instituting a suit or proceeding upon a claim, or for filing a claim, proof of claim, proof of loss, demand, notice, or the like, or if in a proceeding, judicial or otherwise, a period of limitation is fixed in the proceeding

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or pursuant to applicable law for taking an action, filing a claim or pleading, or doing an act, and if the period has not expired at the date of the filing of the petition, the liquidator may, for the benefit of the estate, take any action or do any act, required of or permitted to the seller, within a period of one hundred eighty days subsequent to the entry of an order for liquidation, or within a further period as is shown to the satisfaction of the court not to be unfairly prejudicial to the other party.

c. A statute of limitations or defense of laches shall not run with respect to an action against a seller between the filing of a petition for liquidation against the business of a seller and the denial of the petition. An action against the seller that might have been commenced when the petition was filed may be commenced within sixty days after the petition is denied.

6. *Collection and list of assets.*

a. As soon as practicable after the liquidation order but not later than one hundred twenty days after such order, the liquidator shall prepare in duplicate a list of the seller's assets. The list shall be amended or supplemented as the liquidator may determine. One copy shall be filed in the office of the clerk of court, and one copy shall be retained for the liquidator's files. Amendments and supplements shall be similarly filed.

b. The liquidator shall reduce the assets to a degree of liquidity that is consistent with the effective execution of the liquidation.

c. A submission of a proposal to the court for distribution of assets in accordance with subsection 11 fulfills the requirements of paragraph *"a"*.

7. *Fraudulent transfers prior to petition.*

a. A transfer made and an obligation incurred by a seller whose business is within one year prior to the filing of a successful petition for liquidation under this chapter is fraudulent as to then existing and future creditors if made or incurred without fair consideration, or with actual intent to hinder, delay, or defraud either existing or future creditors. A fraudulent transfer made or an obligation incurred by a seller whose business is ordered to be liquidated under this chapter may be avoided by the liquidator, except as to a person who in good faith is a purchaser, lienor, or obligee for a present fair equivalent value. A purchaser, lienor, or obligee, who in good faith has given a consideration less than present fair equivalent value for such transfer, lien, or obligation, may retain the property, lien, or obligation as security for repayment. The court may, on due notice, order any such transfer, lien, or obligation to be preserved for the benefit of the estate, and in that event, the receiver shall succeed to and may enforce the rights of the purchaser, lienor, or obligee.

b. (1) A transfer of property other than real property is made when it becomes perfected so that a subsequent lien obtainable by legal or equitable proceedings on a simple contract could not become superior to the rights of the transferee under subsection 9, paragraph *"c"*.

(2) A transfer of real property is made when it becomes perfected so that a subsequent bona fide purchaser from the seller could not obtain rights superior to the rights of the transferee.

(3) A transfer which creates an equitable lien is not perfected if there are available means by which a legal lien could be perfected.

(4) A transfer not perfected prior to the filing of a petition for liquidation is deemed to be made immediately before the filing of the successful petition.

(5) This subsection applies whether or not there are or were creditors who might have obtained a lien or persons who might have become bona fide purchasers.

8. *Fraudulent transfer after petition.*

a. After a petition for liquidation has been filed, a transfer of real property of the seller made to a person acting in good faith is valid against the liquidator if made for a present fair equivalent value. If the transfer is not made for a present fair equivalent value, then the transfer is valid to the extent of the present consideration actually paid for which amount the transferee shall have a lien on the property transferred. The commencement of a proceeding in liquidation is constructive notice upon the recording of a copy of the petition for or order of liquidation with the recorder of deeds in the county where any real property in question is located. The exercise by a court of the United States or a state or jurisdiction to authorize a judicial sale of real property of the seller within a county in a state shall not be impaired by the

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pendency of a proceeding unless the copy is recorded in the county prior to the consummation of the judicial sale.

b. After a petition for liquidation has been filed and before either the liquidator takes possession of the property of the seller or an order of liquidation is granted:

(1) A transfer of the property, other than real property, of the seller made to a person acting in good faith is valid against the liquidator if made for a present fair equivalent value. If the transfer was not made for a present fair equivalent value, then the transfer is valid to the extent of the present consideration actually paid for which amount the transferee shall have a lien on the property transferred.

(2) If acting in good faith, a person indebted to the seller or holding property of the seller may pay the debt or deliver the property, or any part of the property, to the seller or upon the seller's order as if the petition were not pending.

(3) A person having actual knowledge of the pending liquidation is not acting in good faith.

(4) A person asserting the validity of a transfer under this subsection has the burden of proof. Except as provided in this subsection, a transfer by or on behalf of the seller after the date of the petition for liquidation by any person other than the liquidator is not valid against the liquidator.

c. A person receiving any property from the seller or any benefit of the property of the seller which is a fraudulent transfer under paragraph *"a"* is personally liable for the property or benefit and shall account to the liquidator.

d. This chapter does not impair the negotiability of currency or negotiable instruments.

9. *Voidable preferences and liens.*

a. (1) A preference is a transfer of the property of a seller to or for the benefit of a creditor for an antecedent debt made or suffered by the seller within one year before the filing of a successful petition for liquidation under this chapter, the effect of which transfer may be to enable the creditor to obtain a greater percentage of this debt than another creditor of the same class would receive. If a liquidation order is entered while the seller is already subject to a receivership, then the transfers are preferences if made or suffered within one year before the filing of the successful petition for the receivership, or within two years before the filing of the successful petition for liquidation, whichever time is shorter.

(2) A preference may be avoided by the liquidator if any of the following exist:

(a) The seller was insolvent at the time of the transfer.

(b) The transfer was made within four months before the filing of the petition.

(c) At the time the transfer was made, the creditor receiving it or to be benefited by the transfer or the creditor's agent acting with reference to the transfer had reasonable cause to believe that the seller was insolvent or was about to become insolvent.

(d) The creditor receiving the transfer was an officer, or an employee, attorney, or other person who was in fact in a position of comparable influence in the business of the seller to an officer whether or not the person held the position of an officer, owner, or other person, firm, corporation, association, or aggregation of persons with whom the seller did not deal at arm's length.

(3) Where the preference is voidable, the liquidator may recover the property. If the property has been converted, the liquidator may recover its value from a person who has received or converted the property. However, if a bona fide purchaser or lienor has given less than the present fair equivalent value, the purchaser or lienor shall have a lien upon the property to the extent of the consideration actually given. Where a preference by way of lien or security interest is voidable, the court may on due notice order the lien or security interest to be preserved for the benefit of the estate, in which event the lien or title shall pass to the liquidator.

b. (1) A transfer of property other than real property is made when it becomes perfected so that a subsequent lien obtainable by legal or equitable proceedings on a simple contract could not become superior to the rights of the transferee.

(2) A transfer of real property is made when it becomes perfected so that a subsequent bona fide purchaser from the seller could not obtain rights superior to the rights of the transferee.

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(3) A transfer which creates an equitable lien is not perfected if there are available means by which a legal lien could be created.

(4) A transfer not perfected prior to the filing of a petition for liquidation is deemed to be made immediately before the filing of the successful petition.

(5) This subsection applies whether or not there are or were creditors who might have obtained liens or persons who might have become bona fide purchasers.

c. (1) A lien obtainable by legal or equitable proceedings upon a simple contract is one arising in the ordinary course of the proceedings upon the entry or docketing of a judgment or decree, or upon attachment, garnishment, execution, or like process, whether before, upon, or after judgment or decree and whether before or upon levy. It does not include liens which under applicable law are given a special priority over other liens which are prior in time.

(2) A lien obtainable by legal or equitable proceedings may become superior to the rights of a transferee, or a purchaser may obtain rights superior to the rights of a transferee within the meaning of paragraph *"b"*, if such consequences follow only from the lien or purchase itself, or from the lien or purchase followed by a step wholly within the control of the respective lienholder or purchaser, with or without the aid of ministerial action by public officials. However, a lien could not become superior and a purchase could not create superior rights for the purpose of paragraph *"b"* through an act subsequent to the obtaining of a lien or subsequent to a purchase which requires the agreement or concurrence of any third party or which requires further judicial action or ruling.

d. A transfer of property for or on account of a new and contemporaneous consideration, which is under paragraph *"b"* made or suffered after the transfer because of delay in perfecting it, does not become a transfer for or on account of an antecedent debt if any acts required by the applicable law to be performed in order to perfect the transfer as against liens or a bona fide purchaser's rights are performed within twenty-one days or any period expressly allowed by the law, whichever is less. A transfer to secure a future loan, if a loan is actually made, or a transfer which becomes security for a future loan, shall have the same effect as a transfer for or on account of a new and contemporaneous consideration.

e. If a lien which is voidable under paragraph *"a"*, subparagraph (2), has been dissolved by the furnishing of a bond or other obligation, the surety of which has been indemnified directly or indirectly by the transfer or the creation of a lien upon property of a seller before the filing of a petition under this chapter which results in the liquidation order, the indemnifying transfer or lien is also voidable.

f. The property affected by a lien voidable under paragraphs *"a"* and *"e"* is discharged from the lien. The property and any of the indemnifying property transferred to or for the benefit of a surety shall pass to the liquidator. However, the court may on due notice order a lien to be preserved for the benefit of the estate and the court may direct that the conveyance be executed to evidence the title of the liquidator.

g. The court shall have summary jurisdiction in a proceeding by a liquidator to hear and determine the rights of the parties under this section. Reasonable notice of hearing in the proceeding shall be given to all parties in interest, including the obligee of a releasing bond or other like obligation. Where an order is entered for the recovery of indemnifying property in kind or for the avoidance of an indemnifying lien, upon application of any party in interest, the court shall in the same proceeding ascertain the value of the property or lien. If the value is less than the amount for which the property is indemnified or less than the amount of the lien, the transferee or lienholder may elect to retain the property or lien upon payment of its value, as ascertained by the court, to the liquidator within the time as fixed by the court.

h. The liability of a surety under a releasing bond or other like obligation is discharged to the extent of the value of the indemnifying property recovered or the indemnifying lien nullified and avoided by the liquidator. Where the property is retained under paragraph *"g"*, the liability of the surety is discharged to the extent of the amount paid to the liquidator.

i. If a creditor has been preferred for property which becomes a part of the seller's estate, and afterward in good faith gives the seller further credit without security of any kind, the amount of the new credit remaining unpaid at the time of the petition may be set off against the preference which would otherwise be recoverable from the creditor.

j. If within four months before the filing of a successful petition for liquidation under

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this chapter, or at any time in contemplation of a proceeding to liquidate, a seller, directly or indirectly, pays money or transfers property to an attorney for services rendered or to be rendered, the transaction may be examined by the court on its own motion or shall be examined by the court on petition of the liquidator. The payment or transfer shall be held valid only to the extent of a reasonable amount to be determined by the court. The excess may be recovered by the liquidator for the benefit of the estate. However, where the attorney is in a position of influence in the business of the seller or an affiliate, payment of any money or the transfer of any property to the attorney for services rendered or to be rendered shall be governed by the provisions of paragraph *"a"*, subparagraph (2), subparagraph division (d).

k. (1) An officer, manager, employee, shareholder, subscriber, attorney, or other person acting on behalf of the seller who knowingly participates in giving any preference when the person has reasonable cause to believe the seller is or is about to become insolvent at the time of the preference is personally liable to the liquidator for the amount of the preference. There is an inference that reasonable cause exists if the transfer was made within four months before the date of filing of this successful petition for liquidation.

(2) A person receiving property from the seller or the benefit of the property of the seller as a preference voidable under paragraph *"a"* is personally liable for the property and shall account to the liquidator.

(3) This subsection shall not prejudice any other claim by the liquidator against any person.

10. *Claims of holder of void or voidable rights.*

a. A claim of a creditor who has received or acquired a preference, lien, conveyance, transfer, assignment, or encumbrance, voidable under this chapter, shall not be allowed unless the creditor surrenders the preference, lien, conveyance, transfer, assignment, or encumbrance. If the avoidance is effected by a proceeding in which a final judgment has been entered, the claim shall not be allowed unless the money is paid or the property is delivered to the liquidator within thirty days from the date of the entering of the final judgment. However, the court having jurisdiction over the liquidation may allow further time if there is an appeal or other continuation of the proceeding.

b. A claim allowable under paragraph *"a"* by reason of a voluntary or involuntary avoidance, preference, lien, conveyance, transfer, assignment, or encumbrance may be filed as an excused late filing under subsection 12, if filed within thirty days from the date of the avoidance or within the further time allowed by the court under paragraph *"a"*.

11. *Liquidator's proposal to distribute assets.*

a. From time to time as assets become available, the liquidator shall make application to the court for approval of a proposal to disburse assets out of marshaled assets.

b. The proposal shall at least include provisions for all of the following:

(1) Reserving amounts for the payment of all the following:

(a) Expenses of administration.

(b) To the extent of the value of the security held, the payment of claims of secured creditors.

(c) Claims falling within the priorities established in subsection 18, paragraphs *"a"* and *"b"*.

(2) Disbursement of the assets marshaled to date and subsequent disbursement of assets as they become available.

c. Action on the application may be taken by the court provided that the liquidator's proposal complies with paragraph *"b"*.

12. *Filing of claims.*

a. Proof of all claims shall be filed with the liquidator in the form required by subsection 13 on or before the last day for filing specified in the notice required under subsection 4.

b. The liquidator may permit a claimant making a late filing to share in distributions, whether past or future, as if the claimant were not late, to the extent that the payment will not prejudice the orderly administration of the liquidation under any of the following circumstances:

(1) The existence of the claim was not known to the claimant and the claimant filed the claim as promptly as reasonably possible after learning of it.

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(2) A transfer to a creditor was avoided under subsections 7 through 9, or was voluntarily surrendered under subsection 10, and the filing satisfies the conditions of subsection 10.

(3) The valuation under subsection 17 of security held by a secured creditor shows a deficiency, which is filed within thirty days after the valuation.

c. The liquidator may consider any claim filed late and permit the claimant to receive distributions which are subsequently declared on any claims of the same or lower priority if the payment does not prejudice the orderly administration of the liquidation. The late-filing claimant shall receive at each distribution the same percentage of the amount allowed on the claim as is then being paid to claimants of any lower priority. This shall continue until the claim has been paid in full.

13. *Proof of claim.*

a. Proof of claim shall consist of a statement signed by the claimant that includes all of the following that are applicable:

(1) The particulars of the claim, including the consideration given for it.

(2) The identity and amount of the security on the claim.

(3) The payments, if any, made on the debt.

(4) A statement that the sum claimed is justly owing and that there is no setoff, counterclaim, or defense to the claim.

(5) Any right of priority of payment or other specific right asserted by the claimant.

(6) A copy of the written instrument which is the foundation of the claim.

(7) The name and address of the claimant and the attorney who represents the claimant, if any.

b. A claim need not be considered or allowed if it does not contain all the information identified in paragraph *"a"* which is applicable. The liquidator may require that a prescribed form be used and may require that other information and documents be included.

c. At any time the liquidator may request the claimant to present information or evidence supplementary to that required under paragraph *"a"*, and may take testimony under oath, require production of affidavits or depositions, or otherwise obtain additional information or evidence.

d. A judgment or order against a seller entered after the date of filing of a successful petition for liquidation, or a judgment or order against the seller entered at any time by default or by collusion need not be considered as evidence of liability or of the amount of damages. A judgment or order against a seller before the filing of the petition need not be considered as evidence of liability or of the amount of damages.

14. *Special claims.*

a. A claim may be allowed even if contingent, if it is filed pursuant to subsection 12. The claim may be allowed and the claimant may participate in all distributions declared after it is filed to the extent that it does not prejudice the orderly administration of the liquidation.

b. Claims that are due except for the passage of time shall be treated as absolute claims are treated. However, the claims may be discounted at the legal rate of interest.

c. Claims made under employment contracts by directors, principal officers, or persons in fact performing similar functions or having similar powers are limited to payment for services rendered prior to the issuance of an order of liquidation under subsection 2.

15. *Disputed claims.*

a. If a claim is denied in whole or in part by the liquidator, written notice of the determination shall be given to the claimant or the claimant's attorney by first-class mail at the address shown in the proof of claim. Within sixty days from the mailing of the notice, the claimant may file objections with the liquidator. Unless a filing is made, the claimant shall not further object to the determination.

b. If objections are filed with the liquidator and the liquidator does not alter the denial of the claim as a result of the objections, the liquidator shall ask the court for a hearing as soon as practicable and give notice of the hearing by first-class mail to the claimant or the claimant's attorney and to any other persons directly affected. The notice shall be given not less than ten nor more than thirty days before the date of hearing. The matter shall be heard by the court or by a court-appointed referee. The referee shall submit findings of fact along with a recommendation.

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16. *Claims of other person.* If a creditor, whose claim against a seller is secured in whole or in part by the undertaking of another person, fails to prove and file that claim, then the other person may do so in the creditor's name and shall be subrogated to the rights of the creditor, whether the claim has been filed by the creditor or by the other person in the creditor's name to the extent that the other person discharges the undertaking. However, in the absence of an agreement with the creditor to the contrary, the other person is not entitled to any distribution until the amount paid to the creditor on the undertaking plus the distributions paid on the claim from the seller's estate to the creditor equal the amount of the entire claim of the creditor. An excess received by the creditor shall be held by the creditor in trust for the other person.

17. *Secured creditor's claims.*

a. The value of the security held by a secured creditor shall be determined in one of the following ways, as the court may direct:

(1) By converting the security into money according to the terms of the agreement pursuant to which the security was delivered to the creditors.

(2) By agreement, arbitration, compromise, or litigation between the creditor and the liquidator.

b. The determination shall be under the supervision and control of the court with due regard for the recommendation of the liquidator. The amount so determined shall be credited upon the secured claim. A deficiency shall be treated as an unsecured claim. If the claimant surrenders the security to the liquidator, the entire claim shall be allowed as if unsecured.

18. The priority of distribution of claims from the seller'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. The order of distribution of claims is as follows:

a. Class 1. The costs and expenses of administration, including but not limited to the following:

(1) Actual and necessary costs of preserving or recovering the assets of the seller.

(2) Compensation for all authorized services rendered in the liquidation.

(3) Necessary filing fees.

(4) Fees and mileage payable to witnesses.

(5) Authorized reasonable attorney fees and other professional services rendered in the liquidation.

b. Class 2. Reasonable compensation to employees for services performed to the extent that they do not exceed two months of monetary compensation and represent payment for services performed within one year before the filing of the petition for liquidation. Officers and directors are not entitled to the benefit of this priority. The priority is in lieu of other similar priority which may be authorized by law as to wages or compensation of employees.

c. Class 3. Claims under purchase agreements.

d. Class 4. Claims of general creditors.

e. Class 5. Claims of the federal or of any state or local government. Claims, including those of a governmental body for a penalty or forfeiture, are allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs incurred. The remainder of such claims shall be postponed to the class of claims under paragraph "*g*".

f. Class 6. Claims filed late or any other claims other than claims under paragraph "*g*".

g. Class 7. The claims of shareholders or other owners.

19. *Liquidator's recommendations to the court.*

a. The liquidator shall review claims duly filed in the liquidation and shall make further investigation as necessary. The liquidator may compound, compromise, or in any other manner negotiate the amount for which claims will be recommended to the court except where the liquidator is required by law to accept claims as settled by a person or organization. Unresolved disputes shall be determined under subsection 15. As soon as practicable, the liquidator shall present to the court a report of the claims against the seller

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with the liquidator's recommendations. The report shall include the name and address of each claimant and the amount of the claim finally recommended.

b. The court may approve, disapprove, or modify the report on claims by the liquidator. Reports not modified by the court within sixty days following submission by the liquidator shall be treated by the liquidator as allowed claims, subject to later modification or to rulings made by the court pursuant to subsection 15. A claim under a policy of insurance shall not be allowed for an amount in excess of the applicable policy limits.

20. *Distribution of assets.* Under the direction of the court, the liquidator shall pay distributions in a manner that will ensure the proper recognition of priorities and a reasonable balance between the expeditious completion of the liquidation and the protection of unliquidated and undetermined claims, including third-party claims. Distribution of assets in kind may be made at valuations set by agreement between the liquidator and the creditor and approved by the court.

21. *Unclaimed and withheld funds.*

a. Unclaimed funds subject to distribution remaining in the liquidator's hands when the liquidator is ready to apply to the court for discharge, including the amount distributable to a creditor, owner, or other person who is unknown or cannot be found, shall be deposited with the treasurer of state, and shall be paid without interest, except as provided in subsection 18, to the person entitled or to the person's legal representative upon proof satisfactory to the treasurer of state of the right to the funds. Any amount on deposit not claimed within six years from the discharge of the liquidator is deemed to have been abandoned and shall become the property of the state without formal escheat proceedings and be transferred to the insurance division regulatory fund.

b. Funds withheld under subsection 14 and not distributed shall upon discharge of the liquidator be deposited with the treasurer of state and paid pursuant to subsection 18. Sums remaining which under subsection 18 would revert to the undistributed assets of the seller shall be transferred to the insurance division regulatory fund and become the property of the state as provided under paragraph *"a"*, unless the commissioner in the commissioner's discretion petitions the court to reopen the liquidation pursuant to subsection 23.

c. Notwithstanding any other provision of this chapter, funds as identified in paragraph *"a"*, with the approval of the court, shall be made available to the commissioner for use in the detection and prevention of future insolvencies. The commissioner shall hold these funds in the insurance division regulatory fund and shall pay without interest, except as provided in subsection 18, to the person entitled to the funds or to the person's legal representative upon proof satisfactory to the commissioner of the person's right to the funds. The funds shall be held by the commissioner for a period of two years at which time the rights and duties to the unclaimed funds shall vest in the commissioner.

22. *Termination of proceedings.*

a. When all assets justifying the expense of collection and distribution have been collected and distributed under this chapter, the liquidator shall apply to the court for discharge. The court may grant the discharge and make any other orders, including an order to transfer remaining funds that are uneconomical to distribute, as appropriate.

b. Any other person may apply to the court at any time for an order under paragraph *"a"*. If the application is denied, the applicant shall pay the costs and expenses of the liquidator in resisting the application, including a reasonable attorney fee.

23. *Reopening liquidation.* At any time after the liquidation proceeding has been terminated and the liquidator discharged, the commissioner or other interested party may petition the court to reopen the proceedings for good cause including the discovery of additional assets. The court shall order the proceeding reopened if it is satisfied that there is justification for the reopening.

24. *Disposition of records during and after termination of liquidation.* If it appears to the commissioner that the records of the business of a seller in the process of liquidation or completely liquidated are no longer useful, the commissioner may recommend to the court and the court shall direct what records shall be retained for future reference and what records shall be destroyed.

25. *External audit of liquidator's books.* The court may order audits to be made of the

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books of the commissioner relating to a liquidation established under this chapter, and a report of each audit shall be filed with the commissioner and with the court. The books, records, and other documents of the liquidation shall be made available to the auditor at any time without notice. The expense of an audit shall be considered a cost of administration of the liquidation.

2001 Acts, ch 118, §54; 2002 Acts, ch 1050, §50; 2002 Acts, ch 1119, §85, 86; 2007 Acts, ch 175, §74 – 94; 2008 Acts, ch 1123, §53; 2009 Acts, ch 41, §263

CHAPTER 523B

BUSINESS OPPORTUNITY PROMOTIONS

Transferred to chapter 551A; 2004 Acts, ch 1104, §30, 31

CHAPTER 523C

RESIDENTIAL AND MOTOR VEHICLE SERVICE CONTRACTS

Referred to in §87.4, 296.7, 331.301, 364.4, 423.2, 423.5, 505.28, 505.29, 507E.8, 669.14, 670.7

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523C.6 Reimbursement insurance policy requirements — insurer qualifications.
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523C.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Commissioner"* means the commissioner of insurance.

2. *"Communicating in a verifiable manner"* means communication by in-person delivery, first class mail, email, or, if there is an auditable record of the communication, by telephone or software application on an electronic device.

3. *"Gross consideration"* means the total value of a service contract without deducting any expenses or costs.

4. *"Licensed service company"* means a service company which is licensed by the commissioner pursuant to this chapter.

5. *"Maintenance agreement"* means a contract of any duration that provides for scheduled maintenance to property.

6. *"Motor vehicle"* means any vehicle that is self-propelled and subject to registration under chapter 321.

7. *"Motor vehicle manufacturer"* means any of the following:

a. A person who manufactures or produces motor vehicles and sells the motor vehicles under the person's trade name or label.

b. A person who is a wholly owned subsidiary of any person who manufactures or produces motor vehicles.

c. A person who holds a one hundred percent ownership interest in another person who manufactures or produces motor vehicles.

d. A person who does not manufacture or produce motor vehicles, but for which motor vehicles are sold under the person's trade name or label.

e. A person who manufactures or produces motor vehicles, but the motor vehicles are sold under the trade name or label of another person.

f. A person who does not manufacture or produce motor vehicles, but who licenses the use of the person's trade name or label to another person pursuant to a written contract, who then sells motor vehicles under the trade name or label of the licensor.

8. *"Motor vehicle service contract"* means a contract or agreement sold for separate consideration for a specific duration that undertakes to perform the repair, replacement, or maintenance of a motor vehicle, or indemnification for such repair, replacement, or maintenance, for the operation or structural failure of a motor vehicle due to a defect in materials, workmanship, or normal wear and tear, with or without additional provisions for the incidental payment of indemnity under limited circumstances, including but not limited to motor vehicle towing, rental, emergency road service, and road hazard protection. *"Motor vehicle service contract"* also includes a contract or agreement sold for separate consideration for a specific duration that provides for any of the following services or products:

a. The repair or replacement of motor vehicle tires or wheels that are damaged as a result of contact with road hazards, including but not limited to potholes, rocks, wood debris, metal parts, glass, plastic, curbs, or composite scraps.

b. The removal of dents or creases on a motor vehicle under a process that does not use paint or affect the existing paint finish, and without sanding, bonding, or replacing motor vehicle body panels.

c. The repair or replacement of motor vehicle windshields that are damaged as a result of contact with road hazards.

d. The replacement of motor vehicle keys or key fobs in the event that such device becomes inoperable, lost, or stolen.

e. Any other service or product approved by the commissioner.

9. *"Person"* means an individual or a business entity.

10. *"Premium"* means the consideration paid to an insurer for a reimbursement insurance policy.

11. *"Record"* means information stored or preserved in any medium, including in an electronic or paper format. A *"record"* includes but is not limited to documents, books, publications, accounts, correspondence, memoranda, agreements, computer files, film, microfilm, photographs, and audio or visual tapes.

12. *"Reimbursement insurance policy"* means a contractual liability insurance policy issued to a service company 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.

