



CHESTER J. CULVER
GOVERNOR

OFFICE OF THE GOVERNOR

PATTY JUDGE
LT. GOVERNOR

April 25, 2008

The Honorable Michael Mauro
Secretary of State
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

House File 2555, an Act relating to various matters under the purview of the insurance division of the department of commerce including uniform securities; duties of the insurance division including a consumer advocate and rate reviews; confidential information; examinations; insurance trade practices; insurance fraud; the Iowa life and health insurance guaranty association; viatical settlement contracts; general agents and third-party administrators; life insurance companies; health maintenance organizations; utilization and cost control; the Iowa comprehensive health insurance association; workers' compensation liability insurance; consolidation, merger, and reinsurance; licensing of insurance producers; cemetery and funeral merchandise and funeral services; and cemeteries, making appropriations, and providing an effective date.

The above House File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Culver", with a long horizontal flourish extending to the right.

Chester J. Culver
Governor

CJC:bdj

cc: Secretary of the Senate
Chief Clerk of the House





HOUSE FILE 2555

AN ACT

RELATING TO VARIOUS MATTERS UNDER THE PURVIEW OF THE INSURANCE DIVISION OF THE DEPARTMENT OF COMMERCE INCLUDING UNIFORM SECURITIES; DUTIES OF THE INSURANCE DIVISION INCLUDING A CONSUMER ADVOCATE AND RATE REVIEWS; CONFIDENTIAL INFORMATION; EXAMINATIONS; INSURANCE TRADE PRACTICES; INSURANCE FRAUD; THE IOWA LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION; VIATICAL SETTLEMENT CONTRACTS; GENERAL AGENTS AND THIRD-PARTY ADMINISTRATORS; LIFE INSURANCE COMPANIES; HEALTH MAINTENANCE ORGANIZATIONS; UTILIZATION AND COST CONTROL; THE IOWA COMPREHENSIVE HEALTH INSURANCE ASSOCIATION; WORKERS' COMPENSATION LIABILITY INSURANCE; CONSOLIDATION, MERGER, AND REINSURANCE; LICENSING OF INSURANCE PRODUCERS; CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL SERVICES; AND CEMETERIES, MAKING APPROPRIATIONS, AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 502.201, subsection 9E, Code 2007, is amended to read as follows:

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.

Sec. 2. Section 502.202, subsection 9, Code 2007, is amended to read as follows:

9. SPECIFIED EXCHANGE TRANSACTIONS. A transaction in a security, whether or not the 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 ~~by the administrator~~ 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.

Sec. 3. Section 502.402, subsection 2, paragraph a, Code 2007, is amended to read as follows:

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(e)(2)~~ 78(h)(2).

Sec. 4. Section 502.410, subsection 2, Code 2007, is amended to read as follows:

2. AGENTS. The fee for an individual is ~~thirty~~ forty dollars when filing an application for registration as an

agent, a fee of ~~thirty~~ forty dollars when filing a renewal of registration as an agent, and a fee of ~~thirty~~ 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.

Sec. 5. Section 502.601, subsection 4, Code 2007, is amended to read as follows:

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 ~~that~~ 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.

Sec. 6. Section 502.601, subsection 5, Code 2007, is amended to read as follows:

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 fiscal year. However, if, on June 30, unencumbered or unobligated moneys remaining in the fund exceed ~~two~~ 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.

Sec. 7. Section 505.8, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. a. The commissioner shall establish a bureau, to be known as the "consumer advocate bureau", which shall be responsible for ensuring fair treatment of consumers by persons in the business of insurance and for preventing unfair or deceptive trade practices in the insurance marketplace.

b. 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.

c. The consumer advocate bureau shall receive and may investigate consumer complaints and inquiries from the public, and shall 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.

d. When necessary or appropriate to protect the public interest or consumers, the consumer advocate may request that the commissioner conduct administrative hearings as provided in section 505.29.

e. The consumer advocate bureau shall perform other functions as may be assigned to it by the commissioner related to consumer advocacy.

f. 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.

g. The commissioner, in cooperation with the consumer advocate, shall prepare and 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:

(1) An overview of the functions of the bureau.