13. *"Residential service contract"* means a contract or agreement between a residential customer and a service company which undertakes, for a predetermined fee and for any period of time, to service, maintain, repair, replace, or indemnify expenses for all or any part of the operational or structural components, appliances, or electrical, mechanical, plumbing, heating, cooling, or air-conditioning systems of residential property in the state which fails due to normal wear or tear or inherent defect, or damage resulting from power surges, roof leakage, or accidental damage.

14. *"Service company"* means a person who is contractually obligated to perform services pursuant to a motor vehicle service contract or residential service contract.

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15. *"Service contract"* means a motor vehicle service contract or residential service contract.

16. *"Service contract holder"* means the original purchaser of a service contract or the successor in interest or transferee entitled to services under the service contract.

17. *"Substitute part"* means a part that is not issued by the original part manufacturer, including but not limited to a remanufactured part, an aftermarket part, and a part obtained from a salvage yard.

18. *"Support services"* means a person that provides services that support, or a person that works under the direction of, a licensed service company in connection with the issuance, offer for sale, sale, or administration of a service contract in this state, including but not limited to a person that provides marketing, administrative, or technical support to a service company.

19. *"Warranty"* means a statement made solely by the manufacturer, importer, or seller of property or services without consideration, that is not negotiated or separated from the sale of the product and is incidental to the sale of the product, and that guarantees indemnity for defective parts, mechanical or electrical breakdown, and labor or other remedial measures, such as repair or replacement of the property or repetition of services.

83 Acts, ch 87, §2; 88 Acts, ch 1112, §703; 2000 Acts, ch 1147, §28; 2006 Acts, ch 1010, §145; 2019 Acts, ch 142, §1, 19; 2026 Acts, ch 1188, §1 – 3, 17

Referred to in §163.51, 322.19, 551A.1

2026 amendments to section effective January 1, 2027; 2026 Acts, ch 1188, §17

Section amended and editorially internally renumbered

523C.2 License required — applicability of chapter.

1. A person shall not, directly or indirectly, issue, offer for sale, or sell, a motor vehicle service contract or residential service contract in this state unless the person is licensed under this chapter.

2. This chapter shall not apply to any person that provides support services. A service company that utilizes support services shall ensure the support services' compliance with the issuance, offer for sale, or sale of a service contract under this chapter.

3. A service company shall maintain a license for the duration of time that the service company is contractually obligated to a service contract holder under the terms of a service contract, unless otherwise ordered by the commissioner after a hearing conducted pursuant to chapter 17A.

4. A service company shall report to the commissioner within thirty calendar days any material change to the information submitted by the service company in the service company's initial license application, or license renewal application, including a change in the service company's contact information, ownership, officers, or directors directly responsible for the service company's service contract business, or any other change that substantially affects the service company's operations in the state.

5. A service company shall report to the commissioner any final disposition of an administrative action taken against the service company related to the service company's service contract business in another jurisdiction within thirty calendar days of final disposition of the administrative action. The report must include a copy of the order, consent to the order, and other relevant legal documents.

6. Within thirty calendar days of the initial pretrial hearing date, a service company shall report to the commissioner a criminal prosecution in any jurisdiction of an owner with more than a ten percent ownership stake, an officer, or a director directly responsible for the service contract business of the service company, for an offense involving dishonesty or a false statement including but not limited to fraud, theft, misappropriation of funds, falsification of documents, deceptive acts or practices, or other related offenses. The report must include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.

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7. A residential service contract and a motor vehicle service contract shall not be considered insurance.

83 Acts, ch 87, §3; 93 Acts, ch 60, §7; 2019 Acts, ch 142, §2, 19; 2026 Acts, ch 1188, §4, 17
2026 amendment effective January 1, 2027; 2026 Acts, ch 1188, §17
Section stricken and rewritten

523C.3 Application for license.

1. Application for a license as a service company shall be filed with the commissioner on a form approved by the commissioner and must include all of the following information:

a. The name and principal address of the applicant.

b. The state of incorporation of the applicant.

c. The name and address of the applicant's registered agent for service of process in Iowa.

d. The legal name of all of the following:

(1) Each owner of the service company that has a greater than ten percent ownership stake in the service company.

(2) Each officer of the service company.

(3) Each director directly responsible for the business of the service company.

e. Evidence that the applicant has obtained any necessary authority from the secretary of state to transact business in this state. An applicant whose home state is not this state shall provide a certification, dated not more than thirty calendar days after the date of submission of an application, from the applicant's home state that certifies the applicant is in good standing in the applicant's home state.

f. Evidence of compliance with section 523C.5.

g. A copy of each motor vehicle service contract form to be used, issued, or offered for sale in this state by the service company.

h. A copy of each residential service contract form to be used, issued, or offered for sale in this state by the service company.

i. A national association of insurance commissioners' biographical affidavit for the chief executive officer and chief financial officer of the service company, or for the individuals in equivalent positions.

j. A list of any disciplinary actions taken against the service company, or any of the service company's owners who have an ownership stake in the service company of more than ten percent, officers, or directors directly responsible for the provider's service contract business, in the immediately preceding five consecutive years by a regulatory agency or state attorney general in any jurisdiction.

2. The application must be accompanied by a license fee in the amount of five hundred dollars.

3. If the application for a service company license contains the information under subsection 1, is accompanied by the fees under subsection 2, includes any additional information requested by the commissioner to verify the information in the application, and the commissioner has not denied the application pursuant to section 523C.9, the commissioner shall issue the license to the applicant.

4. Fees collected under this section shall be deposited into the service company oversight fund as provided in section 523C.24.

83 Acts, ch 87, §4; 88 Acts, ch 1112, §704; 92 Acts, ch 1078, §2; 2009 Acts, ch 181, §98; 2019 Acts, ch 142, §3, 19; 2021 Acts, ch 181, §43; 2026 Acts, ch 1188, §5, 17
Referred to in §523C.4, 523C.9, 523C.13
2026 amendment effective January 1, 2027; 2026 Acts, ch 1188, §17
Section stricken and rewritten

523C.4 License expiration and renewal.

1. A license issued under this chapter shall be valid for a period of one year and shall be renewed annually on or before August 31. A licensee must apply for renewal at least ninety calendar days prior to the license expiration date. A license that is not renewed prior to the expiration date may be deemed expired.

2. An application for license renewal must include the information required for an initial license as described in section 523C.3, subsection 1, paragraphs "*a*" through "*f*", and a list of

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each service contract form the service company continues to use, offer for sale, or issue in the state, including the service contract form name, number, and the date the form was last revised.

3. The license renewal application must be accompanied by all of the following:

a. A license renewal fee in the amount of two hundred dollars.

b. A fee in the amount of three percent of the aggregate amount of payments the service company received for the sale or issuance of residential service contracts in this state, less any refunds issued, during the immediately preceding calendar year, provided that such fee must be no greater than fifty thousand dollars.

c. In a format prescribed by the commissioner, information regarding service contracts in this state for the service company in the immediately preceding calendar year itemized as follows:

(1) The number of motor vehicle service contracts issued.

(2) The number of residential service contracts issued.

(3) The number of motor vehicle service contracts canceled.

(4) The number of residential service contracts canceled.

(5) The number of motor vehicle service contracts that expired.

(6) The number of residential service contracts that expired.

(7) The number of motor vehicle service contracts in effect on December 31 of the immediately preceding calendar year.

(8) The number of residential service contracts in effect on December 31 of the immediately preceding calendar year.

(9) The total dollar amount of motor vehicle service contract fees received by the service company.

(10) The total dollar amount of residential service contract fees received by the service company.

4. If the license renewal application complies with this section, includes any additional information requested by the commissioner to verify the information in the application, and the commissioner has not refused to renew the license pursuant to section 523C.9, the commissioner shall renew the license. If the commissioner refuses renewal of a license pursuant to section 523C.9, the refusal shall be in writing setting forth the grounds for the refusal.

5. If a service company submits a license renewal application after the license has expired, the service company shall pay a reinstatement fee of eight hundred dollars, and the applicable fees pursuant to subsection 3.

6. A service company whose license has expired shall not offer, extend, or renew a service contract until the service company's license has been renewed or the service company has been issued a new license.

83 Acts, ch 87, §5; 2019 Acts, ch 142, §4, 19; 2021 Acts, ch 181, §44; 2024 Acts, ch 1053, §1, 2; 2026 Acts, ch 1188, §6, 17

Referred to in §523C.13
2026 amendment effective January 1, 2027; 2026 Acts, ch 1188, §17
Section stricken and rewritten

523C.5 Financial responsibility — demonstration requirements.

In order to assure the faithful performance of a service company's obligations to its contract holders in this state, a licensed service company shall demonstrate financial responsibility to the commissioner by satisfying one of the following, as evidenced by the service company:

1. Insuring all motor vehicle service contracts and residential service contracts offered for sale in this state under a reimbursement insurance policy that complies with section 523C.6.

2. Doing both of the following:

a. Maintaining a funded reserve account for the service company's obligations under any issued and outstanding service contracts in this state, in an amount no less than forty percent of gross consideration received, less claims paid, for the sale of all service contracts issued and in force in this state. The reserve account shall be subject to examination and review by the commissioner.

b. Placing in trust with the commissioner a financial security deposit in an amount no less

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than five percent of the gross consideration received by the service company, less claims paid, for the sale of all motor vehicle service contracts and residential service contracts issued and in force in this state, but not less than twenty-five thousand dollars, consisting of one of the following:

(1) Cash.

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

(3) Certificates of deposit.

(4) A surety bond issued by an authorized surety company.

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

3. Doing both of the following:

a. Maintaining, on its own or together with a parent company, a minimum net worth or stockholders' equity of one hundred million dollars or more.

b. Upon request from the commissioner, providing either:

(1) A copy of the service company's financial statements.

(2) 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 motor vehicle service contracts and residential service contracts issued and outstanding by the service company in this state.

83 Acts, ch 87, §6; 88 Acts, ch 1112, §705; 92 Acts, ch 1078, §3; 2012 Acts, ch 1023, §157; 2019 Acts, ch 142, §5, 19

Referred to in §523C.3, 523C.7, 523C.9, 523C.15

523C.6 Reimbursement insurance policy requirements — insurer qualifications.

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

a. The reimbursement insurance policy shall obligate the insurer that issued such policy to reimburse or pay on behalf of the service company any covered sums that the service company is legally obligated to pay according to the terms of the contract or, in the event of nonperformance by the service company, provide the service which the service company is legally obligated to perform according to the terms of the service contract, which shall be conspicuously stated in the reimbursement insurance policy.

b. The reimbursement insurance policy shall entitle a service contract holder to make a claim directly against the insurance policy if the service company fails to pay or provide service on a claim within sixty days after proof of loss is filed with the service company.

c. The insurer that issued a reimbursement insurance policy shall be deemed to have received the premiums upon the payment of the total purchase price of the service contract by the service contract holder.

2. *Termination.* As applicable, an insurer that issued a reimbursement insurance policy shall not terminate the policy unless a written notice has been received by the commissioner and by each applicable service company. The notice shall fix the date of termination at a date no earlier than ten days after receipt of the notice by the commissioner. The termination of a reimbursement insurance policy shall not reduce the issuer's responsibility for a service contract issued by an insured service company prior to the date of termination.

3. *Indemnification or subrogation.* This section does not prevent or limit the right of an insurer that issued a reimbursement insurance policy to seek indemnification from or subrogation against a service company if the insurer pays or is obligated to pay a service contract holder sums that the service company was obligated to pay pursuant to the provisions of a service contract or pursuant to a contractual agreement.

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4. *Premium tax liability.* Payments for the purchase price of a service contract by a service contract holder shall be exempt from premium tax. However, premiums shall be subject to premium tax.

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 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.

83 Acts, ch 87, §7; 88 Acts, ch 1112, §706; 92 Acts, ch 1078, §4; 99 Acts, ch 166, §12; 2019 Acts, ch 142, §6, 19

Referred to in §523C.5

523C.7 Disclosure to service contract holders — contract form — required provisions.

1. A service contract shall not be issued, sold, or offered for sale in this state unless the service company does all of the following:

a. Provides a receipt for the purchase of the service contract to the service contract holder.

b. Provides a complete sample copy of the service contract to the consumer prior to purchase. A service company may comply with this paragraph by providing the consumer with a complete electronic sample copy of the service contract, or directing the consumer to a complete sample copy of the service contract on an internet site.

c. Provides a fully executed paper or electronic copy of the service contract to the service contract holder within ten business days of the date the service contract holder purchased the service contract. A paper copy of the executed service contract shall be provided to the service contract holder upon request of the service contract holder at the expense of the service company.

2. A service contract issued, sold, or offered for sale in the state must comply with all of the following, as applicable:

a. A service contract must be written in clear, understandable language in at least eight point type.

b. (1) A service contract insured under a reimbursement insurance policy as provided in section 523C.5, subsection 1, must include 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.

(2) A service contract insured under a reimbursement insurance policy must conspicuously state the name and address of the issuer of the reimbursement insurance policy for that service contract. A claim against a reimbursement insurance policy must also include a claim for return of any refund due in accordance with paragraphs "*m*" and "*n*".

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c. A service contract not insured under a reimbursement insurance policy must 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 and are not guaranteed under a reimbursement insurance policy.

d. A service contract must state the name and address of the service company obligated to perform services under the contract, and must conspicuously identify the service company, any third-party administrator, and the service contract holder to the extent that the name and address of the service contract holder has been furnished. The identities of such parties shall not be required to be printed on the contract in advance and may be added to the contract at the time of sale.

e. A service contract must clearly state the total purchase price of the service contract and the terms under which the service contract is sold. The total purchase price shall not be required to be printed on the contract in advance and may be added to the contract at the time of sale.

f. If prior approval of repair work is required, a service contract must conspicuously describe the procedure for obtaining prior approval and for making a claim, including a toll-free telephone number for claim service, and the procedure for obtaining emergency repairs performed outside of normal business hours.

g. A service contract must clearly state any waiting period applicable to coverage under the service contract.

h. A service contract must clearly state the existence of any deductible amount.

i. A service contract must specify the merchandise or services, or both, to be provided and any limitations, exceptions, or exclusions.

j. A service contract must clearly state the conditions on which the use of substitute parts or services will be allowed. Such conditions must comply with applicable state and federal laws.

k. A service contract must clearly state any terms, restrictions, or conditions governing the transferability of the service contract.

l. A service contract must clearly state the instructions for cancellation of the service contract by the service contract holder. Cancellation instructions must include the phone number, email address, or mailing address necessary for the cancellation of the service contract. A service company shall accept cancellation of a service contract from a service contract holder by one or more of the following methods:

(1) Telephone.

(2) Email.

(3) The method utilized by the service company to enter into the service contract with the service contract holder.

m. A service contract must clearly state the terms and conditions governing the cancellation of the contract prior to the termination or expiration date of the contract by the service company or the service contract holder. If the service company cancels the contract, the service company shall mail a written notice of termination to the service contract holder at least fifteen calendar days before the date of the termination. Prior notice of cancellation by the service company shall not be required if the reason for cancellation is nonpayment of the purchase price, a material misrepresentation by the service contract holder to the service company or the support services for the service company, or a substantial breach of duty by the service contract holder relating to the covered product or use of the covered product. The notice of cancellation must state the effective date of the cancellation and the reason for the cancellation. If a service contract is canceled by the service company for any reason other than nonpayment of the purchase price, the service company shall refund the service contract holder in an amount equal to one hundred percent of the unearned purchase price paid, calculated on a pro rata basis based upon elapsed time or mileage, less any claims paid. The service company may also charge a reasonable administrative fee in an amount no greater than ten percent of the total purchase price. A penalty of ten percent of the original

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dollar amount of the refund shall be added to the refund each month if the refund is not paid to the service contract holder within thirty calendar days.

n. (1) A service contract must permit the original service contract holder who purchased the contract to cancel the service contract within at least thirty calendar days of the effective date of the service contract, provided no claims have been paid under the service contract, or within a longer period of time as permitted under the service contract. If a claim has not been paid under the service contract prior to cancellation by the service contract holder, the service contract is void and the full purchase price of the service contract shall be refunded to the service contract holder. A penalty of ten percent of the original dollar amount of the refund shall be added to the refund each month if the refund is not paid to the service contract holder within thirty calendar days, unless the service contract holder fails to provide the information required by the service contract to complete the cancellation.

(2) If the service contract holder cancels the service contract in violation of subparagraph (1), the service company shall refund the service contract holder an amount equal to one hundred percent of the unearned purchase price paid, calculated on a pro rata basis based upon elapsed time or mileage, less any claims paid. The service company may also charge a reasonable administrative fee in an amount no greater than ten percent of the total purchase price. A penalty of ten percent of the original dollar amount of the refund shall be added to a refund each month if the refund is not paid to the service contract holder within thirty calendar days of the service contract cancellation request, unless the service contract holder fails to provide the information required in the service contract to complete the cancellation.

o. A service contract must set forth all obligations and duties of the service contract holder, including but not limited to the duty to protect against any further damage, and the obligation to follow an owner's manual and to perform, or have performed, all required service or maintenance.

p. A service contract must clearly state if the contract covers or excludes consequential damages and preexisting conditions, if applicable. A service contract may, but is not required to, cover damage resulting from rust, corrosion, or damage caused by a part or system not covered under the service contract.

q. A service contract must clearly state the service call fee, if any, charged to the service contract holder.

r. A service contract must state the name and address of the commissioner, the current toll-free telephone number of the division, and a statement that a consumer may file a complaint with the division, including by filing a complaint on the division's internet site.

s. A service contract must state that if the claim covered under a residential service contract relates to the total loss of heating, cooling, or plumbing, or substantial loss of electrical service, and the claim being made by the service contract holder is essential to the health and safety of the service contract holder or, if applicable, the service contract holder's family, the service company shall ensure all of the following:

(1) Repair or replacement of the essential good commences within forty-eight hours after the report of the claim, and is completed as soon as reasonably practicable.

(2) Notice is provided to the service contract holder if a repair cannot practicably be completed within three calendar days after the report of the claim. The service company shall provide a status report to the service contract holder by communicating in a verifiable manner as soon as practicable, but no later than three calendar days after the date of the report of the claim. The status report must include all of the following:

(a) A list of all required repairs, replacements, or services, and the estimated cost to the service contract holder if known.

(b) The primary reason the required repair, replacement, or service will take longer than three calendar days, including the status of all parts required for the repair, replacement, or service.

(c) The current estimated length of time to complete the repair, replacement, or service.

(d) The telephone number of the service company in the event the service contract holder or the commissioner wants to make an inquiry concerning the claim, and a commitment by

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the service company to respond to an inquiry no later than one business day after the date the inquiry is received.

83 Acts, ch 87, §8; 87 Acts, ch 234, §434; 98 Acts, ch 1189, §21; 2000 Acts, ch 1147, §29; 2019 Acts, ch 142, §7, 19; 2020 Acts, ch 1063, §299; 2024 Acts, ch 1053, §3, 4; 2026 Acts, ch 1188, §7, 17

Referred to in §523C.8, 523C.13, 714.16, 714H.3
2026 amendment effective January 1, 2027; 2026 Acts, ch 1188, §17
Section stricken and rewritten

523C.8 Service contract forms — fees.

1. A service company shall file with the division an accurate copy of each service contract form prior to using the service contract form for the sale of a service contract in this state.

2. At the time of filing a new or modified motor vehicle service contract form with the division a service company shall pay a fee in the amount of thirty-five dollars for a new or modified motor vehicle service contract form filed with the division. If a service company files a modified motor vehicle service contract form, and the only modification to the motor vehicle service contract form is information required by section 523C.7, subsection 2, paragraph *"r"*, the service company shall not be required to pay a fee for filing the modified motor vehicle service contract form.

3. Notwithstanding section 523C.7, a service company may continue to use a service contract form that is noncompliant with this chapter until January 1, 2028, provided no changes are made to the service contract form and the service contract form was filed with the division before January 1, 2027.

2026 Acts, ch 1188, §8, 17

Section effective January 1, 2027; 2026 Acts, ch 1188, §17
NEW section

523C.8A Issuance of residential service contract without consideration prohibited. Repealed by 2019 Acts, ch 142, §17, 19.

523C.9 License denial, nonrenewal, suspension, or revocation.

1. The commissioner may, at the commissioner's discretion and without advance notice or hearing, immediately suspend a service company's license if the commissioner finds that any of the following are true:

a. The service company is insolvent or impaired.

b. A proceeding for receivership, conservatorship, rehabilitation, or other delinquency proceeding regarding the service company has been commenced in any state.

c. The financial condition or business practices of the service company otherwise pose an imminent threat to the public health, safety, or welfare of the residents of this state.

2. The commissioner may suspend or revoke the license of, deny an application for a license from, or refuse to renew the license of, a service company, or may levy a civil penalty as provided in section 523C.13 against a service company, for any of the following reasons:

a. The service company violated this chapter, a lawful order, regulation, or subpoena issued by the commissioner or a regulatory authority of another state.

b. The service company failed to pay a final judgment rendered against the service company in this state within sixty calendar days after the date the judgment became final.

c. The service company, without just cause, refused to perform, or negligently or incompetently performed, a service required to be performed under the service company's service contracts and the refusal, or negligent or incompetent performance, has occurred with such frequency as determined by the commissioner, as to indicate the general business practices of the service company.

d. The service company violated section 523C.13.

e. The service company failed to demonstrate financial responsibility pursuant to section 523C.5, if applicable.

f. The service company failed to maintain a corporate certificate of good standing pursuant to section 523C.3, subsection 1.

g. The service company provided incorrect, misleading, incomplete, or materially untrue information in the service company's license application.

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h. The service company obtained or attempted to obtain a license through misrepresentation or fraud.

i. The service company improperly withheld, misappropriated, or converted any money or property received in the course of business as a service company.

j. The service company intentionally misrepresented the terms of an actual or proposed service contract.

k. Within the immediately preceding ten consecutive years, an owner who has an ownership stake in the service company of more than ten percent, an officer, or a director directly responsible for the business of the service company has been convicted of a criminal offense involving any aspect of a business involving securities, commodities, investments, franchises, insurance, banking, or finance.

l. An owner who has an ownership stake in the service company of more than ten percent, an officer, or a director directly responsible for the business of the service company has been convicted of a criminal offense involving dishonesty or a false statement, including but not limited to fraud, theft, misappropriation of funds, falsification of documents, deceptive acts or practices, or other related offenses.

m. The service company admitted to committing, or was found to have committed, any unfair trade practice or fraud.

n. The service company used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness, or financial irresponsibility, in conducting business in this state or any other state.

o. The service company had a service company license or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory.

p. The service company failed, or refused, to cooperate in an investigation conducted by the commissioner of insurance.

q. The commissioner has found the service company to be incompetent, untrustworthy, financially irresponsible, or not of good personal or business reputation.

r. The service company has refused to be examined or to produce the service company's accounts, records, or files for examination, or any individual responsible for the conduct of the affairs of the service company has refused to provide information with respect to the service company's affairs or has refused to perform any other legal obligation as to an examination.

s. The service company has engaged, directly or indirectly, in an unfair method of competition or unfair or deceptive act or practice.

3. If the commissioner suspends or revokes the license of, denies the application for licensure of, or refuses to renew the license of, a service company pursuant to this section, the commissioner shall notify the service company in writing and provide the reason for the suspension, revocation, denial, or nonrenewal. The licensee or applicant may request a hearing on the suspension, revocation, nonrenewal, or denial, and a hearing shall be conducted according to chapter 17A.

83 Acts, ch 87, §10; 2006 Acts, ch 1010, §146; 2019 Acts, ch 142, §8, 19; 2020 Acts, ch 1062, §60; 2020 Acts, ch 1063, §300; 2021 Acts, ch 76, §131; 2026 Acts, ch 1188, §9, 17

Referred to in §523C.3, 523C.4

2026 amendment effective January 1, 2027; 2026 Acts, ch 1188, §17

Section stricken and rewritten

523C.10 Rules.

The commissioner may adopt rules under chapter 17A to implement this chapter.

83 Acts, ch 87, §11

523C.11 Reserve account. Repealed by 2019 Acts, ch 142, §17, 19.

523C.12 Optional examination.

The commissioner or a designee of the commissioner may make an examination of the books and records of a service company, including copies of contracts and records of claims and expenditures, and verify its assets, liabilities, and reserves. The actual costs of the examination shall be borne by the service company. The costs of an examination under this

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section shall not exceed an amount equal to ten percent of the service company's reported net income in the previous fiscal year.

83 Acts, ch 87, §13; 94 Acts, ch 1031, §18; 2019 Acts, ch 142, §9, 19

523C.13 Prohibited acts or practices — penalty — violations — contracts voided.

1. A service company, or the service company's support services, that offers service contracts for sale in this state shall not, directly or indirectly, represent in any manner, whether by written solicitation or telemarketing, a false, deceptive, or misleading statement with respect to any of the following:

a. The service company's affiliation with a motor vehicle manufacturer or importer.

b. The validity or expiration of a warranty.

c. A motor vehicle service contract holder's coverage under a motor vehicle service contract, including statements suggesting that the service contract holder must purchase a new service contract in order to maintain coverage under the existing service contract or warranty.

d. Descriptions of the service contract as a "policy".

2. A licensed service company which offers service contracts for sale in this state shall not, directly or indirectly, do any of the following:

a. Fail to attempt, in good faith, to effectuate the prompt, fair, and equitable resolution of a claim made under a service contract.

b. Create or use any advertising that does not include the name of the licensed service company or direct consumers to an internet site where the name of the licensed service company can be found.

c. Use any method of marketing that may induce the purchase of a service contract through force, fear, or threats, whether explicit or implied.

d. Create or use any service contract marketing materials that contain incorrect or misleading information.

e. Use, offer for sale, or issue in this state a service contract form that has not been submitted as part of a license application pursuant to section 523C.3, as part of a license application renewal pursuant to section 523C.4, or submitted to the division during the service company's current license period.

3. The commissioner may adopt rules pursuant to chapter 17A that regulate service contracts to prohibit misrepresentation, false advertising, defamation, boycotts, coercion, intimidation, false statements and entries, and unfair discrimination or practices.

4. After a hearing, if the commissioner finds that a person violated this chapter or a rule adopted under this chapter, the commissioner may order the person to cease and desist from the violation and may order the person to pay a civil penalty of not more than one thousand dollars for each violation, not to exceed an aggregate of ten thousand dollars, unless the person knew or reasonably should have known the person was in violation of this chapter, in which case the civil penalty shall be no more than five thousand dollars for each violation, not to exceed an aggregate of fifty thousand dollars in any one consecutive six-month period. If the commissioner finds a violation of this chapter was directed, encouraged, condoned, ignored, or ratified by the employer of such person or by a service company, the commissioner shall assess a penalty to the employer or service company. Any civil penalties collected under this subsection shall be deposited as provided in section 505.7.