(2) The structure of the bureau including the number and type of staff positions.

(3) 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.

(4) Actions commenced by the consumer advocate.

(5) Studies performed by the consumer advocate.

(6) Educational and outreach efforts of the consumer advocate bureau.

(7) 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.

(8) Recommendations from the commissioner and the consumer advocate about any needs for additional funding, staffing, legislation, or administrative rules.

Sec. 8. Section 505.8, subsection 6, Code Supplement 2007, is amended to read as follows:

6. 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 5A, 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.

~~a.~~ b. Notwithstanding chapter 22, the commissioner shall keep confidential both information obtained ~~in-the-course-of an-investigation-and-information~~ by or submitted to the insurance division pursuant to chapters 514J and 515D.

~~b.~~ 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.

~~c.~~ d. ~~However, notwithstanding~~ Notwithstanding paragraphs "a", ~~and "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.

~~d.~~ e. The commissioner may adopt rules protecting the privacy of information submitted to the insurance division consistent with this section.

Sec. 9. Section 505.8, subsection 10, Code Supplement 2007, is amended to read as follows:

10. 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 6, shall apply to information and material obtained pursuant to this subsection.

Sec. 10. Section 505.15, Code 2007, is amended to read as follows:

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:

- 1- a. Perform analyses of rate filings.
- 2- b. Perform audits of submitted loss data.
- 3- c. Conduct rate hearings and serve as expert witnesses.
- 4- d. Prepare, review, and dispense data on the insurance business.
- 5- e. Assist in public education concerning the insurance business.
- 6- f. Identify any impending problem areas in the insurance business.
- 7- g. Assist in examinations of insurance companies.

2. The commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals or specialists to assist the division 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.

Sec. 11. Section 507.4, Code 2007, is amended to read as follows:

507.4 EXAMINERS -- SALARIES.

1. The commissioner of insurance ~~is hereby authorized to~~ 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. The entire time of the examiners shall be under the control of the ~~said~~ commissioner, and shall be employed as the commissioner may direct.

2. The ~~said~~ commissioner may, when in the commissioner's judgment it is advisable, appoint assistants to aid in making conducting examinations. Said-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 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 17. Said-compensation 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.

Sec. 12. Section 507B.3, Code 2007, is amended to read as follows:

507B.3 UNFAIR COMPETITION OR UNFAIR AND DECEPTIVE ACTS OR PRACTICES PROHIBITED.

1. 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. The issuance of a qualified charitable gift annuity as provided in chapter 508F does not constitute a trade practice in violation of this chapter.

~~2.--The-commissioner-shall-have-power-to-examine-and investigate-into-the-affairs-of-every-person-engaged-in-the business-of-insurance-in-this-state-in-order-to-determine whether-such-person-has-been-or-is-engaged-in-any-unfair method-of-competition-or-in-any-unfair-or-deceptive-act-or practice-prohibited-by-this-section.--The-commissioner-shall keep-confidential-the-information-submitted-to-the-insurance division, or obtained-by-the-insurance-division-in-the-course of-an-investigation-pursuant-to-section-505.8, subsection-6.~~

~~3.--Information-obtained-by-the-commissioner-in-the-course of-investigating-a-consumer-complaint-may, in-the-discretion of-the-commissioner, be-provided-to-the-insurance-company-or insurance-producer-which-is-the-subject-of-the-complaint-or-to the-consumer-who-filed-the-complaint-or-the-individual-insured who-is-the-subject-of-the-complaint-without-waiving-the confidentiality-afforded-by-this-section-to-the-commissioner or-other-persons.~~

Sec. 13. Section 507E.6, Code 2007, is amended to read as follows:

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.

Sec. 14. Section 508C.3, subsection 2, Code 2007, is amended to read as follows:

2. This chapter shall provide coverage to the persons specified in subsection 1 under direct life insurance policies, health insurance policies including long-term care insurance and disability insurance policies, annuity contracts, supplemental contracts, certificates under group policies or contracts, and unallocated annuity contracts issued by member insurers.