5. A violation of this section or section 523C.7 constitutes an unlawful practice pursuant to section 714.16.

6. A service contract issued or sold in this state by a service company that was not licensed as a service company at the time the service contract was issued or sold shall be void and unenforceable.

83 Acts, ch 87, §14; 92 Acts, ch 1078, §7; 2009 Acts, ch 181, §99; 2012 Acts, ch 1021, §101; 2019 Acts, ch 142, §10, 19; 2026 Acts, ch 1188, §10, 17

Referred to in §523C.9, 523C.17, 714.16, 714H.3

2026 amendment effective January 1, 2027; 2026 Acts, ch 1188, §17

Section stricken and rewritten

523C.14 Rate review. Repealed by 2019 Acts, ch 142, §17, 19.

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523C.15 Annual report.

A licensed service company that does not demonstrate financial responsibility by insuring service contracts under a reimbursement insurance policy as provided in section 523C.5, subsection 1, shall file with the commissioner an annual report no later than August 31 of each year. The annual report shall be in a form prescribed by the commissioner and contain all of the following:

1. A current financial statement including a balance sheet and statement of operations prepared in accordance with generally accepted accounting principles and certified by an independent certified public accountant.
2. Any other information relating to the performance and solvency of the service company required by the commissioner.

83 Acts, ch 87, §16; 2019 Acts, ch 142, §11, 19

523C.16 Exclusions.

This chapter does not apply to any of the following and the following do not constitute the practice of insurance:

1. A performance guarantee given by a builder of a residence or the manufacturer or seller or lessor of residential property if no identifiable charge is made for the guarantee.
2. A residential service contract, guarantee or warranty between a residential customer and a service company which will perform the work itself and not through subcontractors for the service, repair or replacement of residential property, appliances, or electrical, plumbing, heating, cooling or air-conditioning systems.
3. A contract between a service company issuing residential service contracts and a person who actually performs the maintenance, repairs, or replacements of structural components, or appliances, or electrical, plumbing, heating, cooling, or air-conditioning systems, if someone other than the service company actually performs these functions.
4. A residential service contract, guarantee or warranty issued by a retail merchant to a retail customer, guaranteeing or warranting the repair, service or replacement of appliances or electrical, plumbing, heating, cooling or air-conditioning systems sold by said retail merchant.
5. A residential service contract, guarantee, or warranty issued by a manufacturer, third party, or retail company, covering the repair, maintenance, or replacement of residential property, individual appliances, and other individual items of merchandise marketed and sold by a retail company, in the ordinary course of business.
6. A motor vehicle service contract issued by the manufacturer or importer of the motor vehicle covered by the service contract or to any third party acting in an administrative capacity on the manufacturer's behalf in connection with that service contract.
7. A residential service contract involving residential property containing more than four dwelling units.
8. A warranty.
9. A motor vehicle service contract issued, offered for sale, or sold to any person other than a consumer.
10. A maintenance agreement.

83 Acts, ch 87, §17; 96 Acts, ch 1160, §10; 2019 Acts, ch 142, §12, 19

523C.17 Lending institutions.

A bank, savings association, insurance company, or other lending institution shall not require the purchase of a motor vehicle service contract or residential service contract as a condition of a loan or the sale of any property or motor vehicle. Violation of this section is punishable as provided in section 523C.13.

83 Acts, ch 87, §18; 93 Acts, ch 60, §10; 2012 Acts, ch 1017, §102; 2019 Acts, ch 142, §13, 19

523C.18 Violations. Repealed by 2019 Acts, ch 142, §17, 19.

523C.19 Cease and desist orders.

1. Upon the commissioner's determination that a person has engaged, is engaging, or

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is about to engage in any act or practice constituting a violation of this chapter or any rule adopted pursuant to this chapter, the commissioner may issue an order directing the person to cease and desist from engaging in the act or practice resulting in the violation or to take other affirmative action as in the judgment of the commissioner is necessary to comply with the requirements of this chapter.

2. If a hearing is not timely requested, the summary order becomes final by operation of law. The order shall remain effective from the date of issuance until the date the order becomes final by operation of law or is overturned by a presiding officer or court following a request for hearing. A person who has been issued a summary order under this section may contest it by filing a request for a contested case proceeding as provided in chapter 17A and in accordance with rules adopted by the commissioner. However, the person shall have at least thirty days from the date that the order is issued in order to file the request. Section 17A.18A is inapplicable to a summary order issued under this section.

3. A person violating a summary order issued under this section shall be deemed in contempt of that order. The commissioner may petition the district court to enforce the order as certified by the commissioner. The district court shall adjudge the person in contempt of the order if the court finds after hearing that the person is not in compliance with the order. The court shall assess a civil penalty against the person in an amount not less than three thousand dollars but not greater than ten thousand dollars per violation, and may issue further orders as it deems appropriate.

92 Acts, ch 1078, §9; 2000 Acts, ch 1147, §30; 2000 Acts, ch 1232, §82
Referred to in §523C.23

523C.20 Consent to service of process.

If a person engages in conduct subject to regulation under this chapter, the conduct shall constitute the appointment of the commissioner of insurance as the person's attorney to receive service of process in a noncriminal proceeding against the person, a successor, or personal representative, which grows out of that conduct, with the same force and validity as if made personally. Service of process made on the commissioner as the attorney for service of process shall be made as provided in section 505.30.

93 Acts, ch 60, §11; 2018 Acts, ch 1018, §16

523C.21 Service of process.

The commissioner shall be the agent for service of process upon a service company. Service of process made on the commissioner as the agent for service of process shall be made as provided in section 505.30.

94 Acts, ch 1031, §19; 2018 Acts, ch 1018, §17

523C.22 Claim procedures.

A licensed service company shall promptly provide a written explanation to the service contract holder, describing the reasons for denying a claim or for the offer of a compromise settlement, based on all relevant facts or legal requirements and referring to applicable provisions of the service contract. The written explanation must include the process for filing a complaint with the division, including the division's internet site for accessing the complaint form.

94 Acts, ch 1031, §20; 2019 Acts, ch 142, §14, 19; 2026 Acts, ch 1188, §11, 17
2026 amendment effective January 1, 2027; 2026 Acts, ch 1188, §17
Section amended

523C.23 Investigations and subpoenas.

1. *a.* In enforcing this chapter, the commissioner may conduct a public or private investigation in order to do any of the following:

(1) Determine whether a person has violated or is about to violate a provision of this chapter or a rule or order under this chapter.

(2) Aid in the enforcement of this chapter or in the prescribing of rules and forms under this chapter.

b. In carrying out this subsection, the commissioner may do all of the following:

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(1) Conduct the investigation within or outside of this state.

(2) Require or allow a person to file a statement in writing regarding the facts or circumstances concerning a matter to be investigated. The commissioner may require that the statement be made under oath.

(3) Apply to the district court for the issuance of an order requiring a person's appearance before the commissioner or the attorney general. The person may also be required to produce documentary evidence germane to the subject of the investigation. The failure to obey an order under this subsection constitutes contempt of court.

(4) During an investigation or proceeding conducted under this chapter, the commissioner or any designee of the commissioner may administer oaths and affirmations, subpoena witnesses, compel witnesses' attendance, take evidence, and require the production of any records which the commissioner deems relevant or material to the investigation or proceeding.

(5) Conduct an investigation of a suspected violation of this chapter and enforce the provisions of, and impose any penalty or remedy authorized by, this chapter against any person who is under investigation for, or charged with, a violation of this chapter even if the person's license has been surrendered or has lapsed by operation of law.

2. Except as provided in section 523C.19, a proceeding instituted under this chapter shall be conducted pursuant to chapter 17A and rules adopted by the commissioner pursuant to chapter 17A.

3. A person is not excused from attending and testifying or from producing a document or record before the commissioner or in obedience to a subpoena of the commissioner or an officer designated by the commissioner, or in a proceeding instituted by the commissioner, on the grounds that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate or subject the person to a penalty or forfeiture. However, a person shall not be prosecuted or subjected to any penalty or forfeiture due to a transaction or matter about which the person is compelled, after claiming privilege against self-incrimination, to testify or produce evidence, documentary or otherwise. The person testifying, however, is not exempt from prosecution and punishment for perjury or contempt committed while testifying.

2000 Acts, ch 1147, §31; 2026 Acts, ch 1188, §12 – 14, 17
Referred to in §22.7(42)
2026 amendments to section effective January 1, 2027; 2026 Acts, ch 1188, §17
Subsection 1, paragraph b, NEW subparagraphs (4) and (5)
Subsection 1, paragraph c stricken
Subsection 3 stricken and former subsection 4 renumbered as 3

523C.24 Service company oversight fund.

1. A service company oversight fund is created in the state treasury as a separate fund under the control of the commissioner. The fund shall consist of all moneys deposited in the fund pursuant to subsection 2.

2. The commissioner shall deposit in the service company oversight fund an amount equal to one-third of all licensing, examination, renewal, and inspection fees collected under this chapter, provided that the maximum amount of fees deposited in the fund each fiscal year shall not exceed five hundred thousand dollars. Any remaining fees collected under this chapter and not deposited in the service company oversight fund shall be deposited as provided in section 505.7.

3. Moneys in the service company oversight fund are appropriated to the commissioner for the administration and enforcement of this chapter, and for establishing service contract consumer complaint, education, and outreach programs.

4. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the service company oversight fund shall be credited to the fund. Notwithstanding section 8.33, moneys credited to the fund shall not revert at the close of a fiscal year.

2019 Acts, ch 142, §15, 19
Referred to in §523C.3

523C.25 Confidentiality.

1. Notwithstanding chapter 22, the commissioner shall maintain the confidentiality of information submitted to the division or obtained by the division in the course of an

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investigation, examination, or inquiry pursuant to this chapter or the commissioner's licensing authority, including all notes, work papers, or other documents. Information obtained by the commissioner in the course of investigating a complaint or inquiry may, at the discretion of the commissioner, be provided to the service company that is the subject of the complaint or inquiry and the consumer who filed the complaint or inquiry, without waiving the confidentiality afforded to the commissioner or to any other person by this section. The commissioner may disclose or release information that is otherwise confidential under this subsection in the course of an administrative or judicial proceeding.

2. Notwithstanding subsection 1, if the commissioner determines that it is necessary in the public interest, the commissioner may share information submitted to the division or obtained by the division in the course of an investigation, examination, or inquiry pursuant to this chapter with other regulatory authorities or government agencies.

3. Notwithstanding subsection 1, if the commissioner determines that it is necessary in the public interest, the commissioner may publish service company-related data or information submitted to the division or obtained by the division in the course of an investigation, examination, or inquiry pursuant to this chapter. Such information may be redacted so that neither personally identifiable information nor service company identifiable information is made available.

4. Notwithstanding subsection 1, the commissioner may publish on the division's internet site the name, physical address, telephone number, and license status of any service company submitted to the division or obtained by the division in the course of an investigation, examination, or inquiry pursuant to this chapter.

2026 Acts, ch 1188, §15, 17
Section effective January 1, 2027; 2026 Acts, ch 1188, §17
NEW section

CHAPTER 523D

RETIREMENT FACILITIES

Referred to in §105.11, 505.28, 505.29, 507E.8, 669.14

523D.1	Definitions.	523D.8	Criminal penalties.
523D.2	Application of chapter.	523D.9	Initial filing. Repealed by 2004 Acts, ch 1104, §51.
523D.2A	Annual certification.		
523D.3	Disclosure statement.	523D.10	Rules.
523D.4	False information.	523D.11	Reserved.
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523D.6	Contracts.	523D.13	Compliance — summary orders.
523D.7	Civil liability.	523D.14	Injunctions.

523D.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Commissioner"* means the commissioner of insurance or the deputy appointed under section 502.601.

2. *"Continuing care"* means a continuum of supportive services, home health services, nursing services, medical services, or other health related services, furnished to a resident, regardless of whether or not the lodging and services are provided at the same location, together with housing for residents that elect to live in a facility of a provider, with or without other periodic charges, and pursuant to one or more contracts effective for the life of the resident or a period in excess of one year, including mutually cancelable contracts, and in consideration of an entrance fee.

3. *"Continuing care retirement community"* means a facility or program which provides continuing care to residents other than residents related by consanguinity or affinity to the person furnishing their care.

4. *"Entrance fee"* means an initial or deferred transfer to a provider of a sum of money or

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other property made or promised to be made as full or partial consideration for acceptance of a specified individual into a facility or a program if the amount exceeds either of the following:

a. Five thousand dollars.

b. The sum of the regular periodic charges for six months.

5. *"Facility"* means the place or places in which a provider undertakes to provide continuing care or senior adult congregate living services to an individual.

6. *"Living unit"* means a room, apartment, cottage, or other area within a facility set aside for the exclusive use or control of one or more identified residents.

7. *"New construction"* means construction of a new facility or the expansion of an existing facility if the expansion involves an increase in the number of living units in excess of twenty-five percent.

8. *"Program"* means an organized set of measures or activities undertaken by a provider to provide continuing care services to an individual.

9. *"Provider"* means a person undertaking through a lease or other type of agreement to provide care in or from a continuing care retirement community or senior adult congregate living facility, even if that person does not own the facility.

10. *"Resident"* means an individual, sixty years of age or older, entitled to receive care from a continuing care retirement community or a senior adult congregate living facility.

11. *"Senior adult congregate living facility"* means a facility which provides senior adult congregate living services to residents other than residents related by consanguinity or affinity to the person furnishing their care.

12. *"Senior adult congregate living services"* means housing and one or more supportive services furnished to a resident, with or without other periodic charges, in consideration of an entrance fee.

13. *"Supportive services"* includes but is not limited to one or any combination of the following services: laundry, maintenance, housekeeping, emergency nursing care, activity services, security, dining options, transportation, beauty and barber services, health care, and personal care, including personal hygiene, eating, bathing, dressing, and supervised medication administration.

89 Acts, ch 217, §1; 91 Acts, ch 205, §11; 2024 Acts, ch 1031, §4, 5
Referred to in §231C.17

523D.2 Application of chapter.

This chapter applies to a provider who executes a contract to provide continuing care or senior adult congregate living services in a facility or program, or extends the term of an existing contract to provide continuing care or senior adult congregate living services in a facility or program, if the contract requires or permits the payment of an entrance fee to a person, and any of the following apply:

1. The facility or program is or will be located in this state.

2. The provider or a person acting on the provider's behalf solicits the contract within this state for a facility or program located in this state and the person to be provided with continuing care or senior adult congregate living services under the contract resides within this state at the time of the solicitation.

89 Acts, ch 217, §2; 2004 Acts, ch 1104, §32; 2024 Acts, ch 1031, §6

523D.2A Annual certification.

On or before March 1 of each year, a provider shall file a certification with the commissioner in a manner and according to requirements established by the commissioner. The certification shall be accompanied by a one hundred dollar administrative fee which fee shall be deposited as provided in section 505.7. The certification shall attest that according to the best knowledge and belief of the attesting party, the facility or program administered by the provider is in compliance with the provisions of this chapter, including rules adopted by the commissioner or orders issued by the commissioner as authorized under this chapter. The attesting person may be any of the following:

1. A person serving as the president or chief executive officer of a corporation.

2. A person acting as the general partner of a limited partnership.

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3. A person acting as the general partner of a limited liability partnership.
4. A person acting in a fiduciary capacity or as a trustee on behalf of a provider.
5. A person who is a manager of a limited liability company.

2004 Acts, ch 1104, §33; 2009 Acts, ch 181, §100; 2024 Acts, ch 1031, §7

523D.3 Disclosure statement.

1. At the time of, or prior to, the execution of a contract to provide continuing care or senior adult congregate living services, or at the time of, or prior to the provider's acceptance of part or all of the entrance fee by or on behalf of a prospective resident, whichever occurs first, the provider shall deliver a disclosure statement to the person, and to the person's personal representative if one is appointed, with whom the contract is to be entered into. Unless incorporated by reference, in whole or in part, the disclosure statement shall not constitute part of the contract between the resident and provider. The disclosure statement shall contain all of the following information unless the information is in the contract, a copy of which must be attached to the statement:

a. The name and business address of the provider and a statement of whether the provider is a partnership, corporation, or other legal entity.

b. The names and business addresses of the officers, directors, trustees, managing or general partners, and any person having a ten percent or greater equity or beneficial interest in the provider and a description of such person's interest in or occupation with the provider.

c. With respect to each person covered by paragraph *"b"*, and if the facility or program will be managed on a day-to-day basis by a person identified pursuant to paragraph *"b"*, or with respect to the proposed manager, the following information:

(1) A description of the business experience of the person, if any, in the operation or management of similar facilities.

(2) The name and address of any professional service, or other entity in which the person has, or which has in the person, a ten percent or greater interest and which has provided goods, leases, or services to the facility of a value of five hundred dollars or more within the prior twelve months or which has contracted to provide goods, leases, or services to the facility of a value of five hundred dollars or more within a year, including a description of the goods, leases, or services and their actual or anticipated cost to the facility or provider.

(3) A description of any matter resulting in the person's conviction of a felony or a plea of nolo contendere to a felony charge, or a description of any matter where the person was found to be liable or enjoined in a civil action by final judgment if the felony or civil action involved fraud, embezzlement, fraudulent conversion, misappropriation of property, or a similar felony involving theft or dishonesty.

(4) A description of any matter in which the person is subject to a currently effective injunctive or restrictive order of a court, or a description of any matter within the past five years where the person has had a state or federal license or permit suspended or revoked as a result of an action brought by a governmental agency of this or any state or the division of insurance, arising out of or relating to business activity or health care, including, without limitation, actions affecting a license to operate a foster care facility, health care facility, retirement home, home for the aged, or facility licensed under this chapter or a similar law of another state.

d. A statement, if applicable, containing the following:

(1) Whether the provider is or ever has been affiliated with a for-profit organization or with a religious, charitable, or other nonprofit organization.

(2) The nature of the affiliation.

(3) The extent to which the affiliate organization is responsible for the financial and contractual obligations of the provider.

(4) The provision of the federal Internal Revenue Code, if any, under which the provider or affiliate is exempt from the payment of federal income tax.

e. The location and description of the physical property or properties of the facility, existing or proposed, and, to the extent proposed, the estimated completion date or dates, whether or not construction has begun, and the contingencies subject to which construction may be deferred.

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f. The services provided or proposed to be provided under contracts for continuing care or senior adult congregate living services, including the extent to which medical care is furnished. The disclosure statement shall clearly state which services are included in basic contracts and which services are made available at extra charge.

g. A description of all fees required of residents, including the entrance fee and periodic charges, if any. The description shall include the manner by which the provider may adjust periodic charges or other recurring fees and the limitations on such adjustments, if any.

h. The provisions which have been made or will be made, if any, to provide reserve funding or security to enable the provider to fully perform its obligations under contracts to provide continuing care or senior adult congregate living services, including the establishment of escrow accounts, trusts, or reserve funds, together with the manner in which the funds will be invested and the names and experience of persons who will make the investment decisions.

i. Certified financial statements of the provider, for all parts of an operation covered by the contract, including the health center or nursing home portion of the continuing care retirement community, if those services are included in the contract, but the disclosure statement may exclude services or operations not provided to residents as senior adult congregate living services under the contract, which shall include the following:

(1) A balance sheet as of the end of the two most recent fiscal years.

(2) Income statements of the provider for the two most recent fiscal years or the shorter period of time the provider has been in existence.

j. If operation of the facility has not yet commenced, a statement of the anticipated source and application of the funds used or to be used in the purchase or construction of the facility, including the following:

(1) An estimate of the cost of purchasing or constructing and equipping the facility, including related costs such as financing expense, legal expense, land costs, occupancy development costs, and all other similar costs the provider expects to incur or become obligated for prior to the commencement of operations.

(2) A description of any mortgage loan or other long-term financing intended to be used for the financing of the facility, including the anticipated terms and costs of the financing.

(3) An estimate of the total entrance fees to be received from or on behalf of residents at or prior to commencement of operation of the facility.

(4) An estimate of the funds, if any, anticipated to be necessary to fund start-up losses and provide reserve funds to assure full performance of the obligations of the provider under contracts for the provision of continuing care or senior adult congregate living services.

(5) A projection of estimated income from fees and charges other than entrance fees, showing individual rates presently anticipated to be charged and including a description of the assumptions used for calculating the estimated occupancy rate of the facility and the effect on the income of the facility of government subsidies for health care services, if any, to be provided pursuant to contracts for continuing care or senior adult congregate living services.

(6) A projection of estimated operating expenses of the facility, including a description of the assumptions used in calculating the expenses and separate allowances, if any, for the replacement of equipment and furnishings and anticipated major structural repairs or additions.

(7) Identification of any assets pledged as collateral for any purpose.

(8) An estimate of annual payments of principal and interest required by a mortgage loan or other long-term financing.

k. Other material information concerning the facility, the program, or the provider required by the division of insurance or which the provider wishes to include.

l. The cover page of the disclosure statement shall state, in a prominent location and typeface, the date of the disclosure statement.

m. A copy of the standard form or forms of contract for continuing care or senior adult congregate living services used by the provider, attached as an exhibit to each disclosure statement.

n. (1) A description of transactions in which the provider obtains real or personal property or construction services from any of the following:

(a) The developer of the facility, or a person who is under the control of the developer.

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(b) If the provider is a business entity, any person holding an executive position in the business entity, including but not limited to a member of a board of directors or an officer of a corporation, a manager of a limited liability company, a general partner of a limited partnership, or a trustee of a trust.

(c) If the provider is a business entity, any person who holds a ten percent or greater equity or beneficial interest in the business entity.

(d) Any person who directly or indirectly by acting through one or more intermediaries controls management decisions of the facility.

(2) A transaction shall include each purchase or lease of real property or personal property by the provider, and any construction services provided to the provider. The description shall include transactions which have occurred or which are planned to occur. The description shall also include whether the terms of the transaction were or will be on terms which are at least as favorable to the provider as those terms which would be generally available from an unaffiliated third party.

2. The provider shall prepare an annual disclosure statement which shall contain the information required by this chapter for the initial disclosure statement. The annual disclosure statement shall also be accompanied by a narrative describing:

a. Any material differences between the pro forma cash flow projection prepared pursuant to this chapter as part of the most recent annual disclosure statement and the actual results of operations during the fiscal year, if the material differences substantially affect the financial safety or soundness of the community.

b. A revised pro forma cash flow projection for the next fiscal year.

3. The provider shall prepare the annual disclosure statement not later than five months following the end of the provider's fiscal year. The provider shall retain a record of each annual disclosure statement prepared under this section for at least five years.

4. If an amendment is prepared pursuant to subsection 5, the provider shall deliver a copy of the amendment or the amended disclosure statement to a prospective resident and to a prospective resident's personal representative if one is appointed prior to the provider's acceptance of part or all of the entrance fee or the execution of the continuing care or senior congregate living services contract by the prospective resident.

5. The provider may amend its current annual disclosure statement at any other time if, in the opinion of the provider, an amendment is necessary to prevent the disclosure statement and annual disclosure statement from containing any material misstatement of fact or omission to state a material fact required to be included in the statement. The amendment or amended disclosure statement shall be kept with the records of the provider's annual disclosure statements. The provider shall deliver a copy of the amendment to a resident or prospective resident and a personal representative of a resident or prospective resident in the same manner as the annual disclosure statement.

89 Acts, ch 217, §3; 90 Acts, ch 1168, §54; 91 Acts, ch 205, §12, 13; 92 Acts, ch 1078, §10; 2004 Acts, ch 1104, §34, 35; 2012 Acts, ch 1023, §157; 2024 Acts, ch 1031, §8, 9

Referred to in §523D.6

523D.4 False information.

1. A provider shall not make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement of any sort containing any assertion, representation, or statement which is untrue, deceptive, or misleading.

2. A provider shall not publish, disseminate, circulate, or deliver to any person or place before the public, or cause, directly or indirectly, to be published, disseminated, circulated, or delivered to any person or placed before the public, a financial statement which does not meet generally accepted accounting principles.

89 Acts, ch 217, §4; 2004 Acts, ch 1104, §36

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523D.5 New construction.

1. *Prerequisite information.* A provider shall not enter into a contract to provide continuing care or senior adult congregate living services that applies to a living unit that is part of a new facility or proposed expansion that is or will be located in this state unless the provider has prepared or acquired all of the following information:

a. A description of the new facility or the proposed expansion, including a description of the goods and services that will be offered to prospective residents.

b. A statement of the financial resources of the provider available for this project.

c. A statement of the capital expenditures necessary to accomplish this project.

d. A statement of financial feasibility for the new facility or proposed expansion which includes a statement of future funding sources and shall identify the qualifications of the person or persons preparing the study.

e. A statement of the market feasibility for the new facility or proposed expansion which identifies the qualifications of the person or persons preparing the study.

f. If the new facility or proposed expansion offers a promise to provide nursing or health care services to residents in the future pursuant to contracts effective for the life of the resident or a period in excess of one year in consideration for an entrance fee, an actuarial forecast which identifies the qualifications of the actuary or actuaries preparing the forecast.

g. Copies of the escrow agreements executed pursuant to this chapter or proof that an escrow is not required.

2. *Determination of feasibility.*

a. For an expansion of an existing facility, the determination of feasibility shall be based on consolidated information for the existing facility and the proposed expansion.

b. For a new facility, not part of an existing facility that will be constructed in more than one stage or phase, the initial stage or phase must evidence feasibility independent of any subsequent stage or phase and contain all of the facilities or components necessary to provide residents with all of the services and amenities promised by the provider.

3. *Construction.*

a. New construction shall not begin until at least fifty percent of the proposed number of independent living units in the initial stage or phase have been reserved pursuant to executed contracts and at least ten percent of the entrance fees required by those contracts are held in escrow pursuant to this chapter. However, the requirements of this subsection may be waived by the commissioner by rule or order upon a showing of good cause.

b. For purposes of this subsection, *"good cause"* includes, but is not limited to, evidence of the following:

(1) Secured financing adequate in an amount and term to complete the project.

(2) Cash reserves adequate in an amount to operate the facility for twenty-four months based upon reasonable projections of income and expenses.

(3) Creation of an escrow account in which a resident's entrance fee or purchase price will be deposited, if the terms of the escrow agreement provide reasonable protection from loss until at least fifty percent of the proposed number of independent living units in the initial stage or phase have been reserved.

4. *Escrow requirements.* Unless conditions for the release of escrowed funds set forth in this section have already been met, the provider shall establish an interest-bearing escrow account at a state or federally regulated financial institution located within this state to receive any deposits or entrance fees or portions of deposits or fees for a living unit which has not been previously occupied by a resident for which an entry fee arrangement is used. The escrow account agreement shall be entered into between the financial institution and the provider with the financial institution as the escrow agent and as a fiduciary for the resident or prospective resident. The agreement shall state that the purpose of the escrow account is to protect the resident or prospective resident and that the funds deposited shall be kept and maintained in an account separate and apart from the provider's business accounts.

5. *Release of escrowed funds.* Funds held in escrow shall be released only as follows:

a. If the provider fails to meet the requirements for release of funds held in escrow pursuant to this section within a time period specified in the escrow agreement, which

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shall not exceed thirty-six months, these funds shall be returned by the escrow agent to the persons who have made payment to the provider.

b. Upon notice from the provider that a resident is entitled to a refund, the escrow agent shall refund the amount directly to the resident. The amount of the refund shall be included in the provider's notice to the escrow agent and shall be determined in compliance with this chapter and any applicable terms of the resident's contract.

c. Except as provided by paragraphs *"a"* and *"b"*, amounts held in escrow shall not be released unless at least one of the following conditions has been satisfied:

(1) The facility has a minimum of fifty percent of the units reserved for which the provider is charging an entrance fee and the aggregate amount of the entrance fees received by or pledged to the provider, plus anticipated proceeds from any long-term financing commitment, plus funds from all other sources in the actual possession of the provider, equal not less than ninety percent of the aggregate cost of constructing or purchasing, equipping, and furnishing the facility.

(2) The resident has moved into the living unit, the cancellation period required by section 523D.6, subsection 2, has expired, construction of the facility or the portion of the facility under construction is complete, the facility has been adequately equipped and furnished, a certificate of occupancy or the equivalent has been issued by the appropriate local jurisdiction, and the provider has been issued all the appropriate licenses or permits needed to operate the facility and provide all of the promised services.

d. Upon receipt by the escrow agent of a request by the provider for the release of these escrowed funds, the escrow agent shall approve release of the funds within five working days unless the escrow agent finds that the requirements of this section have not been met and notifies the provider of the basis for this finding. The request for release of the escrowed funds shall be accompanied by any documentation the escrow agent requires.

6. *Retention of records.* The provider shall maintain information required by this section for at least five years. The information shall be made available for inspection during normal business hours.

89 Acts, ch 217, §5; 91 Acts, ch 205, §14; 92 Acts, ch 1078, §11; 93 Acts, ch 60, §12; 2004 Acts, ch 1104, §37 – 44; 2012 Acts, ch 1023, §157

523D.6 Contracts.

1. *Disclosure.* In addition to any other provisions prescribed by rules adopted under this chapter, each contract providing for continuing care or senior adult congregate living services by a provider shall be written in nontechnical language easily understood by a lay person and shall include all of the following:

a. The name and business address of the provider.

b. The name and address of the facility or facilities, or of the program.

c. If a prospective resident elects to reside in housing at the facility of a provider, the identification of the living unit which the prospective resident will occupy.

d. A description of the total consideration paid by the resident, including the value of all property transferred.

e. A list of all of the continuing care or senior adult congregate living services which are to be provided by the provider to each resident. The list shall clearly identify the manner in which continuing care or senior adult congregate living services will be provided, including a statement whether the items will be provided for a designated time period or for life, and shall indicate which continuing care and senior adult congregate living services, if any, will be provided through an affiliate or third party. The description of any service charges or fees shall, in the event of multiple residents, be provided on an individual basis and shall include a description of any additional charges that will be assessed for occupancy by more than one resident.

f. A statement of the policy of the facility or program with regard to any health or financial conditions upon which the provider may require the resident to relinquish the resident's space in the designated facility or program.

g. A statement of the policy of the facility or program with regard to the health and

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financial conditions required for a person to continue as a resident or an enrollee in a program.

h. A statement of the policy of the facility or program with regard to the conditions under which the resident is permitted to remain in the facility or program in the event of financial difficulties affecting the resident.

i. A statement of the terms concerning the entry of a person to the living unit and the consequences if a person does not meet the requirements for entry.

j. A statement of the policy of the facility or program with regard to changes in accommodations and a description of the procedures to be followed by the provider when the provider temporarily or permanently changes the resident's accommodations within the facility or program, transfers the resident from one level of care to another, or transfers the resident to another health facility or program.

k. A description in clear and understandable language, in at least ten point type, of the terms governing the refund of any portion of the entrance fee in the event of discharge by the provider, or cancellation by the resident, and a statement that the provider shall not dismiss or discharge a resident from a facility or program prior to the expiration of a resident contract without just cause and sixty days' written notice of intent to cancel. The notice of dismissal or discharge shall only be given upon a good-faith determination that just cause exists, and the notice shall be given in writing, signed by the medical director, if any, and the administrator of the facility or program. In an emergency situation only such notice as is reasonable under the circumstances is required.

l. A description in clear and understandable language, in at least ten point type, whether monthly fees, if charged, are subject to periodic increases.

m. A description of the facility's or program's policies and procedures for handling grievances between the provider and residents.

n. A statement that residents living in the facility have the right of self-organization.

o. A statement that a prospective resident or resident shall be given the opportunity to appoint a personal representative in the prospective resident's or resident's contract. The personal representative shall receive copies of the contract and all notices, disclosures, or forms required by this chapter to be delivered to a prospective resident or resident. A personal representative appointed under this section has no legal authority to make any decision for the prospective resident or resident appointing the person to be a personal representative. The personal representative may advise the prospective resident or resident as to the materials provided. A personal representative shall not be affiliated or associated with a provider or any person identified in section 523D.3, subsection 1, paragraph *"b"* or *"c"*, and shall not be a prospective resident or resident.

p. A statement that if a resident dies or through illness, injury, or incapacity is precluded from becoming a resident under the terms of the contract before occupying the living unit, or precluded from commencing a continuing care services program under the terms of the contract, the contract is automatically rescinded and the resident or the resident's legal representative shall receive a full refund of all payments of money or transferred property to the facility or program, except those costs specifically incurred by the facility or program at the request of the resident or program enrollee and set forth in writing in a separate addendum, signed by both parties to the contract.

q. A statement that a resident has the right to rescind a contract for continuing care or senior adult congregate living services, without penalty or forfeiture, within three business days of the date the contract was executed or within thirty days after the date the resident received the disclosure statement required by section 523D.3, whichever is later.

2. *Cancellation.* The contract required by this section shall state the terms under which the contract can be canceled by the provider, the resident, or a program enrollee, including a statement of the refund rights of a resident, or a program enrollee, and shall include a completed, easily detachable form in duplicate, captioned "Notice of Cancellation", as an attachment, in ten point boldface type, containing the following information and statements in substantially the following form and language:

NOTICE OF CANCELLATION

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.....
Date contract was executed.
.....
Date disclosure statement was provided
to resident or program enrollee.

You may rescind and cancel your contract, without any penalty or obligation, within three business days of the date the contract was executed or within thirty days after the date you received the disclosure statement required by Iowa Code section 523D.3, whichever is later. You are not required to move into the facility or commence continuing care services from the program before the expiration of this cancellation period. However, if you do, the provider may retain the reasonable value of care and services actually provided to you, the resident, prior to your vacating the provider's facility or terminating continuing care services from the program. If you cancel this contract and you have already moved into the provider's facility, you must vacate your living unit within ten days after receipt by the provider of your cancellation notice.

If you cancel this contract, any payments of money or transfers of property you made to the provider must be returned as soon as reasonably possible by the provider following receipt by the provider of your cancellation notice, and any security interest arising out of the transaction is canceled, except that, as stated above, the provider may retain the reasonable value of care and services actually provided to you prior to your vacating the provider's facility or terminating continuing care services from the program.

To cancel this contract, mail by certified mail or hand deliver a signed and dated copy of this cancellation notice or any other written notice clearly indicating your intent to cancel the contract, or send a telegram, to ..... (name of provider) at ..... (address of provider's place of business). Your cancellation is effective upon mailing by certified mail, when transmitted by telegraph, or when actual notice is given to the provider, whichever is earlier.

I hereby cancel this contract.

.....
(Date)
.....
(Resident's signature)

89 Acts, ch 217, §6; 90 Acts, ch 1168, §55; 90 Acts, ch 1233, §34; 91 Acts, ch 205, §15; 92 Acts, ch 1163, §102; 2024 Acts, ch 1031, §10, 11
Referred to in §523D.5

523D.7 Civil liability.

1. A provider is liable to the person contracting for continuing care or senior adult congregate living services for damages and repayment of all fees paid to the provider, facility, or person violating this chapter, less the reasonable value of care and lodging provided to the resident by or on whose behalf the contract for continuing care or senior adult congregate living services was entered into prior to discovery of the violation, misstatement, or omission, or the time the violation, misstatement, or omission should reasonably have been discovered, together with interest at the legal rate for judgments and court costs and reasonable attorney fees, if the provider does any of the following:

a. Enters into a contract to provide continuing care or senior adult congregate living services without having first delivered a disclosure statement meeting the requirements of

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this chapter to the person contracting for continuing care or senior adult congregate living services and to the person's personal representative if one is appointed by the person.

b. Enters into a contract to provide continuing care or senior adult congregate living services with a person who has relied on a disclosure statement which contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.

2. Liability under this section exists regardless of whether or not the provider or person liable had actual knowledge of the misstatement or omission.

3. A person shall not file or maintain an action under this section if the person, before filing the action, received an offer to refund, payable upon acceptance, all amounts paid the provider, facility, or person violating this chapter, together with interest from the date of payment, less the reasonable value of care and lodging provided prior to receipt of the offer, and the person failed to accept the offer within thirty days of its receipt. At the time a provider makes a written offer of refund, the provider shall file a copy with the division of insurance. The refund offer shall refer to the provisions of this section.

4. An action shall not be maintained to enforce a liability created under this chapter unless brought before the expiration of six years after the execution of the contract for continuing care or senior adult congregate living services which gave rise to the violation.

5. Except as expressly provided in this chapter, civil liability in favor of a private party shall not arise against a person, by implication, from or as a result of the violation of this chapter. This chapter does not limit a liability which may exist by virtue of any other statute or under common law if this chapter were not in effect.

89 Acts, ch 217, §7; 2024 Acts, ch 1031, §12

523D.8 Criminal penalties.

1. A person who violates a provision of this chapter or a rule adopted or order entered pursuant to this chapter commits a fraudulent practice as provided in chapter 714.

2. This chapter does not limit the power of the state to punish any person for any conduct which constitutes a crime under any other statute.

89 Acts, ch 217, §8; 2004 Acts, ch 1104, §45

523D.9 Initial filing. Repealed by 2004 Acts, ch 1104, §51.

523D.10 Rules.

The division of insurance may adopt rules pursuant to chapter 17A as necessary and appropriate to implement this chapter, and may make further recommendations to the general assembly for the protection of residents and prospective residents of facilities under this chapter.

89 Acts, ch 217, §10; 2004 Acts, ch 1104, §46

523D.11 Reserved.

523D.12 Investigations.

The commissioner may, for the purpose of discovering or investigating violations of this chapter or rules adopted pursuant to this chapter do any or all of the following:

1. Investigate the business and examine the books, accounts, records, and files used by a provider. With the exception of an examination involving new construction, an examination involving a complaint by a resident or a prospective resident or where good cause exists for the lack of prior notice, as determined by the commissioner, the division of insurance shall provide at least seven days' prior notice to the facility before conducting an on-site examination.

2. Administer oaths and affirmations, subpoena witnesses, receive evidence, and require the production of documents and records in connection with an investigation or proceeding being conducted pursuant to this chapter.

3. Apply to the district court for issuance of an order requiring a person's appearance before the commissioner. The person may also be required to produce documentary evidence

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germane to the subject of the investigation. Failure to obey a court order under this section constitutes contempt of court.

91 Acts, ch 205, §16; 2004 Acts, ch 1104, §47 – 49

523D.13 Compliance — summary orders.

1. Upon the commissioner's determination that a provider has engaged, is engaging, or is about to engage in any act or practice constituting a violation of this chapter or a rule adopted pursuant to this chapter, the commissioner may issue a summary order directing the provider to cease and desist from engaging in the act or practice resulting in the violation or to take other affirmative action as in the judgment of the commissioner is necessary to comply with the requirements of this chapter.

2. If a hearing is not timely requested, the summary order becomes final by operation of law. The order shall remain effective from the date of issuance until the date the order becomes final by operation of law or is overturned by a presiding officer or court following a request for hearing. A person who has been issued a summary order under this section may contest it by filing a request for a contested case proceeding as provided in chapter 17A and in accordance with rules adopted by the commissioner. However, the person shall have at least thirty days from the date that the order is issued in order to file the request. Section 17A.18A is inapplicable to a summary order issued under this section.

3. A person violating a summary order issued under this section shall be deemed in contempt of that order. The commissioner may petition the district court to enforce the order as certified by the commissioner. The district court shall adjudge the person in contempt of the order if the court finds after hearing that the person is not in compliance with the order. The court shall assess a civil penalty against the person in an amount not less than three thousand dollars but not greater than ten thousand dollars per violation, and may issue further orders as it deems appropriate.

91 Acts, ch 205, §17; 2000 Acts, ch 1147, §32

523D.14 Injunctions.

The commissioner may petition the district court in any county of the state for an injunction to restrain a person subject to this chapter and any agents, employees, or associates of the person from engaging in conduct or practices in violation of this chapter or rules adopted pursuant to this chapter. In a proceeding for an injunction, the commissioner may apply to the court for the issuance of a subpoena to require the appearance of a defendant and the defendant's agents and any documents, books, or records germane to the hearing upon the petition for an injunction. Upon proof of any of the violations described in the petition for injunction, the court may grant the injunction.

91 Acts, ch 205, §18; 2004 Acts, ch 1104, §50

CHAPTER 523E

CEMETERY MERCHANDISE

Repealed by 2001 Acts, ch 118, §57; see chapter 523A

CHAPTER 523F

LEGAL EXPENSE INSURANCE

Repealed by 2001 Acts, ch 16, §36, 37

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CHAPTER 523G

INVENTION DEVELOPMENT SERVICES

Referred to in §505.28, 505.29, 669.14

Legislative findings; 92 Acts, ch 1114, §1

523G.1 Short title.
523G.2 Purpose of the chapter.
523G.3 Definitions.
523G.4 Initial disclosures.
523G.5 Contracts.
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523G.7 Negotiable instruments.
523G.8 Records and correspondence.
523G.9 Compliance with other laws, violations and penalties.
523G.10 and 523G.11 Repealed by 98 Acts, ch 1119, §6.

523G.1 Short title.

This chapter shall be known and may be cited as the *"Invention Development Services Act"*.

92 Acts, ch 1114, §2

523G.2 Purpose of the chapter.

The general assembly declares that the purpose of this chapter is to safeguard the public against fraud, deceit, imposition, and financial hardship, and to foster and encourage competition, fair dealing, and prosperity in the field of invention development services by prohibiting or restricting deceptive practices, misleading advertising, onerous contract terms, harmful financial practices, and other unfair, dishonest, deceptive, destructive, unscrupulous, fraudulent, or discriminatory practices which threaten the public welfare.

92 Acts, ch 1114, §3

523G.3 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Business record"* means a record maintained by an invention developer relating to invention development services, including but not limited to contracts, files, accounts, books, papers, photographs, and audio or visual tapes.
2. *"Commissioner"* means the commissioner of insurance or a person designated by the commissioner to act on the commissioner's behalf.
3. *"Contract"* means an agreement between an invention developer and a customer under which the invention developer promises to perform invention development services for the customer.
4. *"Customer"* means a person who is solicited by, inquires about, seeks the services of, or enters into a contract with an invention developer.
5. *"Deceptive practice"* means communicating a false or fraudulent statement, providing false pretense, making a false promise or misleading statement, misrepresenting a fact, omitting a material fact, or failing to make all disclosures required by this chapter.
6. *"Fee"* means a payment made by a customer to an invention developer, including reimbursements for expenditures made or costs incurred by the invention developer. However, *"fee"* does not include a payment made from a portion of the income received by the customer which resulted from invention development services performed by the invention developer.
7. *"Invention"* means an original concept which may be rendered into an artistic, educational, or technological expression, including works, compositions, designs, machines, manufacturing or engineering techniques, analyses, or processes.
8. *"Invention developer"* means a person who performs invention development services in this state or offers, through any means of communication, to perform invention development services in this state. However, an invention developer does not include the following:

a. A person licensed by a state or the United States to render legal advice, if the person acts within the scope of the license. However, if the person is a corporation, all of its stockholders or members must be licensed. If the person is a partnership, all of its partners must be licensed.

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b. A department or agency of a federal or state government.

c. A political subdivision.

d. A nonprofit organization registered pursuant to state law.

e. A charitable, scientific, educational, or religious organization registered pursuant to state law.

f. A person who does not charge a fee for invention development services.

g. A person who provides researching, marketing, surveying, or other kinds of consulting services to professional manufacturers, marketers, publishers, or others purchasing such services as an adjunct to their traditional commercial enterprises.

9. *"Invention development services"* or *"services"* means acts required, promised to be performed, or actually performed by an invention developer for a customer pursuant to a contract which involves facilitating the development, promotion, licensing, publishing, exhibiting, or marketing of an invention.

92 Acts, ch 1114, §4

523G.4 Initial disclosures.

1. If an invention developer contemplates entering into a contract or if the invention developer contemplates performance of a phase covered in a contract, the invention developer shall notify the customer by a written statement. The invention developer shall deliver to the customer the written notice together with a copy of each contract or a written summary of the general terms of each contract, including the total cost or consideration required from the customer, before the customer first executes the contract.

2. The invention developer shall make a written disclosure to the customer of the information required in this section. The disclosure shall be made in either the first written communication from the invention developer to a specific customer or at the first meeting between the invention developer and a customer. The written disclosure shall contain all of the following:

a. The median fee based on fees charged to all customers who have executed contracts with the invention developer in the preceding six months, excluding customers who have executed a contract in the preceding thirty days.

b. A single statement setting forth both of the following:

(1) The total number of customers who have executed contracts with the invention developer, except that the number need not reflect those customers who have executed contracts within the preceding thirty days.

(2) The number of customers who have received from the invention developer's services an amount of money in excess of the amount of money paid by those customers to the invention developer pursuant to a contract. The amount received by a customer reported on the statement shall only include income earned from the successful development, promotion, licensing, publishing, exhibiting, or marketing of the customer's invention pursuant to the contract executed between the invention developer and the customer.

c. A notice appearing in substantially the following form:

WARNING

The following disclosure is required by section 523G.4 of the Iowa Code:

The person you are dealing with is an invention developer regulated under chapter 523G of the Iowa Code. Unless an invention developer is an attorney licensed to practice in this state, the invention developer is prohibited from providing you legal advice concerning patent, copyright, or trademark law or to advise you of whether your creation, idea, or invention may be patentable or may be protected under the patent, copyright, or trademark laws of the United States or any other law. A registered patent agent may give advice as to patentability and protection available under the patent laws.

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A patent, copyright, or trademark protection cannot be acquired for you by the invention developer. Your potential patent rights may be adversely affected by any attempt to commercialize your idea or invention before a patent application covering it is filed. Nonconfidential disclosures of your creation, idea, or invention may also trigger a one-year statutory deadline for filing a patent application in the United States, after which you would be banned from receiving any patent protection in the United States, and would prevent you from obtaining valid patent rights in countries whose law provides that patent applications must be filed before there is a public disclosure.

Your failure to identify and investigate existing patents, trademarks, or registered copyrights may place you in jeopardy of infringing the copyright, patent, or trademark rights of other persons if you proceed to make, use, or sell your creation, idea, or invention.

If you assign even a partial interest in the invention to the invention developer, the invention developer may have the right to assign or license its interest in the invention, or make, use, and sell the creation, idea, or invention without your consent and may not have to share the profits with you.

92 Acts, ch 1114, §5; 99 Acts, ch 96, §48
Referred to in §523G.9

523G.5 Contracts.

1. A contract shall set forth information required in this section in at least ten point type.

2. The contract shall describe fully and in detail the services that the invention developer contracts to perform for the customer.

3. The contract shall state the following information:

a. If the invention developer contracts to construct one or more prototypes, models, or devices embodying the invention of the customer, the total number of prototypes to be constructed and whether the invention developer contracts to sell or distribute such prototypes, models, or devices.

b. If an oral or written estimate of customer earnings is made, the estimate and the data upon which it is based.

c. A single statement setting forth both of the following:

(1) The total number of customers who have executed contracts with the invention developer, except that the number need not reflect those customers who have contracted within the preceding thirty days.

(2) The number of customers who have received from the invention developer's services an amount of money in excess of the amount of money paid by those customers to the invention developer pursuant to a contract. The amount received by a customer reported on the statement shall only include payments for services performed by the invention developer involving the development, promotion, licensing, publishing, exhibiting, or marketing of the customer's invention pursuant to their contract.

d. The expected date of completion of the invention development services.

e. The extent to which the terms of the contract effectuate or make possible the purchase by the invention developer of an interest in the title to an invention.

f. A statement explaining that the invention developer is required to maintain all records and correspondence relating to the invention development services performed for that customer for a period not less than three years after expiration of the contract.

g. A statement explaining that the records and correspondence required to be maintained pursuant to section 523G.8 shall be made available to the customer or representative for review and copying at the expense of the customer on the premises of the invention developer during normal business hours upon seven days' written notice from the date of delivery sent by certified mail.

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h. The name of the person contracting to perform the invention development services, all names under which the person is doing or has done business as an invention developer during the previous ten years, the names of all parent and subsidiary entities to the person, and the names of all entities that have a contractual obligation to perform invention development services for the person.

i. The principal business address of the invention developer and the name and address of its agent in this state authorized to receive service of process in this state.

4. *a.* The customer has an unconditional right to cancel a contract for invention development services at any time before the third business day following the date the customer receives an executed copy of the contract.

b. The customer must notify the invention developer of a cancellation by written notice delivered personally or by certified mail. A notice delivered personally must be delivered to the invention developer's place of business by the end of the third business day following the date that the contract was executed, and the cancellation shall take effect upon delivery. Upon delivery of the personal notice, the invention developer shall return a receipt to the customer acknowledging receipt of the cancellation. A notice delivered by certified mail must be mailed by midnight of the third day following the date that the contract was executed, and the cancellation shall become effective upon the date the receipt is signed. A notice of cancellation may take any form which indicates that the customer no longer intends to be bound by the contract.

c. Within ten business days after receipt of the notice of cancellation, the invention developer shall deliver to the customer, personally or by certified mail, all moneys paid, any note or other evidence of indebtedness, and all materials provided by the customer. The invention developer may condition payment upon a receipt by the customer acknowledging personal delivery.

5. The following shall be included in the contract:

a. A disclosure statement in substantially the following form shall appear in boldface type and be located conspicuously on a cover sheet that contains no other writing:

NOTICE

The following disclosure is required by section 523G.5 of the Iowa Code and is expressly made a part of this contract:

You have the right to cancel this contract for any reason at any time within three (3) business days from the date you and the invention developer sign the contract and you receive a fully executed copy. To exercise this option you may use certified mail or personally deliver to this invention developer written notice of your cancellation. The method and time for notification is set forth in this contract immediately above the place for your signature. The invention developer must return by certified mail or personal delivery, within ten business days after receipt of the cancellation notice, all money paid and all materials provided either by you or by another party on your behalf.

Unless the invention developer is an attorney, the invention developer is prohibited from giving you legal advice concerning patent, copyright, or trademark law, whether your creation, idea, or invention may be patentable, or protected under the patent, copyright, or trademark laws of the United States or any other law. A registered patent agent may give advice as to patentability and protection available under the patent laws.

A patent, copyright, or trademark protection will not be acquired for you by the invention developer or by this contract. Your potential patent rights may be adversely affected by any attempt to commercialize your idea or invention before a patent application covering it is filed. Nonconfidential disclosures of your idea or invention may also trigger certain statutory deadlines for filing

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a patent application in the United States and would prevent you from obtaining valid patent rights in countries whose law provides that patent applications must be filed before there is a public disclosure. Your failure to identify and investigate existing patents, trademarks, or registered copyrights may place you in jeopardy of infringing the copyright, patent, or trademark rights of other persons if you proceed to make, use, or sell your idea or invention.

b. A disclosure statement in substantially the following form shall appear in ten point boldface type immediately above the place where the customer is to sign:

ATTENTION!
(READ CAREFULLY)

You have three (3) business days during which you may cancel this contract for any reason. You must deliver written notice of the cancellation by certified mail or personally to the invention developer. This opportunity to cancel the contract will expire on the last date that you are allowed to mail or deliver notice. If you choose to use certified mail to deliver your notice, it must be placed in the United States mail addressed to (insert name of invention developer), at (insert address of invention developer's place of business) with first class postage prepaid before midnight of (insert proper date). If you choose to personally deliver your notice to the invention developer, it must be delivered by the end of the normal business day on (insert proper date). You are advised to obtain a written statement from the invention developer acknowledging receipt.

92 Acts, ch 1114, §6

523G.6 Evidence of financial responsibility.

1. An invention developer shall maintain as security evidence of financial responsibility as approved by the commissioner. The security shall be either a bond or cash deposit in an amount which is equal to the greater of either ten percent of the invention developer's gross income from the invention development business in this state during the invention developer's preceding fiscal year, or twenty-five thousand dollars. The commissioner shall approve the security before the invention developer renders or offers to render invention development services in this state. The invention developer shall have ninety days beginning on the first day of the invention developer's new fiscal year to change the security as necessary to conform to the requirements of this subsection.

2. A surety who issues a bond must be approved by the commissioner. A copy of the bond shall be filed in a manner and according to procedures approved by the commissioner. A cash deposit shall be filed with the treasurer of state in a manner and according to procedures approved by the treasurer of state in consultation with the commissioner. The treasurer of state shall not refund a deposit until sixty days following either the date that the invention developer has ceased doing business in the state or a bond has been filed with the commissioner in compliance with this section.

3. *a.* The security shall be in favor of the state for the benefit of any person entering into a contract with and damaged by an invention developer, if the damages are caused by one of the following:

(1) A failure by the invention developer to perform the terms of the contract.

(2) The insolvency of the invention developer or the cessation of the invention developer's business.

(3) The intentional violation of a provision of this chapter by the invention developer.

b. A person claiming against the security may maintain an action at law against the invention developer. An action against a bond may also include the surety. The aggregate

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liability of the surety to all persons for all breaches of conditions of the bond shall not exceed the amount of the bond.

92 Acts, ch 1114, §7, 13; 2012 Acts, ch 1023, §157
Implementation contingent upon appropriation; 92 Acts, ch 1114, §13; 94 Acts, ch 1031, §21

523G.7 Negotiable instruments.

An invention developer shall not take a negotiable instrument from a customer as part of a contract, unless the negotiable instrument is a check constituting evidence of the customer's obligation. A person in possession of a negotiable instrument is not a holder in due course as defined in section 554.3302, if the person takes a negotiable instrument from a customer in violation of this section.

92 Acts, ch 1114, §8

523G.8 Records and correspondence.