Sec. 15. Section 508C.6, subsection 1, paragraphs c and d, Code 2007, are amended to read as follows:

c. An annuity account. A plan established under section 401, 403(b), or 457 of the United States Internal Revenue Code shall be covered by the annuity account.

d. An unallocated annuity contract account, excluding plans established under section 401, 403(b), or 457 of the United States Internal Revenue Code.

Sec. 16. Section 508C.8, subsection 8, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:

8. 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 insurer is liable or would have been liable if it 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, or three hundred fifty thousand dollars in the aggregate.

(ii) Three hundred thousand dollars for 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.

(b) (i) With respect to each individual 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 subdivision (a) and this subparagraph subdivision (b), or more than five million dollars in benefits to one owner of multiple nongroup policies of life insurance regardless of whether the policy 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 subdivision (b), not more than 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 that are attributable to covered policies. 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.

Sec. 17. Section 508C.8, subsection 9, Code 2007, is amended to read as follows:

9. The association has no obligation ~~for either of the following:~~

~~a. To continue coverage, or to pay a claim for benefits to any person under an individual accident, health, or disability policy accruing more than three years following the date the member insurer is adjudicated to be insolvent.~~

~~b. To~~ 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.

Sec. 18. NEW SECTION. 508E.5 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.

Sec. 19. Section 510.5, subsection 1, paragraph d, Code 2007, is amended to read as follows:

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 ~~triennial~~ examination of the insurer.

Sec. 20. Section 511.8, subsection 6, paragraph a, subparagraph (2), unnumbered paragraph 1, Code 2007, is amended to read as follows:

The net earnings available for fixed charges and preferred dividends of the issuing corporation shall have been, for each of the five fiscal years immediately preceding the date of acquisition, not less than one and one-half times the sum of the annual fixed charges and contingent interest, if any, and the annual preferred dividend requirements as of the date of acquisition; or at the date of acquisition the preferred stock has investment qualities and characteristics wherein speculative elements are not predominant.

Sec. 21. Section 511.8, subsection 9, paragraphs a, b, c, e, and g, Code 2007, are amended to read as follows:

a. (1) Bonds, notes, obligations, or other evidences of indebtedness secured by mortgages or deeds of trust which are a first or second lien upon otherwise unencumbered real property and appurtenances thereto within the United States of America, or any insular or territorial possession of the United States, or the Dominion of Canada, and upon leasehold estates in real property where fifty years or more of the term including renewals is unexpired, provided that at the date of acquisition the total indebtedness secured by the first or second lien shall not exceed ninety percent of the value of the property upon which it is a lien. However, a company or organization shall not acquire an indebtedness secured by a first or second lien upon a single parcel of real property, or upon a leasehold interest in a single parcel of real property, in excess of two percent of its legal reserve. These

limitations do not apply to obligations described in paragraphs "b", "c", "d", "e", and "f", and "g" of this subsection.

(2) Improvements and appurtenances to real property shall not be considered in estimating the value of the property unless the owner contracts to keep the property adequately insured during the life of the loan in some reliable fire insurance companies, or associations, the insurance to be made payable in case of loss to the mortgagee, trustee, or assignee as its interest appears at the time of the loss.

(3) For the purpose of this subsection a mortgage or deed of trust is not other than a first or second lien upon property by reason of the existence of taxes or assessments that are not delinquent, instruments creating or reserving mineral, oil, or timber rights, rights of way, joint driveways, sewer rights, rights in walls or by reason of building restrictions or other like restrictive covenants, or when the real estate is subject to lease in whole or in part whereby rents or profits are reserved to the owner.