An invention developer shall maintain all records and correspondence relating to performance of each invention development contract for not less than three years after expiration of the contract.

92 Acts, ch 1114, §9
Referred to in §523G.5

523G.9 Compliance with other laws, violations and penalties.

1. The provisions of this chapter are not exclusive and do not relieve persons or a contract from compliance with other applicable law.

2. A contract which fails to comply with the applicable provisions of this chapter is unenforceable against the customer as contrary to public policy, unless the invention developer proves all of the following:

a. The noncompliance resulted from an error.

b. The invention developer followed reasonable procedures adopted to avoid such errors.

c. The invention developer promptly made an appropriate correction upon discovery of the noncompliance.

3. A contract executed by an invention developer is unenforceable against the customer, if the invention developer used deceptive practices, with an intent to cause reliance, regardless of whether the customer was actually misled, deceived, or damaged.

4. A provision of a contract which waives a provision of this chapter is contrary to public policy and is void and unenforceable.

5. A person may bring a civil action against an invention developer that uses a deceptive practice. The person may be awarded damages together with costs and disbursements, including reasonable attorney fees. The court in its discretion may increase the award of damages to an amount not to exceed three times the damages or two thousand five hundred dollars, whichever is greater.

6. Failure to make an initial disclosure required by section 523G.4 shall render any contract subsequently entered into between the customer and the invention developer voidable by the customer.

7. A violation of this chapter or a rule adopted by the commissioner pursuant to this chapter is a violation of section 714.16. The remedies and penalties provided by section 714.16, including but not limited to provisions relating to injunctive relief and penalties, apply to violations of this chapter.

92 Acts, ch 1114, §10

523G.10 and 523G.11 Repealed by 98 Acts, ch 1119, §6.

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CHAPTER 523H

FRANCHISES

Referred to in §669.14

523H.1 Definitions.
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523H.1 Definitions.

When used in this chapter, unless the context otherwise requires:

1. *"Affiliate"* means a person controlling, controlled by, or under common control with another person, every officer or director of such a person, and every person occupying a similar status or performing similar functions.

2. *"Business day"* means a day other than a Saturday, Sunday, or federal holiday.

3. *a. "Franchise"* means either of the following:

(1) An oral or written agreement, either express or implied, which provides all of the following:

(a) Grants the right to distribute goods or provide services under a marketing plan prescribed or suggested in substantial part by the franchisor.

(b) Requires payment of a franchise fee to a franchisor or its affiliate.

(c) Allows the franchise business to be substantially associated with a trademark, service mark, trade name, logotype, advertisement, or other commercial symbol of or designating the franchisor or its affiliate.

(2) A master franchise.

b. "Franchise" does not include any business that is operated under a lease or license on the premises of the lessor or licensor as long as such business is incidental to the business conducted by the lessor or licensor on such premises, including, without limitation, leased departments, licensed departments, and concessions and the leased or licensed department operates only under the trademark, trade name, service mark, or other commercial symbol designating the lessor or licensor.

c. "Franchise" also does not include any contract under which a petroleum retailer or petroleum distributor is authorized or permitted to occupy leased marketing premises, which premises are to be employed in connection with the sale, consignment, or distribution of motor fuel under a trademark which is owned or controlled by a refiner which is regulated by the federal Petroleum Marketing Practices Act, 15 U.S.C. §2801 et seq. The term *"refiner"* means any person engaged in the refining of crude oil to produce motor fuel, and includes any affiliate of such person. *"Franchise"* also does not include a contract entered into by any person regulated under chapter 103A, subchapter IV, or chapter 123, 322, 322A, 322C, 322D, 322F, 522B, or 543B, or a contract establishing a franchise relationship with respect to the sale of construction equipment, lawn or garden equipment, or real estate.

4. *"Franchise fee"* means a direct or indirect payment to purchase or operate a franchise. Franchise fee does not include any of the following:

a. Payment of a reasonable service charge to the issuer of a credit card by an establishment accepting the credit card.

b. Payment to a trading stamp company by a person issuing trading stamps in connection with a retail sale.

c. An agreement to purchase at a bona fide wholesale price a reasonable quantity of tangible goods for resale.

d. The purchase or agreement to purchase, at a fair market value, any fixtures, equipment,

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leasehold improvements, real property, supplies, or other materials reasonably necessary to enter into or continue a business.

e. Payments by a purchaser pursuant to a bona fide loan from a seller to the purchaser.

f. Payment of rent which reflects payment for the economic value of leased real or personal property.

g. The purchase or agreement to purchase promotional or demonstration supplies, materials, or equipment furnished at fair market value and not intended for resale.

5. *"Franchisee"* means a person to whom a franchise is granted. Franchisee includes the following:

a. A subfranchisor with regard to its relationship with a franchisor.

b. A subfranchisee with regard to its relationship with a subfranchisor.

6. *"Franchisor"* means a person who grants a franchise or master franchise, or an affiliate of such a person. Franchisor includes a subfranchisor with regard to its relationship with a franchisee, unless stated otherwise in this chapter.

7. *"Marketing plan"* means a plan or system concerning a material aspect of conducting business. Indicia of a marketing plan include any of the following:

a. Price specification, special pricing systems, or discount plans.

b. Sales or display equipment or merchandising devices.

c. Sales techniques.

d. Promotional or advertising materials or cooperative advertising.

e. Training regarding the promotion, operation, or management of the business.

f. Operational, managerial, technical, or financial guidelines or assistance.

8. *"Master franchise"* means an agreement by which a person pays a franchisor for the right to sell or negotiate the sale of franchises.

9. *"Offer"* or *"offer to sell"* means every attempt to offer or to dispose of, or solicitation of an offer to buy, a franchise or interest in a franchise for value.

10. *"Person"* means a person as defined in section 4.1, subsection 20.

11. *"Sale"* or *"sell"* means every contract or agreement of sale of, contract to sell or disposition of, a franchise or interest in a franchise for value.

12. *"Subfranchise"* means an agreement by which a person pays a franchisor for the right to sell or negotiate the sale of franchises.

13. *"Subfranchisee"* means a person who is granted a franchise from a subfranchisor.

14. *"Subfranchisor"* means a person who is granted a master franchise.

92 Acts, ch 1134, §1; 2001 Acts, ch 16, §13, 37; 2006 Acts, ch 1090, §21, 26
Referred to in §85.55, 91A.15, 91D.1, 96.36, 216.22

523H.2 Applicability.

This chapter applies to a new or existing franchise that is operated in the state of Iowa. For purposes of this chapter, the franchise is operated in this state only if the premises from which the franchise is operated is physically located in this state. For purposes of this chapter, a franchise including marketing rights in or to this state, is deemed to be operated in this state only if the franchisee's principal business office is physically located in this state. This chapter does not apply to a franchise solely because an agreement relating to the franchise provides that the agreement is subject to or governed by the laws of this state. The provisions of this chapter do not apply to any existing or future contracts between Iowa franchisors and franchisees who operate franchises located out of state.

92 Acts, ch 1134, §2; 95 Acts, ch 117, §1
Referred to in §523H.2A, 537A.10

523H.2A Applicability — limitation.

1. Notwithstanding section 523H.2, this chapter does not apply to a franchise agreement which is entered into on or after July 1, 2000. A franchise agreement which is entered into on or after July 1, 2000, shall be subject to section 537A.10.

2. This chapter shall govern all actions with respect to a franchise agreement entered into prior to July 1, 2000, no matter when the occurrence giving rise to such action occurs.

2000 Acts, ch 1093, §2

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523H.3 Jurisdiction and nonjudicial resolution of disputes.

1. A provision in a franchise agreement restricting jurisdiction to a forum outside this state is void with respect to a claim otherwise enforceable under this chapter.

2. A civil action or proceeding arising out of a franchise may be commenced wherever jurisdiction over the parties or subject matter exists, even if the agreement limits actions or proceedings to a designated jurisdiction.

3. Parties to a franchise may agree to independent arbitration, mediation, or other nonjudicial resolution of an existing or future dispute.

4. Venue for a civil action commenced under this chapter shall be determined in accordance with chapter 616.

92 Acts, ch 1134, §3

523H.4 Waivers void.

A condition, stipulation, or provision requiring a franchisee to waive compliance with or relieving a person of a duty or liability imposed by or a right provided by this chapter or a rule or order under this chapter is void. This section shall not affect the settlement of disputes, claims, or civil lawsuits arising or brought pursuant to this chapter.

92 Acts, ch 1134, §4

523H.5 Transfer of franchise.

1. A franchisee may transfer the franchised business and franchise to a transferee, provided that the transferee satisfies the reasonable current qualifications of the franchisor for new franchisees. For the purposes of this section, a reasonable current qualification for a new franchisee is a qualification based upon a legitimate business reason. If the proposed transferee does not meet the reasonable current qualifications of the franchisor, the franchisor may refuse to permit the transfer, provided that the refusal of the franchisor to consent to the transfer is not arbitrary or capricious.

2. Except as otherwise provided in this section, a franchisor may exercise a right of first refusal contained in a franchise agreement after receipt of a proposal from the franchisee to transfer the franchise.

3. A franchisor may require as a condition of a transfer any of the following:

a. That the transferee successfully complete a reasonable training program.

b. That a reasonable transfer fee be paid to reimburse the franchisor for the franchisor's reasonable and actual expenses directly attributable to the transfer.

c. That the franchisee pay or make provision reasonably acceptable to the franchisor to pay any amount due the franchisor or the franchisor's affiliate.

d. That the financial terms of the transfer comply at the time of the transfer with the franchisor's current financial requirements for franchisees.

4. A franchisee may transfer the franchisee's interest in the franchise, for the unexpired term of the franchise agreement, and a franchisor shall not require the franchisee or the transferee to enter into a new or different franchise agreement as a condition of the transfer.

5. A franchisee shall give the franchisor no less than sixty days' written notice of a transfer which is subject to the provisions of this section, and on request from the franchisor shall provide in writing the ownership interests of all persons holding or claiming an equitable or beneficial interest in the franchise subsequent to the transfer or the franchisee, as appropriate. A franchisee shall not circumvent the intended effect of a contractual provision governing the transfer of the franchise or an interest in the franchise by means of a management agreement, lease, profit-sharing agreement, conditional assignment, or other similar device.

6. A franchisor shall not transfer its interest in a franchise unless the franchisor makes reasonable provision for the performance of the franchisor's obligations under the franchise agreement by the transferee. For purposes of this subsection, "*reasonable provision*" means that upon the transfer, the entity assuming the franchisor's obligations has the financial means to perform the franchisor's obligations in the ordinary course of business, but does not mean that the franchisor transferring the franchise is required to guarantee obligations of the underlying franchise agreement.

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7. A transfer by a franchisee is deemed to be approved sixty days after the franchisee submits the request for consent to the transfer unless the franchisor withholds consent to the transfer as evidenced in writing, specifying the reason or reasons for withholding the consent. The written notice must be delivered to the franchisee prior to the expiration of the sixty-day period. Any such notice is privileged and is not actionable based upon a claim of defamation.

8. A franchisor shall not discriminate against a proposed transferee of a franchise on the basis of race, color, national origin, religion, sex, or disability.

9. A franchisor, as a condition to a transfer of a franchise, shall not obligate a franchisee to undertake obligations or relinquish any rights unrelated to the franchise proposed to be transferred, or to enter into a release of claims broader than a similar release of claims by the franchisor against the franchisee which is entered into by the franchisor.

10. A franchisor, after a transfer of a franchise, shall not seek to enforce any covenant of the transferred franchise against the transferor which prohibits the transferor from engaging in any lawful occupation or enterprise. However, this subsection does not prohibit the franchisor from enforcing a contractual covenant against the transferor not to exploit the franchisor's trade secrets or intellectual property rights, unless otherwise agreed to by the parties.

11. For purposes of this section, *"transfer"* means any change in ownership or control of a franchise, franchised business, or a franchisee.

12. The following occurrences shall not be considered transfers requiring the consent of the franchisor under a franchise agreement, and shall not result in the imposition of any penalties or make applicable any right of first refusal by the franchisor:

a. The succession of ownership of a franchise upon the death or disability of a franchisee, or of an owner of a franchise, to the surviving spouse, heir, or a partner active in the management of the franchisee unless the successor fails to meet within one year the then current reasonable qualifications of the franchisor for franchisees and the enforcement of the reasonable current qualifications is not arbitrary or capricious.

b. Incorporation of a proprietorship franchisee, provided that such incorporation does not prohibit a franchisor from requiring a personal guaranty by the franchisee of obligations related to the franchise.

c. A transfer within an existing ownership group of a franchise provided that more than fifty percent of the franchise is held by persons who meet the franchisor's reasonable current qualifications for franchisees. If less than fifty percent of the franchise would be owned by persons who meet the franchisor's reasonable current qualifications, the franchisor may refuse to authorize the transfer, provided that enforcement of the reasonable current qualifications is not arbitrary or capricious.

d. A transfer of less than a controlling interest in the franchise to the franchisee's spouse or child or children, provided that more than fifty percent of the entire franchise is held by those who meet the franchisor's reasonable current qualifications. If less than fifty percent of the franchise would be owned by persons who meet the franchisor's reasonable current qualifications, the franchisor may refuse to authorize the transfer, provided that enforcement of the reasonable current qualifications is not arbitrary or capricious.

e. A transfer of less than a controlling interest in the franchise of an employee stock ownership plan, or employee incentive plan, provided that more than fifty percent of the entire franchise is held by those who meet the franchisor's reasonable current qualifications for franchisees. If less than fifty percent would be owned by persons who meet the franchisor's reasonable current qualifications, the franchisor may refuse to authorize the transfer, provided that enforcement of the reasonable current qualifications is not arbitrary or capricious.

f. A grant or retention of a security interest in the franchised business or its assets, or an ownership interest in the franchisee, provided the security agreement establishes an obligation on the part of the secured party enforceable by the franchisor to give the franchisor notice of the secured party's intent to foreclose on the collateral simultaneously with notice to the franchisee, and a reasonable opportunity to redeem the interests of the secured party and recover the secured party's interest in the franchise or franchised business by paying the secured obligation.

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13. A franchisor shall not interfere or attempt to interfere with any disposition of an interest in a franchise or franchised business as described in subsection 12, paragraphs *"a"* through *"f"*.

92 Acts, ch 1134, §5; 95 Acts, ch 117, §2

523H.6 Encroachment.

1. If a franchisor develops, or grants to a franchisee the right to develop, a new outlet or location which sells essentially the same goods or services under the same trademark, service mark, trade name, logotype, or other commercial symbol as an existing franchisee and the new outlet or location has an adverse effect on the gross sales of the existing franchisee's outlet or location, the existing adversely affected franchisee has a cause of action for monetary damages in an amount calculated pursuant to subsection 3, unless any of the following apply:

a. The franchisor has first offered the new outlet or location to the existing franchisee on the same basic terms and conditions available to the other potential franchisee, or, if the new outlet or location is to be owned by the franchisor, on the terms and conditions that would ordinarily be offered to a franchisee for a similarly situated outlet or location.

b. The adverse impact on the existing franchisee's annual gross sales, based on a comparison to the annual gross sales from the existing outlet or location during the twelve-month period immediately preceding the opening of the new outlet or location, is determined to have been less than five percent during the first twelve months of operation of the new outlet or location.

c. The existing franchisee, at the time the franchisor develops, or grants to a franchisee the right to develop, a new outlet or location, is not in compliance with the franchisor's then current reasonable criteria for eligibility for a new franchise. A franchisee determined to be ineligible pursuant to this paragraph shall be afforded the opportunity to seek compensation pursuant to the formal procedure established under paragraph *"d"*, subparagraph (2). Such procedure shall be the franchisee's exclusive remedy.

d. The franchisor has established both of the following:

(1) A formal procedure for hearing and acting upon claims by an existing franchisee with regard to a decision by the franchisor to develop, or grant to a franchisee the right to develop, a new outlet or location, prior to the opening of the new outlet or location.

(2) A reasonable formal procedure for awarding compensation or other form of consideration to a franchisee to offset all or a portion of the franchisee's lost profits caused by the establishment of the new outlet or location. The procedure shall involve, at the option of the franchisee, one of the following:

(a) A panel, comprised of an equal number of members selected by the franchisee and the franchisor, and one additional member to be selected unanimously by the members selected by the franchisee and the franchisor.

(b) A neutral third-party mediator or an arbitrator with the authority to make a decision or award in accordance with the formal procedure. The procedure shall be deemed reasonable if approved by a majority of the franchisor's franchisees in the United States, either individually or by an elected representative body.

(c) Arbitration of any dispute before neutral arbitrators pursuant to the rules of the American arbitration association. The award of an arbitrator pursuant to this subparagraph division is subject to judicial review pursuant to chapter 679A.

2. A franchisor shall establish and make available to its franchisees a written policy setting forth its reasonable criteria to be used by the franchisor to determine whether an existing franchisee is eligible for a franchise for an additional outlet or location.

3. *a.* In establishing damages under a cause of action brought pursuant to this section, the franchisee has the burden of proving the amount of lost profits attributable to the compensable sales. In any action brought under this section, the damages payable shall be limited to no more than three years of the proven lost profits. For purposes of this subsection, *"compensable sales"* means the annual gross sales from the existing outlet or location during the twelve-month period immediately preceding the opening of the new outlet or location less both of the following:

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(1) Five percent.

(2) The actual gross sales from the operation of the existing outlet or location for the twelve-month period immediately following the opening of the new outlet or location.

b. Compensable sales shall exclude any amount attributable to factors other than the opening and operation of the new outlet or location.

4. Any cause of action brought under this section must be filed within eighteen months of the opening of the new outlet or location or within three months after the completion of the procedure under subsection 1, paragraph *"d"*, subparagraph (2), whichever is later.

5. Upon petition by the franchisor or the franchisee, the district court may grant a permanent or preliminary injunction to prevent injury or threatened injury for a violation of this section or to preserve the status quo pending the outcome of the formal procedure under subsection 1, paragraph *"d"*, subparagraph (2).

92 Acts, ch 1134, §6; 95 Acts, ch 117, §3; 2009 Acts, ch 41, §263

523H.7 Termination.

1. Except as otherwise provided by this chapter, a franchisor shall not terminate a franchise prior to the expiration of its term except for good cause. For purposes of this section, *"good cause"* is cause based upon a legitimate business reason. *"Good cause"* includes the failure of the franchisee to comply with any material lawful requirement of the franchise agreement, provided that the termination by the franchisor is not arbitrary or capricious when compared to the actions of the franchisor in other similar circumstances. The burden of proof of showing that action of the franchisor is arbitrary or capricious shall rest with the franchisee.

2. Prior to termination of a franchise for good cause, a franchisor shall provide a franchisee with written notice stating the basis for the proposed termination. After service of written notice, the franchisee shall have a reasonable period of time to cure the default, which in no event shall be less than thirty days or more than ninety days. In the event of nonpayment of moneys due under the franchise agreement, the period to cure need not exceed thirty days.

3. Notwithstanding subsection 2, a franchisor may terminate a franchisee upon written notice and without an opportunity to cure if any of the following apply:

a. The franchisee or the business to which the franchise relates is declared bankrupt or judicially determined to be insolvent.

b. All or a substantial part of the assets of the franchise or the business to which the franchisee relates are assigned to or for the benefit of any creditor which is subject to chapter 681A. An assignment for the benefit of any creditor pursuant to this paragraph does not include the granting of a security interest in the normal course of business.

c. The franchisee voluntarily abandons the franchise by failing to operate the business for five consecutive business days during which the franchisee is required to operate the business under the terms of the franchise, or any shorter period after which it is not unreasonable under the facts and circumstances for the franchisor to conclude that the franchisee does not intend to continue to operate the franchise, unless the failure to operate is due to circumstances beyond the control of the franchisee.

d. The franchisor and franchisee agree in writing to terminate the franchise.

e. The franchisee knowingly makes any material misrepresentations or knowingly omits to state any material facts relating to the acquisition or ownership or operation of the franchise business.

f. After three material breaches of a franchise agreement occurring within a twelve-month period, for which the franchisee has been given notice and an opportunity to cure, the franchisor may terminate upon any subsequent material breach within the twelve-month period without providing an opportunity to cure, provided that the action is not arbitrary and capricious.

g. The franchised business or business premises of the franchisee are lawfully seized, taken over, or foreclosed by a government authority or official.

h. The franchisee is convicted of a felony or any other criminal misconduct which

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materially and adversely affects the operation, maintenance, or goodwill of the franchise in the relevant market.

i. The franchisee operates the franchised business in a manner that imminently endangers the public health and safety.

92 Acts, ch 1134, §7; 95 Acts, ch 117, §4; 2026 Acts, ch 1165, §28, 32
2026 amendment to subsection 3, paragraph b effective January 1, 2027; 2026 Acts, ch 1165, §32
Subsection 3, paragraph b amended

523H.8 Nonrenewal of a franchise.

1. A franchisor shall not refuse to renew a franchise unless both of the following apply:

a. The franchisee has been notified of the franchisor's intent not to renew at least six months prior to the expiration date or any extension of the franchise agreement.

b. Any of the following circumstances exist:

(1) Good cause exists, provided that the refusal of the franchisor to renew is not arbitrary or capricious. For purposes of this section, *"good cause"* means cause based on a legitimate business reason.

(2) The franchisor and franchisee agree not to renew the franchise.

(3) The franchisor completely withdraws from directly or indirectly distributing its products or services in the geographic market served by the franchisee, provided that upon expiration of the franchise, the franchisor agrees not to seek to enforce any covenant of the nonrenewed franchisee not to compete with the franchisor or franchisees of the franchisor.

2. As a condition of renewal of the franchise, a franchise agreement may require that the franchisee meet the then current requirements for franchises and that the franchisee execute a new agreement incorporating the then current terms and fees for new franchises.

92 Acts, ch 1134, §8; 95 Acts, ch 117, §5

523H.9 Franchisee's right to associate.

A franchisor shall not restrict a franchisee from associating with other franchisees or from participating in a trade association, and shall not retaliate against a franchisee for engaging in these activities.

92 Acts, ch 1134, §9

523H.10 Duty of good faith.

A franchise imposes on the parties a duty of good faith in performance and enforcement of the franchise agreement. *"Good faith"* means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade.

92 Acts, ch 1134, §10

523H.11 Repurchase of assets.

A franchisor shall not prohibit a franchisee from, or enforce a prohibition against a franchisee, engaging in any lawful business at any location after a termination or refusal to renew by a franchisor, unless it is one which relies on a substantially similar marketing program as the terminated or nonrenewed franchise or unless the franchisor offers in writing no later than ten business days before expiration of the franchise to purchase the assets of the franchised business for its fair market value as a going concern. The value of the assets shall not include the goodwill of the business attributable to the trademark licensed to the franchisee in the franchise agreement. The offer may be conditioned upon the ascertainment of a fair market value by an impartial appraiser. This section does not apply to assets of the franchised business which the franchisee did not purchase from the franchisor, or the agent of the franchisor.

92 Acts, ch 1134, §11; 95 Acts, ch 117, §6

523H.12 Independent sourcing.

1. Except as provided in subsection 2, a franchisor shall allow a franchisee to obtain equipment, fixtures, supplies, and services used in the establishment and operation of the franchised business from sources of the franchisee's choosing, provided that such goods and services meet standards as to their nature and quality promulgated by the franchisor.

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2. Subsection 1 of this section does not apply to reasonable quantities of inventory goods or services, including display and sample items, that the franchisor requires the franchisee to obtain from the franchisor or its affiliate, but only if the goods or services are central to the franchised business and either are actually manufactured or produced by the franchisor or its affiliate, or incorporate a trade secret owned by the franchisor or its affiliate.

92 Acts, ch 1134, §12

523H.13 Private civil action.

A person who violates a provision of this chapter or order issued under this chapter is liable for damages caused by the violation, including, but not limited to, costs and reasonable attorneys' and experts' fees, and subject to other appropriate relief including injunctive and other equitable relief.

92 Acts, ch 1134, §13

523H.14 Choice of law.

A condition, stipulation, or provision requiring the application of the law of another state in lieu of this chapter is void.

92 Acts, ch 1134, §14

523H.15 Construction with other law.

This chapter does not limit any liability that may exist under another statute or at common law. Prior law governs all actions based on facts occurring before July 1, 1992.

92 Acts, ch 1134, §15

523H.16 Construction.

This chapter shall be liberally construed to effectuate its purposes.

92 Acts, ch 1134, §16

523H.17 Severability.

If any provision or clause of this chapter or any application of this chapter to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

92 Acts, ch 1134, §17

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CHAPTER 523I

IOWA CEMETERY ACT

Referred to in §459.102, 505.28, 505.29, 507E.8, 523A.807, 523A.811, 523A.812, 669.14

Former ch 523I repealed effective July 1, 2005; 2005 Acts, ch 128, §74

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TITLE — DEFINITIONS — APPLICABILITY

523I.101 Short title.

This chapter may be cited as the *"Iowa Cemetery Act"*.

2005 Acts, ch 128, §6

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523I.102 Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. *"Authorized to do business within this state"* means a person licensed, registered, or subject to regulation by an agency of the state of Iowa.

2. *"Burial site"* means any area, except a cemetery, that is used to inter or scatter remains.

3. *"Capital gains"* means appreciation in the value of trust assets for which a market value may be determined with reasonable certainty after deduction of investment losses, taxes, expenses incurred in the sale of trust assets, any costs of the operation of the trust, examination expenses, and any audit expenses.

4. *"Care fund"* means funds set aside for the care of a perpetual care cemetery, including all of the following:

a. Money or real or personal property impressed with a trust by the terms of this chapter.

b. Contributions in the form of a gift, grant, or bequest.

c. Any accumulated income that the trustee of the fund or the cemetery allocates to principal.

5. *"Casket"* means a rigid container which is designed for the encasement of human remains and which is usually constructed of wood, metal, fiberglass, plastic, or like material and ornamented and lined with fabric.

6. *"Cemetery"* means any area that is or was open to use by the public in general or any segment thereof and is used or is intended to be used to inter or scatter remains. *"Cemetery"* does not include the following:

a. A private burial site where use is restricted to members of a family, if the interment rights are conveyed without a monetary payment, fee, charge, or other valuable form of compensation or consideration.

b. A private burial site where use is restricted to a narrow segment of the public, if the interment rights are conveyed without a monetary payment, fee, charge, or other valuable form of compensation or consideration.

c. A pioneer cemetery.

d. A cemetery under the jurisdiction and control of a cemetery commission pursuant to section 331.325, subsection 3, paragraph *"c"*.

7. *"Columbarium"* means a structure, room, or space in a mausoleum or other building containing niches or recesses for disposition of cremated remains.

8. *"Commissioner"* means the commissioner of insurance.

9. *"Disinterment"* means to remove human remains from their place of final disposition.