b. Bonds, notes, or other evidences of indebtedness representing loans and advances of credit that have been issued, guaranteed, or insured, in accordance with the terms and provisions of an Act of Congress of the United States of America approved June 27, 1934, entitled the "National Housing Act", 48 Stat. 1246, 12 U.S.C. § 1701, et seq., as heretofore and hereafter amended to and including January 1, 2008, or of an Act of Congress of the United States of America approved July 24, 1970, entitled the "Federal Home Loan Mortgage Corporation Act", 84 Stat. 451, 12 U.S.C. § 1451, et seq., as amended to and including January 1, 2008.

c. Bonds, notes, or other evidences of indebtedness representing loans and advances of credit that have been issued or guaranteed, in whole or in part, in accordance with the terms and provisions of Title III of an Act of Congress of the United States of America approved June 22, 1944, known as Public Law 346, Pub. L. No. 78-268, cited as the "Servicemen's Readjustment Act of 1944", 58 Stat. 284, recodified at 72 Stat. 1105, 1273, 38 U.S.C. § 3701, et seq., as heretofore-and hereafter amended to and including January 1, 2008.

e. Bonds, notes, or other evidences of indebtedness representing loans and advances of credit that have been issued or guaranteed, in whole or in part, in accordance with Title I of the Bankhead-Jones Farm Tenant Act, an Act of the Congress of the United States, cited as the "Farmers Home Administration Act of 1946", 60 Stat. 1062, as ~~heretofore-or hereafter~~ amended to and including the effective date or dates of its repeal as set forth in 76 Stat. 318, or with Title III of an Act of Congress of the United States of America approved August 8, 1961, entitled the "Consolidated Farm and Rural Development Act", 75 Stat. 307, 7 U.S.C. § 1921, et seq., as amended to and including January 1, 2008.

g. Bonds, notes or other evidences of indebtedness representing loans and advances of credit that have been issued, guaranteed, or insured, in accordance with the terms and provisions of an Act of the federal Parliament of the Dominion of Canada ~~approved-March-187-1954~~, cited as the "National Housing Act, ~~1954~~" Act", R.S.C. 1985, c. N-11 as ~~heretofore-and-hereafter~~ amended to and including January 1, 2008.

Sec. 22. Section 511.8, subsection 22, paragraph a, Code 2007, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) "United States government-sponsored enterprise" means the federal national mortgage corporation under 12 U.S.C. § 1716-23i of the National Housing Act and the federal home loan marketing association under the Federal Home Loan Mortgage Act, 12 U.S.C. § 1451-59.

Sec. 23. Section 511.8, subsection 22, paragraphs c, d, and e, Code 2007, are amended to read as follows:

c. Investments in financial instruments used in hedging transactions are not eligible in excess of two percent of the legal reserve in the financial instruments of any one corporation, less any securities of that corporation owned by the company or association and in which its legal reserve is invested, except insofar as the financial instruments are collateralized by cash, ~~or~~ United States government obligations as authorized by subsection 1, or obligations of or guaranteed by a United States government-sponsored enterprise which on the date they are pledged as collateral are adequately secured and have investment qualities and

characteristics wherein the speculative elements are not predominant, which are deposited with a custodian bank as defined in subsection 21, and held under a written agreement with the custodian bank that complies with subsection 21 and provides for the proceeds of the collateral, subject to the terms and conditions of the applicable collateral or other credit support agreement, to be remitted to the legal reserve deposit of the company or association and to vest in the state in accordance with section 508.18 whenever proceedings under that section are instituted.

d. Investments in financial instruments used in hedging transactions are not eligible in excess of ten percent of the legal reserve, except insofar as the financial instruments are collateralized by cash, or United States government obligations as authorized by subsection 1, or obligations of or guaranteed by a United States government-sponsored enterprise which on the date they are pledged as collateral are adequately secured and have investment qualities and characteristics wherein the speculative elements are not predominant, which are deposited with a custodian bank as defined in subsection 21, and held under a written agreement with the custodian bank that complies with subsection 21 and provides for the proceeds of the collateral, subject to the terms and conditions of the applicable collateral or other credit support agreement, to be remitted to the legal reserve deposit of the company or association and to vest in the state in accordance with section 508.18 whenever proceedings under that section are instituted.