10. *"Doing business in this state"* means issuing or performing wholly or in part any term of an interment rights agreement executed within the state of Iowa.

11. *"Financial institution"* means a state or federally insured bank, savings association, credit union, trust department thereof, or a trust company that is authorized to do business within this state, that has been granted trust powers under the laws of this state or the United States, and that holds funds under a trust agreement. *"Financial institution"* does not include a cemetery or any person employed by or directly involved with a cemetery.

12. *"Garden"* means an area within a cemetery established by the cemetery as a subdivision for organizational purposes, not for sale purposes.

13. *"Government cemetery"* means a cemetery that is owned, operated, or controlled by a governmental subdivision.

14. *"Governmental subdivision"* means a city, county, or township.

15. *"Grave space"* means a space of ground in a cemetery that is used or intended to be used for an in-ground burial.

16. *"Gross selling price"* means the aggregate amount a purchaser is obligated to pay for interment rights, exclusive of finance charges.

17. *"Income"* means the return in money or property derived from the use of trust principal after deduction of investment losses, taxes, and expenses incurred in the sale of trust assets, any cost of the operation of the trust, examination expenses or fees, and any audit expenses. *"Income"* includes but is not limited to:

a. Rent of real or personal property, including sums received for cancellation or renewal of a lease and any royalties.

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b. Interest on money lent, including sums received as consideration for prepayment of principal.

c. Cash dividends paid on corporate stock.

d. Interest paid on deposit funds or debt obligations.

e. Gain realized from the sale of trust assets.

18. *"Insolvent"* means the inability to pay debts as they become due in the usual course of business.

19. *"Interment rights"* means the rights to place remains in a specific location for use as a final resting place or memorial.

20. *"Interment rights agreement"* means an agreement to furnish memorials, memorialization, opening and closing services, or interment rights.

21. *"Interment space"* means a space used or intended to be used for the interment of remains including but not limited to a grave space, lawn crypt, mausoleum crypt, and niche.

22. *"Lawn crypt"* means a preplaced enclosed chamber, which is usually constructed of reinforced concrete and poured in place, or a precast unit installed in quantity, either side-by-side or at multiple depths, and covered by earth or sod.

23. *"Lot"* means an area in a cemetery containing more than one interment space which is uniquely identified by an alphabetical, numeric, or alphanumerical identification system.

24. *"Maintenance fund"* means funds set aside for the maintenance of a nonperpetual care cemetery, including all of the following:

a. Money or real or personal property impressed with a trust by the terms of this chapter.

b. Contributions in the form of a gift, grant, or bequest.

c. Any accumulated income that the trustee of the fund or the cemetery allocates to principal.

25. *"Mausoleum"* means an aboveground structure designed for the entombment of human remains.

26. *"Mausoleum crypt"* means a chamber in a mausoleum of sufficient size to contain casketed human remains.

27. *"Memorial"* means any product, including any foundation other than a mausoleum or columbarium, used for identifying an interment space or for commemoration of the life, deeds, or career of a decedent including but not limited to a monument, marker, niche plate, urn garden plaque, crypt plate, cenotaph, marker bench, and vase.

28. *"Memorial care"* means any care provided or to be provided for the general maintenance of memorials including foundation repair or replacement, resetting or straightening tipped memorials, repairing or replacing inadvertently damaged memorials, and any other care clearly specified in the purchase agreement.

29. *"Memorial dealer"* means any person offering or selling memorials retail to the public.

30. *"Memorialization"* means any permanent system designed to mark or record the name and other data pertaining to a decedent.

31. *"Merchandise"* means any personal property offered or sold for use in connection with the funeral, final disposition, memorialization, or interment of human remains, but which is exclusive of interment rights.

32. *"Neglected cemetery"* means a cemetery where there has been a failure to cut grass or weeds or care for graves, memorials or memorialization, walls, fences, driveways, and buildings, or for which proper records of interments have not been maintained.

33. *"Niche"* means a recess or space in a columbarium or mausoleum used for placement of cremated human remains.

34. *"Opening and closing services"* means one or more services necessarily or customarily provided in connection with the interment or entombment of human remains or a combination thereof.

35. *"Operating a cemetery"* means offering to sell or selling interment rights, or any service or merchandise necessarily or customarily provided for a funeral, or for the entombment or cremation of a dead human, or any combination thereof, including but not limited to opening and closing services, caskets, memorials, vaults, urns, and interment receptacles.

36. *"Outer burial container"* means any container which is designed for placement in the

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ground around a casket or an urn including but not limited to containers commonly known as burial vaults, urn vaults, grave boxes, grave liners, and lawn crypts.

37. *a. "Perpetual care cemetery"* includes all of the following:

(1) Any cemetery that was organized or commenced business in this state on or after July 1, 1995.

(2) Any cemetery that has established a care fund in compliance with section 523I.810.

(3) Any cemetery that represents that it is a perpetual care cemetery in its interment rights agreement.

(4) Any cemetery that represents in any other manner that the cemetery provides perpetual, permanent, or guaranteed care.

b. "Perpetual care cemetery" does not include a government cemetery.

38. *"Person"* means an individual, firm, corporation, partnership, joint venture, limited liability company, association, trustee, government or governmental subdivision, agency, or other entity, or any combination thereof.

39. *"Pioneer cemetery"* means a cemetery where there were twelve or fewer burials in the preceding fifty years.

40. *"Purchaser"* means a person who purchases memorials, memorialization, opening and closing services, scattering services, interment rights, or a combination thereof. A purchaser need not be a beneficiary of the interment rights agreement.

41. *"Relative"* means a great-grandparent, grandparent, father, mother, spouse, child, brother, sister, nephew, niece, uncle, aunt, first cousin, second cousin, third cousin, or grandchild connected to a person by either blood or affinity.

42. *"Religious cemetery"* means a cemetery that is owned, operated, or controlled by a recognized church or denomination, or a cemetery designated as such in the official Catholic directory on file with the insurance division or in a similar publication of a recognized church or denomination, or a cemetery that the commissioner determines is operating as a religious cemetery upon review of an application by the cemetery that includes a description of the cemetery's affiliation with a recognized church or denomination, the extent to which the affiliate organization is responsible for the financial and contractual obligations of the cemetery, or the provision of the Internal Revenue Code, if any, that exempts the cemetery from the payment of federal income tax.

43. *"Relocation"* means the act of taking remains from the place of interment or the place where the remains are being held to another designated place.

44. *"Remains"* means the body of a deceased human or a body part, or limb that has been removed from a living human, including a body, body part, or limb in any stage of decomposition, or cremated remains.

45. *"Seller"* means a person doing business within this state, including a person doing business within this state who advertises, sells, promotes, or offers to furnish memorials, memorialization, opening and closing services, scattering services, or interment rights, or a combination thereof, whether the transaction is completed or offered in person, through the mail, over the telephone, by the internet, or through any other means of commerce.

46. *"Special care"* means any care provided or to be provided that supplements or exceeds the requirements of this chapter in accordance with the specific directions of any donor of funds for such purposes.

47. *"Undeveloped space"* means a designated area or building within a cemetery that has been mapped and planned for future development but is not yet fully developed.

48. *"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.

2005 Acts, ch 128, §7; 2006 Acts, ch 1117, §118; 2007 Acts, ch 175, §34, 35; 2008 Acts, ch 1123, §54; 2009 Acts, ch 132, §5; 2012 Acts, ch 1017, §103; 2018 Acts, ch 1018, §18; 2021 Acts, ch 181, §45; 2026 Acts, ch 1111, §11 – 13

Referred to in §37A.1
Subsection 9 stricken and former subsections 10 – 13 renumbered as 9 – 12
NEW subsection 13
NEW subsection 14 and former subsection 14 renumbered as 15
Subsection 16 stricken and former subsection 15 renumbered as 16
Subsection 37 amended
Subsection 45 stricken and former subsections 46 – 49 renumbered as 45 – 48

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523I.103 Applicability of chapter.

1. This chapter applies to all of the following:

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

b. All persons advertising or offering memorials, memorialization, opening and closing services, scattering services at a cemetery, interment rights, or a combination thereof for sale.

c. Interments made in areas not dedicated as a cemetery, by a person other than the state archaeologist.

2. This chapter applies when a purchase agreement is executed within this state or an advertisement, promotion, or offer to furnish memorials, memorialization, opening and closing services, scattering services, interment rights, or a combination thereof is made or accepted within this state. An offer to furnish memorials, memorialization, opening and closing services, scattering services, interment rights, or a combination thereof is made within this state, whether or not either party is then present in this state, when the offer originates from this state or is directed by the offeror to this state and received by the offeree in this state through the mail, over the telephone, by the internet, or through any other means of commerce.

3. If a foreign person does not have a registered agent or agents in the state of Iowa, doing business within this state shall constitute the person's appointment of the secretary of state of the state of Iowa to be the person's true and lawful attorney upon whom may be served all lawful process of original notice in actions or proceedings arising or growing out of any contract or tort.

2005 Acts, ch 128, §8; 2006 Acts, ch 1010, §147; 2006 Acts, ch 1117, §119

523I.104 through 523I.200 Reserved.

SUBCHAPTER II

ADMINISTRATION AND ENFORCEMENT

523I.201 Administration.

1. This chapter shall be administered by the commissioner. The commissioner may employ officers, attorneys, accountants, and other employees as needed for administering this chapter.

2. It is unlawful for the commissioner or any administrative staff to use for personal benefit any information which is filed with or obtained by the commissioner and which is not made public. This chapter does not authorize the commissioner or any staff member to disclose any such information except among themselves or to other cemetery and funeral administrators, regulatory authorities, or governmental agencies, or when necessary and appropriate in a proceeding or investigation under this chapter or as required by chapter 22. This chapter neither creates nor derogates any privileges that exist at common law or otherwise when documentary or other evidence is sought under a subpoena directed to the commissioner or any administrative staff.

3. The commissioner shall submit an annual report to the general assembly's standing committees on government oversight by October 1 of each year reporting on the administration of this chapter. The report shall set forth any recommendations for changes in the law that the commissioner deems necessary or desirable to prevent abuses or evasions of this chapter or rules implementing this chapter or to rectify undesirable conditions in connection with the administration of this chapter or rules implementing this chapter.

2005 Acts, ch 128, §9; 2006 Acts, ch 1030, §64; 2006 Acts, ch 1117, §120; 2007 Acts, ch 175, §36, 37; 2008 Acts, ch 1123, §55; 2009 Acts, ch 86, §6

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523I.202 Investigations and subpoenas.

1. The commissioner may, for the purpose of discovering a violation of this chapter or implementing rules or orders issued under this chapter, do any of the following:

a. Make such public or private investigations within or outside of this state as the commissioner deems necessary to determine whether any person has violated or is about to violate this chapter, or implementing rules or orders issued under this chapter, or to aid in the enforcement of this chapter, or in the prescribing of rules and forms under this chapter.

b. Require or permit any person to file a statement in writing, under oath or otherwise as the commissioner or attorney general determines, as to all the facts and circumstances concerning the matter being investigated.

c. Notwithstanding chapter 22, keep confidential the information obtained in the course of an investigation. However, if the commissioner determines that it is necessary or appropriate in the public interest or for the protection of the public, the commissioner may share information with other administrators, regulatory authorities, or governmental agencies, or may publish information concerning a violation of this chapter, or implementing rules or orders issued under this chapter.

d. Investigate a cemetery and examine the books, accounts, papers, correspondence, memoranda, purchase agreements, files, or other documents or records of the cemetery.

e. Administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, accounts, papers, correspondence, memoranda, purchase agreements, files, or other documents or records which the commissioner deems relevant or material to any investigation or proceeding under this chapter and implement rules, all of which may be enforced under chapter 17A.

f. Apply to the district court for an order requiring a person's appearance before the commissioner or attorney general, or a designee of either or both, in cases where the person has refused to obey a subpoena issued by the commissioner or attorney general. The person may also be required to produce documentary evidence germane to the subject of the investigation. Failure to obey a court order under this subsection constitutes contempt of court.

2. The commissioner may issue and bring an action in district court to enforce subpoenas within this state at the request of an agency or administrator of another state, if the activity constituting an alleged violation for which the information is sought would be a violation of this chapter had the activity occurred in this state.

2005 Acts, ch 128, §10

523I.203 Cease and desist orders — injunctions.

If it appears to the commissioner that a person has engaged or is about to engage in an act or practice constituting a violation of this chapter, or implementing rules or orders issued under this chapter, the commissioner or the attorney general may do any of the following:

1. Issue a summary order directed to the person that requires the person to cease and desist from engaging in such an act or practice. A person may request a hearing within thirty days of issuance of the summary order. If a hearing is not timely requested, the summary order shall become final by operation of law. The order shall remain effective from the date of issuance until the date the order becomes final by operation of law or is overturned by a presiding officer following a request for hearing. Section 17A.18A is inapplicable to summary cease and desist orders issued under this section.

2. Bring an action in the district court in any county of the state for an injunction to restrain a person subject to this chapter and any agents, employees, or associates of the person from engaging in conduct or practices deemed contrary to the public interest. In any proceeding for an injunction, the commissioner or attorney general may apply to the court for a subpoena to require the appearance of a defendant and the defendant's agents, employees, or associates and for the production of any books, accounts, papers, correspondence, memoranda, purchase agreements, files, or other documents or records germane to the hearing upon the petition for an injunction. Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be

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granted and a receiver may be appointed for the defendant or the defendant's assets. The commissioner or attorney general shall not be required to post a bond.

2005 Acts, ch 128, §11

523I.204 Court action for failure to cooperate.

1. If a person fails or refuses to file a statement or report or to produce any books, accounts, papers, correspondence, memoranda, purchase agreements, files, or other documents or records, or to obey a subpoena issued by the commissioner, the commissioner may refer the matter to the attorney general, who may apply to a district court to enforce compliance. The court may order any or all of the following:

a. Injunctive relief restricting or prohibiting the offer or sale of memorials, memorialization, opening and closing services, scattering services, interment rights, or a combination thereof.

b. Production of documents or records including but not limited to books, accounts, papers, correspondence, memoranda, purchase agreements, files, or other documents or records.

c. Such other relief as may be required.

2. A court order issued pursuant to subsection 1 is effective until the person files the statement or report or produces the documents requested, or obeys the subpoena.

2005 Acts, ch 128, §12

523I.205 Prosecution for violations of law — civil penalties.

1. A violation of this chapter or rules adopted or orders issued under this chapter is a violation of section 714.16, subsection 2, paragraph *"a"*. The remedies and penalties provided by section 714.16, including but not limited to injunctive relief and penalties, apply to violations of this chapter.

2. If the commissioner believes that grounds exist for the criminal prosecution of persons subject to this chapter for violations of this chapter or any other law of this state, the commissioner may forward to the attorney general or the county attorney the grounds for the belief, including all evidence in the commissioner's possession, so that the attorney general or the county attorney may proceed with the matter as deemed appropriate. At the request of the attorney general, the county attorney shall appear and prosecute the action when brought in the county attorney's county.

3. A person who violates a provision of this chapter or rules adopted or orders issued under this chapter may be subject to civil penalties in addition to criminal penalties. The commissioner may impose, assess, and collect a civil penalty not exceeding ten thousand dollars for each violation. For the purposes of computing the amount of each civil penalty, each day of a continuing violation constitutes a separate violation. All civil penalties collected pursuant to this section shall be deposited as provided in section 505.7.

2005 Acts, ch 128, §13; 2009 Acts, ch 181, §101

523I.206 Cooperation with other agencies.

1. The commissioner may cooperate with any governmental law enforcement or regulatory agency to encourage uniform interpretation and administration of this chapter and effective enforcement of this chapter and effective regulation of the sale of memorials, memorialization, and cemeteries.

2. Cooperation with other agencies may include but is not limited to:

a. Making a joint examination or investigation.

b. Holding a joint administrative hearing.

c. Filing and prosecuting a joint civil or administrative proceeding.

d. Sharing and exchanging personnel.

e. Sharing and exchanging relevant information and documents.

f. Formulating, in accordance with chapter 17A, rules or proposed rules on matters such as statements of policy, regulatory standards, guidelines, and interpretive opinions.

2005 Acts, ch 128, §14

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523I.207 Rules, forms, and orders.

1. Under chapter 17A, the commissioner may from time to time make, amend, and rescind such rules, forms, and orders as are necessary or appropriate for the protection of purchasers and the public and to administer the provisions of this chapter, its implementing rules, and orders issued under this chapter.

2. A rule, form, or order shall not be made, amended, or rescinded unless the commissioner finds that the action is necessary or appropriate to protect purchasers and the public and is consistent with the policies and provisions of this chapter, its implementing rules, and orders issued under this chapter.

3. A provision of this chapter imposing any liability does not apply to an act done or omitted in good faith in conformity with any rule, form, or order of the commissioner.

2005 Acts, ch 128, §15

523I.208 Date of filing — interpretive opinions.

1. A document is filed when it is received by the commissioner.

2. Requests for interpretive opinions may be granted in the commissioner's discretion.

2005 Acts, ch 128, §16

523I.209 Misleading filings.

It is unlawful for a person to make or cause to be made, in any document filed with the commissioner, or in any proceeding under this chapter, any statement of material fact which is, at the time and in the light of the circumstances under which it is made, false or misleading, or, in connection with such statement, to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading.

2005 Acts, ch 128, §17

523I.210 Misrepresentations of government approval.

It is unlawful for a seller under this chapter to represent or imply in any manner that the seller has been sponsored, recommended, or approved, or that the seller's abilities or qualifications have in any respect been passed upon by the commissioner.

2005 Acts, ch 128, §18

523I.211 Fraudulent practices.

A person who commits any of the following acts commits a fraudulent practice which is punishable as provided in chapter 714:

1. Knowingly fails to comply with any requirement of this chapter.

2. Knowingly makes, causes to be made, or subscribes to a false statement or representation in a report or other document required under this chapter, or implementing rules or orders, or renders such a report or document misleading through the deliberate omission of information properly belonging in the report or document.

3. Conspires to defraud in connection with the sale of memorials, memorialization, opening and closing services, scattering services, interment rights, or a combination thereof under this chapter.

4. Fails to deposit funds under this chapter or withdraws funds in a manner inconsistent with this chapter.

5. Knowingly sells memorials, memorialization, opening and closing services, scattering services, interment rights, or a combination thereof without the permits required under this chapter.

6. Deliberately misrepresents or omits a material fact relative to the sale of memorials, memorialization, opening and closing services, scattering services, interment rights, or a combination thereof.

2005 Acts, ch 128, §19

523I.212 Receiverships.

1. The commissioner may notify the attorney general of the potential need for

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establishment of a receivership if a receivership is requested or consented to by a cemetery subject to this chapter.

2. The commissioner shall notify the attorney general of the potential need for establishment of a receivership if the commissioner finds that a cemetery subject to this chapter meets one or more of the following conditions:

a. Is insolvent.

b. Has utilized trust funds for personal or business purposes in a manner inconsistent with this chapter.

c. The amount held in trust in a maintenance fund or care fund is less than the amount required by this chapter.

d. A receivership has been established for a seller subject to chapter 523A who owns or operates a cemetery that is subject to this chapter.

3. The commissioner or attorney general may apply to the district court in any county of the state for the establishment of a receivership. Upon proof that any of the conditions described in this section have occurred, the court may grant a receivership. The commissioner may request that the insurance division be named as a receiver or that the court appoint a third party as a receiver. If the division is appointed as a receiver, the division shall not be subject to the requirements concerning an oath and surety bond contained in section 680.3.

4. In addition to the powers granted to receivers under chapter 680, a receiver appointed under this section shall be granted all powers necessary to locate and to temporarily preserve and protect perpetual care trust funds, consumer and business assets, interment records, records of consumer purchases of interment rights, and records of consumer purchases of funeral services and funeral or cemetery merchandise as defined in chapter 523A. The receiver shall also be granted such powers as are necessary in the course of the receivership to temporarily preserve and protect a cemetery or burial site and to temporarily restore or sustain cemetery operations, including interments, as operating funds or trust funds become available.

5. The commissioner may petition the court to terminate a receivership at any time and to enter such orders as are necessary to transfer the duty to preserve and protect the physical integrity of the cemetery or burial site, the interment records, and other records documenting consumer purchases of interment rights to the applicable governmental subdivision, as provided in section 523I.316, subsection 3. The court shall grant the petition if following the first one hundred twenty days of the receivership such duty to preserve and protect cannot be reasonably assumed by a private entity, association, or by other means.

2005 Acts, ch 128, §20; 2007 Acts, ch 175, §38 – 40; 2017 Acts, ch 14, §2
Referred to in §523A.811, 523I.213

523I.213 Insurance division's enforcement fund.

A special revenue fund in the state treasury, to be known as the insurance division's enforcement fund, is created under the authority of the commissioner. The commissioner shall deposit all examination fees collected pursuant to section 523I.808 in the insurance division's enforcement fund. The moneys in the enforcement fund shall be retained in the fund. The moneys are appropriated and, subject to authorization by the commissioner, shall be used to pay examiners, examination expenses, investigative expenses, the expenses of consumer education, compliance, and education programs for filers and other regulated persons, and educational or compliance program materials, the expenses of a toll-free telephone line for consumer complaints, and the expenses of receiverships of perpetual care cemeteries established under section 523I.212.

2005 Acts, ch 128, §21; 2007 Acts, ch 175, §41; 2021 Acts, ch 181, §46

523I.213A Examinations — authority and scope.

1. The commissioner or the commissioner's designee may conduct an examination under this chapter of any cemetery as often as the commissioner deems appropriate.

2. A cemetery shall reimburse the division for the expense of conducting the examination unless the commissioner waives this requirement or the seller has previously provided

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to the commissioner a certified copy of an audit conducted by an independent certified public accountant verifying compliance with this chapter for each year in question and the examination conducted by the commissioner does not disclose that the seller has not complied with this chapter for the years in question. The expense of an examination involving multiple cemeteries or other persons shall be prorated among them upon any reasonable basis as determined by the commissioner.

3. For purposes of completing an examination pursuant to this chapter, the commissioner may examine or investigate any person, or the business of any person, if the examination or investigation is, in the sole discretion of the commissioner, necessary or material to the examination of the cemetery.

4. Upon determining that an examination should be conducted, the commissioner or the commissioner's designee may appoint one or more examiners to perform the examination and instruct them as to the scope of the examination.

5. A cemetery or person from whom information is sought, and its officers, directors, and agents shall provide to the examiners appointed under subsection 4, timely, convenient, and free access at their offices, at all reasonable hours, to all books, records, accounts, papers, documents, and all electronic or other recordings related to the property, assets, business, and affairs of the cemetery being examined and shall facilitate the examination as much as possible. If a cemetery, by its officers, directors, employees, or agents, refuses to submit to an examination as provided in this chapter, the commissioner shall immediately report the refusal to the attorney general, who shall then immediately apply to district court for the appointment of a receiver to administer the final affairs of the cemetery.

6. This section shall not be construed to limit the commissioner's authority to terminate or suspend any examination in order to pursue other legal or regulatory actions pursuant to this chapter. Findings of fact and conclusions made pursuant to an examination are deemed to be prima facie evidence in any legal or regulatory action.

7. Notwithstanding chapter 22, the commissioner shall not make information obtained in the course of an examination public, except when a duty under this chapter requires the commissioner to take action against a cemetery or to cooperate with another law enforcement agency, or when the commissioner is called as a witness in a civil or criminal proceeding.

2007 Acts, ch 175, §42; 2010 Acts, ch 1121, §29; 2011 Acts, ch 70, §47; 2026 Acts, ch 1111, §14

Referred to in §22.7(64)
Subsection 1 amended

523I.213B Venue.

All actions relating to the enforcement of this chapter shall be governed by the laws of the state of Iowa. Venue of any action relating to enforcement of this chapter may be in a court of competent jurisdiction in Polk county, at the discretion of the commissioner.

2007 Acts, ch 175, §43

523I.214 Violations of law — referrals to the department of health and human services.

If the commissioner discovers a violation of a provision of this chapter or any other state law or rule concerning the disposal or transportation of human remains, the commissioner shall forward all evidence in the possession of the commissioner concerning such a violation to the department of health and human services for such proceedings as the department of health and human services deems appropriate.

2005 Acts, ch 128, §22; 2023 Acts, ch 19, §1222

523I.215 through 523I.300 Reserved.

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SUBCHAPTER III

CEMETERY MANAGEMENT

523I.301 Disclosure requirements — prices and fees.

1. A cemetery shall disclose, prior to the sale of interment rights, whether opening and closing services are included in the purchase of the interment rights. If opening and closing services are not included in the sale of interment rights and the cemetery offers opening and closing services, the cemetery must disclose that the price for opening and closing services is subject to change and must disclose the current prices for opening and closing services provided by the cemetery.

2. The cemetery shall fully disclose all fees required for interment, entombment, inurnment, or disinterment of human remains.

3. A person owning interment rights may sell those rights to third parties. The cemetery shall fully disclose, in the cemetery's rules, any requirements necessary to transfer title of interment rights to a third party.

2005 Acts, ch 128, §23; 2021 Acts, ch 181, §47

523I.302 Installation of outer burial containers.

A cemetery shall provide services necessary for the installation of outer burial containers or other similar merchandise sold by the cemetery. This section shall not require the cemetery to provide for opening and closing of interment or entombment space, unless an agreement executed by the cemetery expressly provides otherwise.

2005 Acts, ch 128, §24

523I.303 Access by funeral directors.

A cemetery shall not deny access to a licensed funeral director who is conducting funeral services or supervising the interment or disinterment of human remains.

2005 Acts, ch 128, §25

523I.304 Rulemaking and enforcement.

1. A cemetery may adopt, amend, and enforce rules for the use, care, control, management, restriction, and protection of the cemetery, as necessary for the proper conduct of the business of the cemetery, including but not limited to the use, care, and transfer of any interment space or right of interment.

2. A cemetery may restrict and limit the use of all property within the cemetery by rules that do, but are not limited to doing, all of the following:

a. Prohibit the placement of memorials or memorialization, buildings, or other types of structures within any portion of the cemetery.

b. Regulate the uniformity, class, and kind of memorials and memorialization and structures within the cemetery.

c. Regulate the scattering or placement of cremated remains within the cemetery.

d. Prohibit or regulate the placement of nonhuman remains within the cemetery.

e. Prohibit or regulate the introduction or care of trees, shrubs, and other types of plants within the cemetery.

f. Regulate the right of third parties to open, prepare for interment, and close interment spaces.

g. Prohibit interment in any part of the cemetery not designated as an interment space.

h. Prevent the use of space for any purpose inconsistent with the use of the property as a cemetery.