e. (1) Investments in financial instruments of foreign governments or foreign corporate obligations, other than Canada, used in hedging transactions shall be included in the limitation contained in subsection 19 that allows only twenty percent of the legal reserve of the company or association to be invested in such foreign investments, except insofar as the financial instruments are collateralized by cash, or United States government obligations as authorized by subsection 1, or obligations of or guaranteed by a United States government-sponsored enterprise which on the date they are pledged as collateral are adequately secured and have investment qualities and characteristics wherein the

speculative elements are not predominant, which are deposited with a custodian bank as defined in subsection 21, and held under a written agreement with the custodian bank that complies with subsection 21 and provides for the proceeds of the collateral, subject to the terms and conditions of the applicable collateral or other credit support agreement, to be remitted to the legal reserve deposit of the company or association and to vest in the state in accordance with section 508.18 whenever proceedings under that section are instituted.

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

Sec. 24. NEW SECTION. 514B.17A RECISION.

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 rescision 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 rescision. The enrollee may appeal the rescision 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 as provided in subsection 1 more than two years after the date of the enrollee's enrollment in the health maintenance organization.

Sec. 25. Section 514E.1, subsection 12, paragraph a, Code 2007, is amended to read as follows:

a. "Health insurance coverage" means health insurance coverage offered to individuals, including group conversion coverage.

Sec. 26. Section 514E.1, subsection 14, Code 2007, is amended to read as follows:

14. "Involuntary termination" includes, but is not limited to, termination of group conversion coverage ~~when-a-conversion policy-is-not-available~~ or where benefits under a state or federal law providing for continuation of coverage upon termination of employment will cease or have ceased.

Sec. 27. Section 514E.7, subsection 4, paragraph c, subparagraph (2), Code 2007, is amended to read as follows:

(2) The applicant is not eligible for continuation ~~or conversion~~ rights that would provide coverage substantially similar to plan coverage.

Sec. 28. NEW SECTION. 514F.6 CREDENTIALING --
RETROSPECTIVE PAYMENT.

The commissioner shall adopt rules to provide for the retrospective payment of clean claims for covered services provided by a physician during the credentialing period, once the physician is credentialed. For purposes of this section, "physician" means a licensed doctor of medicine and surgery or a licensed doctor of osteopathic medicine and surgery, and "credentialing period" means the time period between the health insurer's receipt of a physician's application for credentialing and approval of that application by the health insurer. "Credentialing" means a process through which a health insurer makes a determination based on criteria established by the health insurer concerning whether a physician 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 and the health insurer. "Clean claim" means the same as defined in section 507B.4A, subsection 2, paragraph "b".

Sec. 29. Section 515A.2, subsection 1, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. "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.

Sec. 30. Section 515A.3, subsection 1, paragraph b, Code 2007, is amended to read as follows:

b. Due consideration shall be given to past and prospective loss experience within and outside this state, to

~~the-conflagration-and~~ 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 both countrywide and those specially applicable to 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 such-experience-is-available.~~

Sec. 31. Section 515A.4, Code 2007, is amended to read as follows:

515A.4 RATE FILINGS.

1. a. Every insurer shall file with the commissioner, ~~except-as-to-inland-marine-risks-which-by-general-custom-of the-business-are-not-written-according-to-manual-rates-or rating-plans,~~ 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. A When a filing is deemed complete, the filing and any supporting information shall be open to public inspection

~~upon-filing. Specific-inland-marine-rates-on-risks-specially rated,-made-by-a-rating-organization,-shall-be-filed-with-the commissioner-~~

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. ~~Subject-to-the-exception-specified-in-subsection-5-of this-section,-each~~ 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 ~~within thirty-days-of-receipt-by-the-commissioner~~ before the expiration of the waiting period or an extension of the waiting period.

~~5.--Specific-inland-marine-rates-on-risks-specially-rated by-a-rating-organization,-or-any-specific-filing-with-respect to-a-surety-or-guaranty-bond-required-by-law-or-by-court-or executive-order,-rule-or-regulation-of-a-public-body-and-not covered-by-a-previous-filing,-shall-become-effective-when filed-and-shall-be-deemed-to-meet-the-requirements-of-this chapter-until-such-time-as-the-commissioner-reviews-the-filing and-so-long-thereafter-as-the-filing-remains-in-effect-~~

~~6-~~ 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 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 paragraph "b" of subsection 1 of section 515A.3.

~~7-~~ 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.

~~8-~~ 7. No insurer shall make or issue a contract or policy except in accordance with the filings which are in effect for ~~said~~ the insurer as provided in this chapter or in accordance with ~~subsections-6~~ subsection 5 or ~~7-of-this-section~~ 6. ~~This subsection-shall-not-apply-to-contracts-or-policies-for-inland marine-risks-as-to-which-filings-are-not-required-~~

~~9-~~ 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.

Sec. 32. Section 515A.5, Code 2007, is amended to read as follows:

515A.5 DISAPPROVAL OF FILINGS.

1. If within the waiting period or any extension thereof as provided in subsection 4 of section 515A.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--If-within-thirty-days-after-a-specific-inland-marine rate-on-a-risk-especially-rated-by-a-rating-organization subject-to-subsection-5-of-section-515A.4-has-become-effective~~

~~or, if within thirty days after a special surety or guaranty filing subject to subsection 5 of section 515A.4 has become effective, the commissioner finds that such filing does not meet the requirements of this chapter, the commissioner shall send to the rating organization or insurer which made such filing written notice of disapproval of such filing specifying therein 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. -- Said disapproval shall not affect any contract made or issued prior to the expiration of the period set forth in said notice.~~

3. 2. ~~If at~~ At any time subsequent to the applicable review period provided for in subsection 1 ~~or 2 of this section,~~ the commissioner finds that a filing does not meet the requirements of this chapter, the may hold a hearing to determine whether a filing meets the requirements of this chapter. The commissioner shall, after provide notice of a hearing held upon not less than ten days¹ written notice, specifying the matters to be considered at such hearing, days prior to the hearing to every insurer and rating organization which made such 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 such the filing fails to meet the requirements of this chapter, and stating when, within a reasonable period thereafter, such the filing shall be deemed no longer effective. Copies of said the order shall be sent to every such insurer and rating organization which made the filing. Said The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said the order.

4. 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 ~~shall find~~ 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 ~~such~~ 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 ~~said~~ said ~~the~~ order shall be sent to the applicant and to every such insurer and rating organization. ~~Said~~ The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in ~~said~~ said ~~the~~ order.

~~5-~~ 4. No filing shall be disapproved if the rates thereby produced meet the requirements of this chapter.

Sec. 33. Section 515A.6, subsection 1, paragraph c, Code Supplement 2007, is amended to read as follows:

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

Sec. 34. Section 515A.6, subsection 7, paragraph a, Code Supplement 2007, is amended to read 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 ~~in-the-Iowa~~ administrative-bulletin on the internet web site of the insurance division of the department of commerce.

Sec. 35. Section 515A.6, subsection 7, Code Supplement 2007, is amended by adding the following new paragraphs:

NEW PARAGRAPH. g. Absent a request for a hearing as provided in paragraph "b", the commissioner shall issue an order approving or disapproving the proposed rates.

NEW PARAGRAPH. 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.

Sec. 36. Section 515A.7, Code 2007, is amended to read as follows:

515A.7 UNIFORM RATING PLANS AND DEVIATIONS.

1. a. Every ~~member-of-or-subscriber-to-a-rating organization~~ insurer shall adhere to the filings made on its behalf by ~~such a rating~~ organization except that any such insurer may ~~make-written-application-to-the-commissioner-to~~ file a deviation from the class rates, schedules, rating plans, or rules ~~respecting-any-kind-of-insurance, or class-of risk-within-a-kind-of-insurance,~~ or a combination thereof for approval by the commissioner. ~~Such-application~~ 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 ~~application-to-file-such~~ 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 ~~issue-an-order permitting~~ approve the deviation filed for such insurer ~~to-be filed~~ if the commissioner finds it to be justified and it shall thereupon become effective. The commissioner shall ~~issue-an-order-denying-such-application~~ disapprove the deviation filed if the commissioner finds that the deviation ~~applied-for~~ does not meet the requirements of this chapter.