3. A cemetery shall not adopt or enforce a rule that prohibits interment because of the race, color, or national origin of a decedent. A provision of a contract or a certificate of ownership or other instrument conveying interment rights that prohibits interment in a cemetery because of the race, color, or national origin of a decedent is void.

4. A cemetery's rules shall be plainly printed or typewritten and maintained for inspection in the office of the cemetery or, if the cemetery does not have an office, in another suitable

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place within the cemetery. The cemetery's rules shall be provided to owners of interment spaces upon request.

5. A cemetery's rules shall specify the cemetery's obligations in the event that interment spaces, memorials, or memorialization are damaged or defaced by acts of vandalism. The rules may specify a multiyear restoration of an interment space, or a memorial or memorialization when the damage is extensive or when money available from the cemetery's trust fund is inadequate to complete repairs immediately. The owner of an interment space, or a memorial or memorialization that has been damaged or defaced shall be notified by the cemetery by restricted certified mail at the owner's last known address within sixty days of the discovery of the damage or defacement. The rules shall specify whether the owner is liable, in whole or in part, for the cost to repair or replace an interment space or a damaged or defaced memorial or memorialization.

6. The cemetery shall not approve any rule which unreasonably restricts competition, or which unreasonably increases the cost to the owner of interment rights in exercising these rights.

7. A cemetery owned and controlled by a governmental subdivision shall adopt and enforce a rule allowing any veteran who is a landowner or who lives within the governmental subdivision to purchase an interment space and to be interred within the cemetery. The rule shall also allow any veteran who purchases an interment space within the cemetery to purchase an interment space for interment of the spouse of the veteran if such a space is available and shall allow the surviving spouse of a veteran interred within the cemetery to purchase an interment space and be interred within the cemetery if such a space is available. For the purposes of this section, *"veteran"* means the same as defined in section 35.1.

2005 Acts, ch 128, §26; 2007 Acts, ch 175, §44; 2009 Acts, ch 164, §5, 7; 2012 Acts, ch 1067, §1

523I.305 Memorials and memorialization.

1. *Authorization.* A cemetery is entitled to determine whether a person requesting installation of a memorial is authorized to do so, to the extent that this can be determined from the records of the cemetery, as is consistent with the cemetery's rules. The owner of an interment space or the owner's agent may authorize a memorial dealer or independent third party to perform all necessary work related to preparation and installation of a memorial.

2. *Conformity with cemetery rules.* A person selling a memorial shall review the rules of the cemetery where the memorial is to be installed to ensure that the memorial will comply with those rules prior to ordering or manufacturing the memorial.

3. *Specifications.* Upon request, a cemetery shall provide reasonable written specifications and instructions governing installation of memorials, which shall apply to all installations whether performed by the cemetery or another person. The written specifications shall include provisions governing hours of installation or any other relevant administrative requirements of the cemetery. A copy of these specifications and instructions shall be provided upon request, without charge, to the owner of the interment space, next of kin, or a personal representative or agent of the owner, including the person installing the memorial. The person installing the memorial shall comply with the cemetery's written installation specifications and instructions. In order to verify that a memorial is installed on the proper interment space in accordance with cemetery rules and regulations, the cemetery shall mark the place on the interment space where the memorial is to be installed and shall inspect the installation when completed. This subsection shall not be construed to require that a cemetery lay out or engineer an interment space for the installation of a memorial. A cemetery shall not adopt or enforce any rule prohibiting the installation of a memorial by a memorial dealer or independent third party, unless the rule is applicable to all memorials from whatever source obtained and enforced uniformly for all memorials installed in the cemetery.

4. *Written notice.* A memorial dealer or independent third party shall provide the cemetery with at least seven business days' prior written notice of intent to install a memorial at the cemetery, or such lesser notice as the cemetery deems acceptable. The notice shall contain the full name, address, and relationship of the memorial's purchaser to the person

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interred in the interment space or the owner of the interment space, if different. The notice shall also contain the color, type, and size of the memorial, the material, the inscription, and the full name and interment date of the person interred in the interment space.

5. *Preparation and installation.*

a. A person installing a memorial shall be responsible to the cemetery for any damage caused to the cemetery grounds, including roadways, other than normal use during installation of the memorial.

b. Installation work shall cease during any nearby funeral procession or committal service.

c. Installation work shall be done during the cemetery's normal weekday hours or at such other times as may be arranged with the cemetery.

d. A memorial must comply with the cemetery's rules. In the event of noncompliance, the person installing a memorial is responsible for removal of the memorial and shall pay any reasonable expenses incurred by the cemetery in connection with the memorial's removal.

e. The cemetery shall, without charge, provide information as described on the cemetery's map or plat necessary to locate the place where a memorial is to be installed and any other essential information the person installing the memorial needs to locate the proper interment space.

f. A person installing a memorial shall follow the cemetery's instructions regarding the positioning of the memorial.

g. During the excavation, all sod and dirt shall be carefully removed with no sod or dirt left on the interment space except the amount needed to fill the space between the memorial and the adjacent lawn.

h. A person installing a memorial shall carefully fill in any areas around the memorial with topsoil or sand, in accordance with the cemetery's written instructions.

i. A person installing a memorial shall remove all equipment and any debris which has accumulated during installation of the memorial.

j. A person installing a memorial shall check to see if any adjacent memorials have become soiled or dirty during installation of the memorial and, if so, clean the adjacent memorials.

k. If the person who is installing a memorial damages any cemetery property, the person shall notify the cemetery immediately. The person installing the memorial shall then repair the damage as soon as possible, upon approval by the cemetery. The cemetery may require a person installing a memorial to provide current proof of workers' compensation insurance as required by state law and current proof of liability insurance, sufficient to indemnify the cemetery against claims resulting from installation of the memorial. Proof of liability insurance in an amount of one million dollars or more shall preclude the cemetery from requiring a person installing a memorial to obtain a performance bond.

l. If a cemetery has an office, a person installing a memorial shall immediately leave notice at the cemetery office when the memorial has been installed and all work related to the installation is complete.

6. *Inspection.* A cemetery may inspect the installation site of a memorial at any time. If the cemetery determines that cemetery rules are not being followed during the installation, the cemetery may order the installation to stop until the infraction is corrected. The cemetery shall provide written notice to the installer as soon as possible if the cemetery believes that any of the following have occurred:

a. The memorial has not been installed correctly.

b. The person installing the memorial has damaged property at the cemetery.

c. Other cemetery requirements for installation have not been met, such as removal of debris or equipment.

7. *Location and service charge.* A cemetery may charge a reasonable service charge for allowing the installation of a memorial purchased or obtained from and installed by a person other than the cemetery or its agents. This service charge shall be based on the cemetery's actual labor costs, including fringe benefits, of those employees whose normal duty is to inspect the installation of memorials, in accordance with generally accepted accounting practices. General administrative and overhead costs and any other functions not related to actual inspection time shall be excluded from the service charge.

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8. *Faulty installation.* If a memorial sinks, tilts, or becomes misaligned within twelve months of its installation and the cemetery believes the cause is faulty installation, the cemetery shall notify the person who installed the memorial in writing and the person who installed the memorial shall be responsible to correct the damage, unless the damage is caused by inadequate written specifications and instructions from the cemetery or acts of the cemetery and its agents or employees, including but not limited to running a backhoe over the memorial, carrying a vault or other heavy equipment over the memorial, or opening or closing an interment space adjacent to the memorial.

9. *Perpetual care.* A cemetery may require contributions from the purchaser of a memorial for perpetual care, if a perpetual care fund deposit is uniformly charged on every memorial installed in the cemetery.

2005 Acts, ch 128, §27; 2007 Acts, ch 175, §45

523I.306 Commission or bonus unlawful.

It shall be unlawful for any organization subject to the provisions of this chapter to pay or offer to pay to, or for any person, firm, or corporation to receive directly or indirectly, a commission or bonus or rebate or other thing of value, for or in connection with the sale of any interment space, lot, or part thereof, in any cemetery. The provisions of this section shall not apply to a person regularly employed and supervised by such organization or to a person, firm, corporation, or other entity licensed under chapter 523A that contracts with the cemetery to sell interment spaces or lots. The conduct of any person, firm, corporation, or other entity described in this section is the direct responsibility of the cemetery.

2005 Acts, ch 128, §28

523I.307 Discrimination prohibited.

It shall be unlawful for any organization subject to the provisions of this chapter to deny the privilege of interment of the remains of any deceased person in any cemetery solely because of the race, color, or national origin of such deceased person. Any contract, agreement, deed, covenant, restriction, or charter provision at any time entered into, or bylaw, rule, or regulation adopted or put in force, either subsequent or prior to July 4, 1953, authorizing, permitting, or requiring any organization subject to the provisions of this chapter to deny such privilege of interment because of race, color, or national origin of such deceased person is hereby declared to be null and void and in conflict with the public policy of this state. An organization subject to the provisions of this chapter or any director, officer, agent, employee, or trustee thereof, shall not be liable for damages or other relief, or be subjected to any action in any court of competent jurisdiction for refusing to commit any act unlawful under this chapter.

2005 Acts, ch 128, §29

523I.308 Speculation prohibited.

A cemetery or any person representing a cemetery in a sales capacity shall not advertise or represent, in connection with the sale or attempted sale of any interment space, that the same is or will be a desirable speculative investment for resale purposes.

2005 Acts, ch 128, §30

Similar provision, see §523I.802

523I.309 Interment, relocation, or disinterment of remains.

1. A person authorized to control the deceased person's remains under section 144C.5 shall have the right to control the interment, relocation, or disinterment of a decedent's remains within or from a cemetery.

2. A person who represents that the person knows the identity of a decedent and, in order to procure the interment, relocation, or disinterment of the decedent's remains, signs an order or statement, other than a death certificate, that warrants the identity of the decedent is liable for all damages that result, directly or indirectly, from that representation.

3. In the event of a dispute concerning the right to control the interment, relocation, or disinterment of a decedent's remains, the dispute may be resolved by a court of competent

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jurisdiction. A cemetery or entity maintaining a columbarium shall not be liable for refusing to accept the decedent's remains, relocate or disinter, inter or otherwise dispose of the decedent's remains, until the cemetery or entity maintaining a columbarium receives a court order or other suitable confirmation that the dispute has been resolved or settled.

4. *a.* If good cause exists to relocate or disinter remains interred in a cemetery, the remains may be removed from the cemetery pursuant to a disinterment permit as required under section 144.34, with the written consent of the cemetery, the current interment rights owner, and the person entitled to control the interment, relocation, or disinterment of the decedent's remains under section 144C.5.

b. If the consent required pursuant to paragraph *"a"* is not refused but cannot otherwise be obtained, the remains may be relocated or disinterred by permission of the district court of the county in which the cemetery is located upon a finding by the court that clear and convincing evidence of good cause exists to relocate or disinter the remains. Before the date of application to the court for permission to relocate or disinter remains under this subsection, notice must be given to the cemetery in which the remains are interred, each person whose consent is required for relocation or disinterment of the remains under paragraph *"a"*, and any other person that the court requires to be served.

c. For the purposes of this subsection, personal notice must be given not later than the eleventh day before the date of hearing on an application to the court for permission to relocate or disinter the remains, or notice by certified mail or restricted certified mail must be given not later than the sixteenth day before the date of hearing.

d. This subsection does not apply to the removal of remains from one interment space to another interment space in the same cemetery to correct an error, or relocation of the remains by the cemetery from an interment space for which the purchase price is past due and unpaid, to another suitable interment space.

5. A person who removes remains from a cemetery shall keep a record of the removal, and provide a copy to the cemetery, that includes all of the following:

a. The date the remains are removed.

b. The name of the decedent and age at death if those facts can be conveniently obtained.

c. The place to which the remains are removed.

d. The name of the cemetery and the location of the interment space from which the remains are removed.

6. A cemetery shall disinter and relocate remains interred in the cemetery for the purpose of correcting an error made by the cemetery after obtaining a disinterment permit as required by section 144.34, unless the interested parties have a written agreement directing otherwise. The cemetery shall bear the costs of the disinterment and relocation. The cemetery shall provide written notice describing the error to the commissioner and to the person who has the right to control the interment, relocation, or disinterment of the remains erroneously interred, by restricted certified mail at the person's last known address and sixty days prior to the disinterment. The notice shall include the location where the disinterment will occur and the location of the new interment space. A cemetery is not civilly or criminally liable for an erroneously made interment that is corrected in compliance with this subsection unless the error was the result of gross negligence or intentional misconduct.

7. Relocations and disinterments of human remains shall be done in compliance with sections 144.32 and 144.34. Relocations of human remains held in a columbarium shall be in compliance with the laws regulating the entity maintaining the columbarium.

2005 Acts, ch 128, §31; 2006 Acts, ch 1117, §121; 2008 Acts, ch 1051, §21, 22; 2021 Acts, ch 181, §48

523I.310 Sale of interment rights.

1. For sales or transfers of interment rights made on or after July 1, 2005, a cemetery shall issue a certificate of interment rights or other instrument evidencing the conveyance of exclusive rights of interment upon payment in full of the purchase price.

2. The interment rights in an interment space that is conveyed by a certificate of ownership or other instrument shall not be divided without the consent of the cemetery.

3. A conveyance of exclusive rights of interment shall be filed and recorded in the

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cemetery office. Any transfer of the ownership of interment rights shall be filed and recorded in the cemetery office. The cemetery may charge a reasonable recording fee to record the transfer of interment rights.

2005 Acts, ch 128, §32

523I.311 Records of interment rights and interment.

1. For sales or transfers of interment rights made on or after July 1, 2005, a cemetery shall keep complete records identifying the owners of all interment rights sold by the cemetery and historical information regarding any transfers of ownership. The records shall include all of the following:

a. The name and last known address of each owner or previous owner of interment rights.

b. The date of each purchase or transfer of interment rights.

c. A unique numeric or alphanumeric identifier that identifies the location of each interment space sold by the cemetery.

2. For interments made on or after July 1, 2005, a cemetery shall keep a record of each interment in a cemetery. The records shall include all of the following:

a. The date the remains are interred.

b. The name, date of birth, and date of death of the decedent interred, if those facts can be conveniently obtained.

c. A unique numeric or alphanumeric identifier that identifies the location of the interment space where the remains are interred.

2005 Acts, ch 128, §33

523I.312 Disclosure requirements — interment agreements.

1. A nonperpetual cemetery shall not sell any lot or interment space in the cemetery unless the purchaser of the interment space is informed that the cemetery is a nonperpetual care cemetery. Each nonperpetual care cemetery shall have printed or stamped at the head of all of its contracts, deeds, statements, letterheads, and advertising material, the legend:

This is a nonperpetual care cemetery.

2. An agreement for interment rights under this chapter shall be written in clear, understandable language and do all of the following:

a. Identify the seller and purchaser.

b. Identify the salesperson.

c. Specify the interment rights to be provided and the cost of each item.

d. State clearly the conditions on which substitution will be allowed.

e. Set forth the total purchase price and the terms under which it is to be paid.

f. State clearly whether the agreement is revocable or irrevocable, and if revocable, which parties have the authority to revoke the agreement.

g. State the amount or percentage of money to be placed in the cemetery's care or maintenance fund.

h. If the cemetery has a care fund, set forth an explanation that the care fund is an irrevocable trust, that deposits cannot be withdrawn even in the event of cancellation, and that the trust's income shall be used by the cemetery for its care.

i. Set forth an explanation of any fees or expenses that may be charged.

j. Set forth an explanation of whether amounts for perpetual care will be deposited in trust upon payment in full or on an allocable basis as payments are made.

k. Set forth an explanation of whether initial payments on agreements for multiple items of funeral and cemetery merchandise or services, or both, will be allocated first to the purchase of an interment space. If such an allocation is to be made, the agreement shall provide for the immediate transfer of such interment rights upon payment in full and prominently state that any applicable trust deposits under chapter 523A will not be made until the cemetery has received payment in full for the interment rights. The transfer of an undeveloped interment space may be deferred until the interment space is ready for interment.

l. If the transfer of an undeveloped interment space will be deferred until the interment

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space is ready for interment as permitted in paragraph *"k"*, the agreement shall provide for some form of written acknowledgement upon payment in full, specify a reasonable time period for development of the interment space, describe what happens in the event of a death prior to development of the interment space, and provide for the immediate transfer of the interment rights when development of the interment space is complete.

m. Specify the purchaser's right to cancel and the damages payable for cancellation, if any.

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 contact the Iowa insurance division with inquiries or complaints at iid.iowa.gov.

2005 Acts, ch 128, §34; 2006 Acts, ch 1117, §122; 2010 Acts, ch 1121, §30; 2015 Acts, ch 30, §169; 2019 Acts, ch 24, §80; 2026 Acts, ch 1111, §15
Subsection 2, paragraph n amended

523I.313 New cemeteries and gardens and cemetery registry.

1. A person that dedicates property for a new cemetery on or after July 1, 2005, and a cemetery that dedicates an additional garden on or after July 1, 2005, shall:

a. In the case of land, survey and subdivide the property into gardens with descriptive names or numbers and make a map or plat of the cemetery or garden.

b. In the case of a mausoleum or a columbarium, make a map or plat of the property delineating sections or other divisions with descriptive names and numbers.

c. File the map or plat with the commissioner, including a written certificate or declaration of dedication of the property delineated by the map or plat, dedicating the property for cemetery purposes.

2. A map or plat and a certificate or declaration of dedication that is filed pursuant to this section dedicates the property for cemetery purposes and constitutes constructive notice of that dedication.

3. The commissioner shall maintain a registry of perpetual care and nonperpetual care cemeteries, to the extent that information is available. A cemetery selling interment rights on or after July 1, 2005, shall file a written notice with the commissioner that includes the legal description of the property with boundary lines of the land, the name of the cemetery, the status of the cemetery as either perpetual care or nonperpetual care, the status of the cemetery as either religious or nonreligious, and the cemetery's ownership in a form approved by the commissioner. A cemetery shall notify the commissioner of any changes in this information within sixty days of the change.

2005 Acts, ch 128, §35

523I.314 New construction.

1. A person shall not offer to sell interment rights in a mausoleum or columbarium that will be built or completed in the future unless the person has notified the commissioner of the offer to sell on a form prescribed by the commissioner.

2. The notice of an offer to sell interment rights in such a mausoleum or columbarium shall include the following information:

a. A description of the new facility or the proposed expansion, including a description of the interment rights to be offered to prospective purchasers.

b. A statement of the financial resources available for the project.

c. A copy of the proposed interment rights agreement to be used, which shall include the following:

(1) That purchase payments will be held in trust in accordance with the requirements of chapter 523A until construction of the mausoleum or columbarium is complete.

(2) That the purchaser may request a refund of the purchase amount, if construction does not begin within five years of the purchaser's first payment.

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(3) That the new facility will operate as a perpetual care cemetery in compliance with this chapter, even if the facility is located at a nonperpetual care cemetery.

(4) That the purchaser will receive an ownership certificate upon payment in full or, if later, when construction is complete.

3. Unless financing has been secured that is adequate in amount and terms to complete the facility proposed, new construction of a mausoleum or columbarium shall not begin until the notice required by this section has been approved by the commissioner.

2005 Acts, ch 128, §36

523I.314A Standards for interment spaces.

1. A standard interment space for full body interment developed on or after July 1, 2007, shall measure at least forty inches in width and ninety-six inches in length.

2. Prior to the sale of interment rights in an undeveloped area of a cemetery, internal reference markers shall be installed and maintained no more than one hundred feet apart. The internal reference markers shall be established with reference to survey markers that are no more than two hundred feet apart, have been set by a licensed professional land surveyor, and have been documented in a plat of survey. Both the map and the plat of survey shall be maintained by the cemetery and made available upon request to the commissioner and to members of the public.

2007 Acts, ch 175, §46; 2012 Acts, ch 1009, §9

523I.315 Unpaid care assessments and unoccupied interment spaces.

1. *Foreclosure — unpaid assessments.* Unpaid care assessments for an unoccupied interment space not under perpetual care shall create a lien by the cemetery against the applicable interment space. The cemetery may, following notice, foreclose on the interment space if the amount of the lien exceeds the amount paid for the interment space. If the lien is not paid within one year from the date that notice of foreclosure is served on the owner of record or the owner of record's heirs, the ownership in or right to the unoccupied interment space shall revert to the cemetery that owns the cemetery in which the unoccupied interment space is located.

2. *Abandonment — quiet title action.* A cemetery may file an action to quiet title to determine whether an interment space has been abandoned if the interment space is unoccupied and has not been occupied in the preceding seventy-five years. An action to quiet title shall commence when the cemetery serves notice on the owner of record or the owner of record's heirs declaring that the interment space is considered to be abandoned. If the owner of record or the owner of record's heirs do not respond within three years from the date that notice is served, the abandonment is considered to be complete. The ownership in or right to an abandoned interment space shall revert to the cemetery in which the abandoned interment space is located and the cemetery may sell and convey title to the interment space.

3. *Service of notice.* Notice under this section shall be served personally on the owner of record or the owner of record's heirs, or may be served by mailing notice by certified mail to the owner of record or to the owner of record's heirs at the last known address. If the address of the owner of record or the owner of record's heirs cannot be ascertained, notice of abandonment shall be given by one publication of the notice in the official newspaper of the county in which the cemetery is located.

2005 Acts, ch 128, §37

523I.316 Protection of cemeteries and burial sites.

1. *Existence of cemetery or burial site — notification.* If a governmental subdivision is notified of the existence of a cemetery, or a marked burial site that is not located in a dedicated cemetery, within its jurisdiction and the cemetery or burial site is not otherwise provided for under this chapter, the governmental subdivision shall, as soon as is practicable, notify the owner of the land upon which the cemetery or burial site is located of the cemetery's or burial site's existence and location. The notification shall include an explanation of the provisions of this section. If there is a basis to believe that interment may have occurred

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more than one hundred fifty years earlier, the governmental subdivision shall also notify the state archaeologist.

2. *Disturbance of interment spaces — penalty.* A person who knowingly and without authorization damages, defaces, destroys, or otherwise disturbs an interment space commits criminal mischief in the third degree under section 716.5. Criminal mischief in the third degree is an aggravated misdemeanor.

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 a written agreement to delegate the responsibility for the preservation and protection of the cemetery or burial site to 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. (1) 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.

(2) 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 of 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.

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(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.

4. *Confiscation and return of memorials.* A law enforcement officer having reason to believe that a memorial or memorialization is in the possession of a person without authorization or right to possess the memorial or memorialization may take possession of the memorial or memorialization from that person and turn it over to the officer's law enforcement agency. If a law enforcement agency determines that a memorial or memorialization the agency has taken possession of rightfully belongs on an interment space, the agency shall return the memorial or memorialization to the interment space, or make arrangements with the person having jurisdiction over the interment space for its return.

5. *Burial sites located on private property.* If a person notifies a governmental subdivision that a burial site of the person's relative is located on property owned by another person within the jurisdiction of the governmental subdivision, the governmental subdivision shall notify the property owner of the location of the burial site and that the property owner is required to permit the person reasonable ingress and egress for the purposes of visiting the burial site of the person's relative.

6. *Discovery of human remains.* Any person discovering human remains shall notify the county or state medical examiner or a city, county, or state law enforcement agency as soon as is reasonably possible unless the person knows or has good reason to believe that such notice has already been given or the discovery occurs in a cemetery. If there is reason to believe that interment may have occurred more than one hundred fifty years earlier, the governmental subdivision notified shall also notify the state archaeologist. A person who does not provide notice required pursuant to this subsection commits a serious misdemeanor.

7. *Adverse possession.* A cemetery or a pioneer cemetery is exempt from seizure, appropriation, or acquisition of title under any claim of adverse possession, unless it is shown that all remains in the cemetery or pioneer cemetery have been disinterred and removed to another location.

2005 Acts, ch 128, §38; 2006 Acts, ch 1117, §123; 2009 Acts, ch 179, §144; 2012 Acts, ch 1023, §157; 2017 Acts, ch 54, §63

Referred to in §523I.212

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.

2006 Acts, ch 1117, §124

523I.318 through 523I.400 Reserved.

SUBCHAPTER IV

COUNTY CEMETERY COMMISSIONS
— NEGLECTED CEMETERIES — PIONEER SECTIONS

523I.401 Neglected cemeteries. Repealed by 2026 Acts, ch 1111, §20.

523I.402 Removal of remains.

1. Upon a showing of good cause, a county cemetery commission may file suit in the district court in that county to have remains interred in a cemetery owned and operated by the commission removed to another cemetery. All persons in interest, known or unknown, other than the plaintiffs, shall be made defendants to the suit. If any parties are unknown, notice may be given by publication. After hearing and a showing of good cause for the removal, the court may order the removal of the remains and the remains shall be properly interred in another cemetery, at the expense of the county. The removal and reinterment of the remains

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shall be done pursuant to a disinterment permit issued under section 144.34 with due care and decency. In deciding whether to order the removal of interred remains, a court shall consider present or future access to the cemetery, the historical significance of the cemetery, and the wishes of the parties concerned if they are brought to the court's attention, including the desire of any beneficiaries to reserve their rights to waive a reservation of rights in favor of removal, and shall exercise the court's sound discretion in granting or refusing the removal of interred remains.

2. Any heir at law or descendent of a deceased person interred in a neglected cemetery may file suit in the district court in the county where the cemetery is located to have the deceased person's remains interred in the cemetery removed to another cemetery. The owner of the land, any beneficiaries of any reservation of rights, and any other persons in interest, known or unknown, other than the plaintiffs shall be made defendants. If any parties are unknown, notice may be given by publication. After hearing and upon a showing of good cause, the court may order removal and the proper interment of the remains in another cemetery, at the expense of the petitioner. The removal and reinterment shall be done with due care and decency.

2005 Acts, ch 128, §40

523I.403 Pioneer section — management by county cemetery commission.

A cemetery may designate a portion of the cemetery as a pioneer section to be restored and maintained by the county cemetery commission as provided in section 331.325, subsection 3, paragraph *"d"*.

2022 Acts, ch 1153, §55

523I.404 through 523I.500 Reserved.

SUBCHAPTER V

GOVERNMENTAL SUBDIVISIONS

523I.501 Cemetery authorized.

The governing body of a governmental subdivision may purchase, establish, operate, enclose, improve, or regulate a cemetery. A government cemetery may sell interment rights subject to this chapter.

2005 Acts, ch 128, §41; 2026 Acts, ch 1111, §16
Section amended

523I.502 Trust for cemetery.

1. A governmental subdivision that owns or operates a cemetery or has control of cemetery property may act as a permanent trustee for the perpetual maintenance of interment spaces in the cemetery.

2. To act as a trustee, a majority of the governmental subdivision's governing body must adopt an ordinance or resolution stating the governmental subdivision's willingness and intention to act as a trustee for the perpetual maintenance of cemetery property. When the ordinance or resolution is adopted and the trust is accepted, the trust is perpetual.