~~Each-deviation-permitted-to-be-filed-shall-remain-in-effect for-a-period-of-not-less-than-one-year-from-the-effective-date unless-sooner-withdrawn-by-the-insurer-with-the-approval-of the-commissioner-or-until-terminated-in-accordance-with-the provisions-of-section-515A-5-~~

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 scheduled or 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.

Sec. 37. Section 515A.8, Code 2007, is amended to read as follows:

515A.8 APPEAL BY ~~MINORITY~~ 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, 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 paragraph "c" of subsection 1 of section 515A.3, 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.

Sec. 38. Section 515A.13, Code 2007, is amended to read as follows:

515A.13 RATE ADMINISTRATION.

1. RECORDING-AND-REPORTING-OF-LOSS-AND-EXPENSE-EXPERIENCE-
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 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. ~~INTERCHANGE-OF-RATING-PLAN-DATA.~~ Reasonable rules and plans may be promulgated 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 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. ~~RULES-AND-REGULATIONS.~~ The commissioner may make reasonable rules necessary to effect the purposes of this chapter.

5. ~~PROHIBITED-RELEASE-~~ 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.

Sec. 39. Section 515A.17, Code 2007, is amended to read as follows:

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 ~~fifty~~ 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 ~~hundred~~ thousand dollars for each such violation. Such penalties may be in addition to any other penalty provided by law.

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. ~~No~~ A penalty shall not be imposed and ~~no~~ 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.

Sec. 40. NEW SECTION. 515A.19A RULES.

The commissioner may adopt rules pursuant to chapter 17A as necessary and convenient to administer this chapter.

Sec. 41. Section 521.16, Code 2007, is amended to read as follows:

521.16 APPLICABILITY OF SECTION 521A.3.

~~The~~ 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.

Sec. 42. Section 522B.11, subsection 1, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. 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.

Sec. 43. Section 523A.206, subsection 5, paragraphs a and b, Code Supplement 2007, are amended to read as follows:

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 ~~nonrenewal~~ of 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 ~~nonrenew~~ 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.

Sec. 44. Section 523A.401, subsection 7, Code Supplement 2007, is amended to read as follows:

7. The seller of a purchase agreement subject to this chapter which is to be funded by insurance proceeds shall obtain all ~~permits~~ 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 insurance policy funding a purchase agreement.

Sec. 45. Section 523A.402, subsection 7, Code Supplement 2007, is amended to read as follows:

7. The seller of a purchase agreement subject to this chapter which is to be funded by annuity proceeds shall obtain all ~~permits~~ 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.

Sec. 46. Section 523A.405, subsection 8, Code Supplement 2007, is amended to read as follows:

8. The amount of the surety bond shall equal eighty percent of the payments received pursuant to purchase agreements, or the applicable portion thereof, for cemetery merchandise, funeral merchandise, funeral services, or a combination thereof and the amount needed to adjust the amount of the surety bond for inflation as set by the commissioner based on the consumer price index. The seller shall review the amount of the surety bond no less than annually and shall increase the bond as necessary to reflect additional payments. The amount needed to adjust for inflation shall be added annually to the surety bond during the first quarter of the ~~establishment's~~ seller's fiscal year.

Sec. 47. Section 523A.501, subsection 3, paragraphs a and b, Code Supplement 2007, are amended to read as follows:

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 ~~a-commission-order~~ 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. 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 ~~commission~~ 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 repayment receipts as defined in section 8.2.

Sec. 48. Section 523A.501, subsection 4, Code Supplement 2007, is amended to read as follows:

4. The commissioner shall request and obtain a financial history 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 ~~a-commission-order~~ 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. "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.

Sec. 49. Section 523A.502, subsection 4, paragraphs a and b, Code Supplement 2007, are amended to read as follows:

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 ~~a-commission-order~~ 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 ~~commission~~ 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 repayment receipts as defined in section 8.2.

Sec. 50. Section 523A.502, subsection 5, Code Supplement 2007, is amended to read as follows:

5. ~~The~~ A sales license shall be renewed every four years by filing the form prescribed by the commissioner under subsection 3, accompanied by a renewal fee in an amount set by the commissioner by rule.

Sec. 51. Section 523A.603, subsection 2, Code Supplement 2007, is amended to read as follows:

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.

Sec. 52. Section 523A.807, subsection 3, paragraph a, Code Supplement 2007, is amended to read as follows:

a. Payment of a civil penalty of not more than one thousand dollars for each violation, but not exceeding an aggregate of ten thousand dollars during any six-month period, except that if the commissioner finds that the person knew or reasonably should have known that the person was in violation of such provisions or rules adopted pursuant thereto, the penalty shall be not more than five thousand dollars for each violation, but not exceeding an aggregate of fifty thousand dollars during any six-month period. The commissioner shall assess the penalty on the employer of an individual and not on the individual, if the commissioner finds that the violations committed by the individual were directed, encouraged, condoned, ignored, or ratified by the individual's employer.

Sec. 53. Section 523A.901, subsection 9, paragraph a, subparagraph (2), subparagraph subdivision (d), Code Supplement 2007, is amended to read as follows:

(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.

Sec. 54. Section 523I.102, subsection 8, Code Supplement 2007, is amended to read as follows:

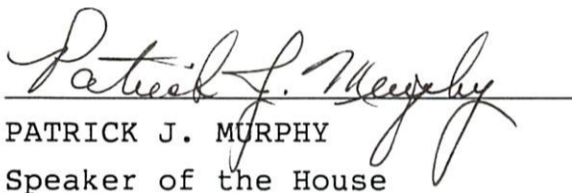
8. "Commissioner" means the commissioner of insurance ~~or the commissioner's designee authorized in section 523A.801.~~

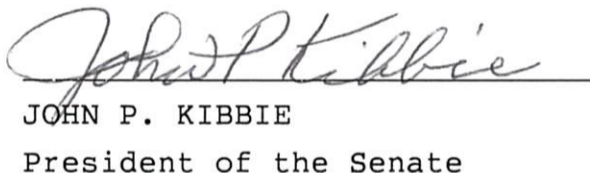
Sec. 55. Section 523I.201, subsection 1, Code Supplement 2007, is amended to read as follows:

1. This chapter shall be administered by the commissioner. The commissioner ~~shall~~ may employ officers, attorneys, accountants, and other employees as needed for administering this chapter.

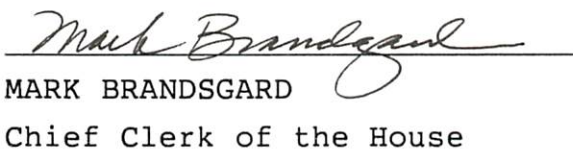
Sec. 56. Section 508.30, Code 2007, is repealed.

Sec. 57. EFFECTIVE DATE. The section of this Act amending section 515A.7, Code 2007, being deemed of immediate importance, takes effect upon enactment.

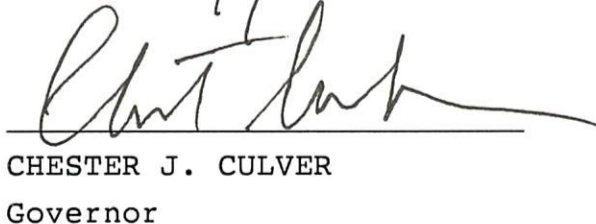

PATRICK J. MURPHY
Speaker of the House


JOHN P. KIBBIE
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2555, Eighty-second General Assembly.


MARK BRANDSGARD
Chief Clerk of the House

Approved 4/25, 2008


CHESTER J. CULVER
Governor