2005 Acts, ch 128, §42

523I.503 Authority to receive gifts and deposits for care — certificates.

1. A governmental subdivision that is a trustee for the perpetual maintenance of a cemetery may adopt reasonable rules governing the receipt of a gift or grant from any source.

2. A governmental subdivision that is a trustee for a person shall accept the amount the governmental subdivision requires for permanent maintenance of an interment space on behalf of that person or a decedent.

3. A governmental subdivision's acceptance of a deposit for permanent maintenance of an interment space constitutes a perpetual trust for the designated interment space.

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4. Upon acceptance of a deposit, a governmental subdivision's secretary, clerk, or mayor shall issue a certificate in the name of the governmental subdivision to the trustee or depositor. The certificate shall state all of the following:

a. The depositor's name.

b. The amount and purpose of the deposit.

c. The location, with as much specificity as possible, of the interment space to be maintained.

d. Other information required by the governmental subdivision.

5. An individual, association, foundation, or corporation that is interested in the maintenance of a neglected cemetery in a governmental subdivision's possession and control may donate funds to the cemetery's perpetual trust fund to beautify and maintain the entire cemetery or burial grounds generally.

2005 Acts, ch 128, §43

523I.504 Appointment of successor trustee.

A district judge of a county in which a cemetery is located shall appoint a suitable successor or trustee to faithfully execute a trust in accordance with this subchapter if a governmental subdivision renounces a trust assumed under this subchapter, fails to act as its trustee, a vacancy occurs, or the appointment of a successor or trustee is otherwise necessary.

2005 Acts, ch 128, §44

523I.505 County auditor as trustee.

1. In the absence of a trustee for care funds, unless otherwise provided by law, the care funds shall be placed in the hands of the county auditor, who shall provide a receipt for, loan, and make annual reports of the care funds.

2. The county auditor shall not be required to post a bond.

3. The county auditor shall serve without compensation, but may, out of the income received, pay all proper items of expense incurred in the performance of the auditor's duties as trustee, if any.

4. The county auditor shall make a full report of the trustee's actions and trust funds annually in January. The net proceeds for care funds received by the county auditor as trustee shall be apportioned and credited to each of any separate care funds assigned to the auditor.

5. The county auditor shall turn over the accrued income from each care fund annually to the person having control of the cemetery.

2005 Acts, ch 128, §45

Referred to in §331.502

523I.506 Commingling of care funds by governmental subdivisions.

A governmental subdivision subject to this section may commingle care funds for more than one cemetery for the purposes of investment and administration and may file a single report, if each cemetery is appropriately identified and separate records are maintained for each cemetery.

2005 Acts, ch 128, §46

523I.507 Investment of care funds by governmental subdivisions.

Notwithstanding section 12B.10, a perpetual care cemetery owned by a governmental subdivision may invest and reinvest deposits pursuant to the requirements of this chapter. The trustee shall use the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. The trustee of the trust funds has a fiduciary duty to make reasonable investment decisions and to properly oversee and manage the funds entrusted to the trust fund.

2005 Acts, ch 128, §47

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523I.508 Management by governmental subdivisions.

1. *Political subdivisions as trustees.* Counties, cities, irrespective of their form of government, boards of trustees of cities to whom the management of municipal cemeteries has been transferred by ordinance, and civil townships wholly outside of any city, are trustees in perpetuity, and are required to accept, receive, and expend all moneys and property donated or left to them by bequest for perpetual care, and that portion of interment space sales or permanent charges made against interment spaces which has been set aside in a perpetual care fund for which there is no other acting trustee, shall be used in caring for the property of the donor or lot owner who by purchase or otherwise has provided for the perpetual care of an interment space in any cemetery, or in accordance with the terms of the donation, bequest, or agreement for sale and purchase of an interment space, and the money or property thus received shall be used for no other purpose.

2. *Authority to invest funds — current care charge payments.*

a. The board of supervisors, mayor and council, or other elected governmental body, as the case may be, may receive and invest all moneys and property, donated or bequeathed, and that portion of cemetery lot sales and permanent charges made against cemetery lots which have been set aside in a perpetual care fund, and in so investing, shall use the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. The trustee of the trust funds has a fiduciary duty to make reasonable investment decisions and to properly oversee and manage the funds entrusted to the trust fund. The income from the investment shall be used in caring for the property of the donor in any cemetery, or as provided in the terms of the gift or donations or agreement for sale and purchase of a cemetery lot.

b. All current care charge payments received shall be allocated to the perpetual care fund or to the fund paying the costs of cemetery operations. Care charge payments received one year or more after the date they were incurred shall be used to fund the cost of operating the cemetery. Care charge payments received one year or more in advance of their due date shall be deposited in the perpetual care fund. Interest from the perpetual care fund shall be used for the maintenance of both occupied and unoccupied lots or spaces. Any remaining interest may be used for costs of access roads and paths, fencing, and general maintenance of the cemetery. Lots under perpetual care shall be maintained in accordance with the cemetery covenants of sale.

3. *Resolution of acceptance — interest.*

a. Before any part of the principal may be invested or used, the county, city, board of trustees of a city to whom the management of a municipal cemetery has been transferred by ordinance, or civil township shall, by resolution, accept the moneys described in subsection 1 and, by resolution, shall provide for the payment of interest annually to the appropriate fund, or to the cemetery, or the person in charge of the cemetery, to be used in caring for or maintaining the individual property of the donor in the cemetery, or interment spaces which have been sold if provision was made for perpetual care, all in accordance with the terms of the donation or bequest, or the terms of the sale or purchase of an interment space.

b. If there is no person in charge of the cemetery, the income from the fund shall be expended under the direction of the board of supervisors, city council, board of trustees, or civil township trustees, as the case may be, in accordance with the terms of the donation or bequest, or the terms of the sale or purchase of an interment space.

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

5. *Subscribing to publications.* The cemetery officials of every township having a cemetery under its control may subscribe to one or more publications devoted exclusively to

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cemetery management, and the subscriptions may be paid out of the cemetery fund of the township.

2005 Acts, ch 128, §48; 2006 Acts, ch 1117, §125; 2012 Acts, ch 1023, §157
Referred to in §636.23

523I.509 through 523I.600 Reserved.

SUBCHAPTER VI

GENERAL PROVISIONS

523I.601 Settlement of estates — maintenance fund.

The court in which the estate of a deceased person is administered, before final distribution, may allow and set apart from the estate a sum sufficient to provide an income adequate to pay for the perpetual care and upkeep of the interment space in which the body of the deceased is buried, except where perpetual care has otherwise been provided for. The sum so allowed and set apart shall be paid to a trustee as provided by this chapter.

2005 Acts, ch 128, §49; 2006 Acts, ch 1010, §148

523I.602 Management by trustee.

1. *Trustee appointed — trust funds.* The owners of, or any party interested in, a cemetery may, by petition presented to the district court of the county where the cemetery is situated, have a trustee appointed with authority to receive any and all moneys or property that may be donated for and on account of the cemetery and to invest, manage, and control the moneys or property under the direction of the court. However, the trustee shall not be authorized to receive any gift, except with the understanding that the principal sum is to be a permanent fund, and only the net proceeds therefrom shall be used in carrying out the purpose of the trust created, and all such funds shall be exempt from taxation.

2. *Requisites of petition.* The petition shall state the amount proposed to be placed in such trust fund, the manner of investment thereof, and the provisions made for the disposition of any surplus income not required for the care and upkeep of the property described in such petition.

3. *Approval of court — surplus fund.* Such provisions shall be subject to the approval of the court and when so approved the trust fund and the trustee thereof shall, at all times, be subject to the orders and control of the court and such surplus arising from the trust fund shall not be used except for charitable, eleemosynary, or public purposes under the direction of the court.

4. *Receipt — record.* Every such trustee shall execute and deliver to the donor a receipt showing the amount of money or other property received, and the use to be made of the net proceeds from the same, duly attested by the clerk of the court granting letters of trusteeship, and the trustee shall keep a signed and attested copy of the receipt.

5. *Investments.* Any such trustee may receive and invest all moneys and property, so donated or bequeathed, and that portion of cemetery lot sales and permanent charges made against interment spaces which has been set aside in a perpetual care fund, in such authorized investments and in the manner prescribed in section 636.23.

6. *Bond — approval — oath.* Every such trustee before entering upon the discharge of the trustee's duties or at any time thereafter when required by the court shall give a bond in an amount as may be required by the court, approved by the clerk, and conditioned for the faithful discharge of the trustee's duties, and take and subscribe an oath the same in substance as the condition of the bond, which bond and oath must be filed with the clerk.

7. *Clerk — duty of.* At the time of filing each bond and oath the clerk shall at once advise the court as to the amount of the principal fund in the hands of such trustee, the amount of the bond filed, and whether it is good and sufficient for the amount given.

8. *Compensation — costs.* Such trustee shall serve without compensation, but may, out

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of the income received, pay all proper items of expense incurred in the performance of the trustee's duties, including cost of the bond, if any.

9. *Annual report.* Such trustee shall make a full report of the trustee's doings in the month of January following appointment and in January of each successive year. In each report the trustee shall apportion the net proceeds received from the sum total of the permanent funds assigned to the trustee in trust.

10. *Removal — vacancy filled.* Any such trustee may be removed by the court at any time for cause, and in the event of removal or death, the court shall appoint a new trustee and require the new trustee's predecessor or the predecessor's personal representative to make a full accounting.

2005 Acts, ch 128, §50; 2009 Acts, ch 21, §8
Referred to in §602.8102(81)

523I.603 Owners of interment rights.

1. An interment space in which exclusive rights of interment are conveyed is presumed to be the separate property of the person named as grantee in the certificate of interment rights or other instrument of conveyance.

2. Two or more owners of interment rights may designate a person to represent the interment space and file notice of the designation of a representative with the cemetery. If notice is not filed, the cemetery may inter or permit an interment in the interment space at the request or direction of a registered co-owner of the interment space.

2005 Acts, ch 128, §51

523I.604 Lien against cemetery property.

1. A cemetery, by contract, may incur indebtedness as necessary to conduct its business and may secure the indebtedness by mortgage, deed of trust, or other lien against its property.

2. A mortgage, deed of trust, or other lien placed on dedicated cemetery property, or on cemetery property that is later dedicated with the consent of the holder of the lien, does not affect the dedication and is subject to the dedication. A sale on foreclosure of the lien is subject to the dedication of the property for cemetery purposes.

2005 Acts, ch 128, §52

523I.605 Private care of graves.

This subchapter does not affect the right of a person who has an interest in an interment space, or who is a relative of a decedent interred in a cemetery, to beautify or maintain an interment space individually or at the person's own expense in accordance with reasonable rules established by the cemetery.

2005 Acts, ch 128, §53

523I.606 through 523I.700 Reserved.

SUBCHAPTER VII

LAWN CRYPTS

523I.701 Requirements for lawn crypts.

A lawn crypt shall not be installed unless all of the following apply:

1. The lawn crypt is constructed of concrete and reinforced steel or other comparable durable material.

2. The lawn crypt is installed on not less than six inches of rock, gravel, or other drainage material.

3. The lawn crypt provides a method to drain water out of the lawn crypt.

4. The lawn crypt is capable of withstanding the weight of the soil and sod above the top surface and the weight of machinery and equipment normally used in the maintenance of the cemetery.

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5. Except as provided by section 523I.702, the lawn crypt is installed in multiple units of ten or more.

6. The lawn crypt shall be installed in compliance with any applicable law or rule adopted by the department of health and human services.

2005 Acts, ch 128, §54; 2023 Acts, ch 19, §1223
Referred to in §523I.702

523I.702 Request to install lawn crypts in fewer than ten units.

1. A lawn crypt may be installed in fewer than ten units if it is installed in an interment space pursuant to a written request to the commissioner signed by the owner or owners of the interment space.

2. The written request shall be filed on a form prescribed by the commissioner and shall contain substantially all of the following information:

a. The owner's name and address.

b. The name of the cemetery and the owner of the cemetery.

c. The number of lawn crypt units to be installed.

d. A description of the interment spaces.

e. A statement that the lawn crypt meets the requirements of section 523I.701, including all of the following:

(1) A statement that the lawn crypt will be constructed of concrete and reinforced steel or other comparable durable materials.

(2) A statement that the lawn crypt will be installed on not less than six inches of rock, gravel, or other drainage material.

(3) A statement that the lawn crypt will provide a method to drain water out of the lawn crypt.

(4) A statement that the outside top surface of the lawn crypt at the time of installation will be capable of withstanding the weight of the soil and sod above the top surface and the weight of machinery and equipment normally used in the maintenance of the cemetery.

f. A statement that the space in which the lawn crypt is to be installed is located in a garden.

g. The date on which a representative of the cemetery signed the form.

2005 Acts, ch 128, §55
Referred to in §523I.701

523I.703 through 523I.800 Reserved.

SUBCHAPTER VIII

PERPETUAL CARE CEMETERIES — REQUIREMENTS

523I.801 Applicability and conversion by nonperpetual care cemeteries.

1. All cemeteries are designated as either "perpetual care cemeteries", "nonperpetual care cemeteries", or "government cemeteries" for the purposes of this chapter. A cemetery that represents that it is offering perpetual care on or after July 1, 2005, is subject to this subchapter. This subchapter shall not apply to government cemeteries.

2. A cemetery that operates a nonperpetual care cemetery may elect to become a perpetual care cemetery if at all times subsequent to the date of the election, the cemetery complies with the other requirements of this subchapter except section 523I.805.

2005 Acts, ch 128, §56; 2026 Acts, ch 1111, §17
Subsection 1 amended

523I.802 Advertising.

1. A cemetery shall not advertise, represent, guarantee, promise, or contract to provide or offer perpetual care or use terms or phrases like permanent care, permanent maintenance, care forever, continuous care, eternal care, or everlasting care to imply that a certain level of

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care and financial security will be furnished or is guaranteed except in compliance with the provisions of this subchapter.

2. A cemetery or person advertising or selling interment rights shall not represent that the purchase of the interment rights is or will be a desirable speculative investment for resale purposes.

2005 Acts, ch 128, §57
Similar provision, see §523I.308

523I.803 Perpetual care registry.

1. A cemetery that operates a perpetual care cemetery shall maintain a registry of individuals who have purchased interment rights in the cemetery subject to the care fund requirements of this subchapter.

2. The registry shall include the amount deposited in trust for each interment rights agreement entered into on or after July 1, 1995.

2005 Acts, ch 128, §58

523I.804 Use of gift for special care.

A trustee may accept and hold money or property transferred to the trustee in trust for the purpose of applying the principal or income of the money or property transferred for a purpose consistent with the purpose of a perpetual care cemetery, including the following:

1. Improvement or embellishment of any part of the cemetery.

2. Erection, renewal, repair, or preservation of a monument, fence, building, or other structure in the cemetery.

3. Planting or cultivation of plants in or around the cemetery.

4. Special care of or embellishment of an interment space, section, or building in the cemetery.

2005 Acts, ch 128, §59

523I.805 Initial deposit.

1. A cemetery commencing business in this state on or after July 1, 2005, shall not sell interment spaces unless the cemetery has a care fund of at least twenty-five thousand dollars.

2. If an initial deposit is made by a cemetery to satisfy subsection 1, the initial twenty-five thousand dollar deposit may be withdrawn by the cemetery when the care fund balance reaches one hundred thousand dollars. An affidavit shall be filed with the commissioner providing prior notice of the intended withdrawal of the initial deposit and attesting that the money has not previously been withdrawn. Upon a showing by the cemetery that the initial deposit has not previously been withdrawn, the commissioner shall approve withdrawal of the money and the withdrawal shall take place within one year after the care fund balance reaches one hundred thousand dollars.

2005 Acts, ch 128, §60; 2026 Acts, ch 1111, §18
Referred to in §523I.801
Subsection 1 amended

523I.806 Irrevocable trust.

1. A perpetual care cemetery shall establish a care fund as an irrevocable trust to provide for the care of the cemetery, which shall provide for the appointment of a trustee, with perpetual succession.

2. The care fund shall be administered under the jurisdiction of the district court of the county where the cemetery is located. Notwithstanding chapter 633A, annual reports shall not be required unless specifically required by the district court. Reports shall be filed with the court when necessary to receive approval of appointments of trustees, trust agreements and amendments, changes in fees or expenses, and other matters within the court's jurisdiction. A court having jurisdiction over a care fund shall have full jurisdiction to approve the appointment of trustees, the amount of surety bond required, if any, and investment of funds.

2005 Acts, ch 128, §61; 2006 Acts, ch 1030, §65

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523I.807 Care fund deposits.

1. To continue to operate as a perpetual care cemetery, a cemetery shall set aside and deposit in the care fund an amount equal to or greater than fifty dollars or twenty percent of the gross selling price received by the cemetery for each sale of interment rights, whichever is more.

2. A cemetery may require a contribution to the care fund for perpetual care of a memorial or memorialization placed in the cemetery. A cemetery may establish a separate care fund for this purpose. The contributions shall be nonrefundable and shall not be withdrawn from the trust fund once deposited. The amount charged shall be uniformly charged on every installation of a memorial, based on the height and width of the memorial or the size of the ground surface area used for the memorial. A fee for special care of a memorial may be collected if the terms of the special care items and arrangements are clearly specified in the interment rights agreement. Except as otherwise provided in an interment rights agreement, a cemetery is not liable for repair or maintenance of memorials or vandalism. A cemetery may use income from a care fund to repair or replace memorials or interment spaces damaged by vandalism or acts of God.

3. Moneys shall be deposited in the care fund no later than the fifteenth day after the close of the month when the cemetery receives the final payment from a purchaser of interment rights.

2005 Acts, ch 128, §62

523I.808 Annual report — examination fee.

An examination fee of ten dollars for each certificate of interment rights issued during the time period covered by the report shall be submitted with a perpetual care cemetery's annual report filed pursuant to section 523I.813. The cemetery may charge the examination fee directly to the purchaser of the interment rights.

2005 Acts, ch 128, §63; 2007 Acts, ch 175, §47; 2016 Acts, ch 1122, §12; 2021 Acts, ch 181, §49

Referred to in §523I.213

523I.809 Trust agreement provisions.

1. A trust agreement shall provide for the appointment of at least one trustee, with perpetual succession, in case the cemetery is dissolved or ceases to be responsible for the cemetery's care.

2. A cemetery and the trustee or trustees of the care fund may, by agreement, amend the instrument that established the fund to include any provision that is necessary to comply with the requirements of this chapter.

3. A cemetery is responsible for the deposit of all moneys required to be placed in a care fund.

4. The commissioner may require the amending of a trust agreement that is not in accord with the provisions of this chapter.

2005 Acts, ch 128, §64

523I.810 Care funds.

1. A trustee of a care fund shall use the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. The trustee of a care fund has a fiduciary duty to make reasonable investment decisions and to properly oversee and manage the funds entrusted to the care fund.

a. A financial institution may serve as a trustee if granted those powers under the laws of this state or of the United States. A financial institution acting as a trustee of a care fund under this chapter shall invest the funds in accordance with applicable law.

b. A financial institution acting as a trustee of a care fund under this chapter has a fiduciary duty to make reasonable investment decisions and to properly oversee and manage the funds entrusted to the financial institution. The commissioner may take enforcement

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action against a financial institution in its capacity as trustee for a breach of fiduciary duty under this chapter.

c. Care fund moneys may be deposited pursuant to a master trust agreement, if each care fund is treated as a separate beneficiary of the trust and each care fund is separable. The master trust shall maintain a separate accounting of principal and income for each care fund. Moneys deposited under a master trust agreement may be commingled by the financial institution for investment purposes.

d. Subject to a master trust agreement, the cemetery may appoint an independent investment advisor to advise the financial institution about investment of the care fund.

e. Subject to an agreement between the cemetery and the financial institution, the financial institution may receive a reasonable fee from the care fund for services rendered as trustee.

f. If the amount of a care fund exceeds two hundred thousand dollars, the cemetery or any officer, director, agent, employee, or affiliate of the cemetery shall not serve as trustee. A financial institution holding care funds shall not do any of the following:

(1) Be owned, under the control of, or affiliated with the cemetery.

(2) Use any funds required to be held in trust under this chapter to purchase an interest in a contract or agreement to which the cemetery is a party.

(3) Otherwise invest care funds, directly or indirectly, in the cemetery's business operations.

2. All moneys required to be deposited in the care fund shall be deposited in the name of the trustee, as trustee, under the terms of a trust agreement and the trustee may invest, reinvest, exchange, retain, sell, and otherwise manage the care fund trust for the benefit and protection of the cemetery.

3. This section does not prohibit a cemetery from moving care funds from one financial institution to another.

4. A care fund may receive and hold as part of the care fund or as an incident to the care fund any property contributed to the care fund.

5. A contribution to a care fund is considered to be for charitable purposes if the care financed by the care fund is for the following purposes:

a. The discharge of a duty due from the cemetery to persons interred and to be interred in the cemetery.

b. The benefit and protection of the public by preserving and keeping the cemetery in a dignified condition so that the cemetery does not become a nuisance or a place of disorder, reproach, and desolation in the community in which the cemetery is located.

6. A contribution to a care fund is not invalid because of the following:

a. Indefiniteness or uncertainty as to the person designated as a beneficiary in the instrument establishing the care fund.

b. A violation of the law against perpetuities or the law against the suspension of the power of alienation of title to or use of property.

7. A care fund shall pay the fund's operation costs and any annual audit fees. The principal of a care fund is intended to remain available perpetually as a funding source for care of the cemetery. The principal of a care fund shall not be reduced voluntarily and shall remain inviolable, except as provided in this section. The trustee or trustees of a care fund shall maintain the principal of the care fund separate from all operating funds of the cemetery.

8. In establishing a care fund, the cemetery may adopt plans for the care of the cemetery and installed memorials and memorialization.

9. A cemetery may, by resolution adopted by a vote of at least two-thirds of the members of its board at any authorized meeting of the board, authorize the withdrawal and use of not more than twenty percent of the principal of the care fund to acquire additional land for cemetery purposes, to repair a mausoleum or other building or structure intended for cemetery purposes, to build, improve, or repair boundaries, roads and walkways in the cemetery, to construct a columbarium, mausoleum, or similar structure to create additional interment spaces, to purchase equipment for tree, shrub, and lawn care, to purchase backhoes or similar equipment used to open and close interment spaces, or to purchase recordkeeping software used to maintain ownership records or interment records. The

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resolution shall establish a reasonable repayment schedule, not to exceed five years. However, the care fund shall not be diminished below an amount equal to the greater of twenty-five thousand dollars or five thousand dollars per acre of land in the cemetery. The resolution, and if the deposit of care fund income over five years is unlikely to fund replenishment of the principal of the care fund, either a bond or proof of insurance to guarantee replenishment of the care fund, shall be filed with the commissioner thirty days prior to the withdrawal of funds.

2005 Acts, ch 128, §65; 2007 Acts, ch 175, §48; 2015 Acts, ch 128, §45, 50, 51; 2026 Acts, ch 1111, §19

Referred to in §523I.102
Subsection 1, paragraph f, unnumbered paragraph 1 amended

523I.811 Use of distributions from care fund.

1. Care fund distributions may be used in any manner determined to be in the best interests of the cemetery if authorized by a resolution, bylaw, or other action or instrument establishing the care fund, including but not limited to the general care of memorials, memorialization, and any of the following:

a. Cutting and trimming lawns, shrubs, and trees at reasonable intervals.

b. Maintaining drains, water lines, roads, buildings, boundaries, fences, and other structures.

c. Maintaining machinery, tools, and equipment.

d. Compensating maintenance employees, paying insurance premiums, and making payments to employees' pension and benefit plans.

e. Paying overhead expenses incidental to such purposes.

f. Paying expenses necessary to maintain ownership, transfer, and interment records of the cemetery.

g. To purchase equipment to maintain the cemetery.

h. To purchase backhoes or similar equipment used to open and close interment spaces.

i. To purchase equipment used to construct a columbarium, mausoleum, or similar structure to create additional interment spaces.

2. The commissioner may, by rule, establish terms and conditions under which a cemetery may withdraw capital gains from the care fund.

2005 Acts, ch 128, §66; 2015 Acts, ch 128, §46, 47, 50, 51

523I.811A Emergency use of care funds.

1. Notwithstanding any other provision of this chapter, a perpetual care cemetery may apply to the commissioner to withdraw funds from the cemetery's care fund for a financial emergency. The commissioner shall, by rule, establish standards and procedures for such applications and for withdrawals from care funds.

2. Upon application, the commissioner may allow a perpetual care cemetery to withdraw funds from the care fund if the commissioner finds that the cemetery has an urgent financial need and the withdrawal is deemed reasonable and prudent to fund a necessary expense of the cemetery. The commissioner shall establish conditions for the specific use of the funds withdrawn and may require repayment of all or part of the amount withdrawn.

2015 Acts, ch 128, §48, 50, 51

523I.812 Suit by commissioner.

1. If the person or persons in control of a cemetery do not care for and maintain the cemetery, the district court of the county in which the cemetery is located may do the following:

a. By injunction compel the cemetery to expend the net income of the care fund as required by this chapter.

b. Appoint a receiver to take charge of the care fund and expend the net income of the care fund as required by this chapter.

c. Grant relief on a petition for relief filed pursuant to this section by the commissioner.

2. *a.* Inadequate care and maintenance of a cemetery includes but is not limited to the following:

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(1) Failure to adequately mow grass.
(2) Failure to adequately edge and trim bushes, trees, and memorials.
(3) Failure to keep walkways and sidewalks free of obstructions.
(4) Failure to adequately maintain the cemetery's equipment and fixtures.

b. This subsection is not intended to prevent the establishment of a cemetery as a nature park or preserve.

2005 Acts, ch 128, §67; 2012 Acts, ch 1023, §157

523I.813 Annual report by perpetual care cemeteries.

1. A perpetual care cemetery shall file an annual report at the end of each reporting period of the cemetery.

2. The report shall be filed with the commissioner within four months following the end of the cemetery's reporting period in the form required by the commissioner.

3. The commissioner may impose a late fee of five dollars for each day after April 30 that a perpetual care cemetery fails to file the perpetual care cemetery's annual report. The maximum late fee that shall be imposed by the commissioner is five hundred dollars. The late fee shall be collected by the commissioner and deposited pursuant to section 505.7.

2005 Acts, ch 128, §68; 2007 Acts, ch 175, §49, 50; 2009 Acts, ch 181, §102; 2010 Acts, ch 1121, §31; 2016 Acts, ch 1122, §13; 2021 Acts, ch 181, §50

Referred to in §523I.808

523I.814 Unified annual reports.

The commissioner shall permit the filing of a unified report in the event of commonly owned or affiliated cemeteries if each cemetery is separately identified and separate records are maintained for each cemetery.

2005 Acts, ch 128, §69

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