



CHESTER J. CULVER
GOVERNOR

OFFICE OF THE GOVERNOR

PATTY JUDGE
LT. GOVERNOR

April 9, 2010

The Honorable Michael Mauro
Secretary of State
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

Senate File 2201, an Act relating to various matters under the purview of the insurance division of the department of commerce including the Iowa grain indemnity fund board, uniform securities Act, a health care and insurance cost work group, applications for health insurance rate increases, an internet consumer guide, examination of insurance companies, life insurance companies and associations, special health and accident insurance coverages, utilization and cost control, external review of health care coverage decisions, insurance other than life, mortgage guaranty insurance, cemetery and funeral merchandise and funeral services, and regulation of cemeteries and making penalties applicable and including effective date provisions.

The above Senate File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "Chester J. Culver", written over the printed name and title.

Chester J. Culver
Governor

CJC:bdj

cc: Secretary of the Senate
Chief Clerk of the House





Senate File 2201

AN ACT

RELATING TO VARIOUS MATTERS UNDER THE PURVIEW OF THE INSURANCE DIVISION OF THE DEPARTMENT OF COMMERCE INCLUDING THE IOWA GRAIN INDEMNITY FUND BOARD, UNIFORM SECURITIES ACT, A HEALTH CARE AND INSURANCE COST WORK GROUP, APPLICATIONS FOR HEALTH INSURANCE RATE INCREASES, AN INTERNET CONSUMER GUIDE, EXAMINATION OF INSURANCE COMPANIES, LIFE INSURANCE COMPANIES AND ASSOCIATIONS, SPECIAL HEALTH AND ACCIDENT INSURANCE COVERAGES, UTILIZATION AND COST CONTROL, EXTERNAL REVIEW OF HEALTH CARE COVERAGE DECISIONS, INSURANCE OTHER THAN LIFE, MORTGAGE GUARANTY INSURANCE, CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL SERVICES, AND REGULATION OF CEMETERIES AND MAKING PENALTIES APPLICABLE AND INCLUDING EFFECTIVE DATE PROVISIONS.

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

Section 1. Section 22.7, Code Supplement 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 65. Information obtained by the commissioner of insurance in the course of an examination of a cemetery as provided in section 523I.213A, subsection 7.

Sec. 2. Section 203D.4, subsection 1, Code 2009, is amended to read as follows:

1. The Iowa grain indemnity fund board is established to advise the department on matters relating to the fund and to perform the duties provided it in this chapter. The board is composed of the secretary of agriculture or a designee who shall serve as president; ~~the commissioner of insurance or a designee who shall serve as secretary;~~ the state treasurer or

a designee who shall serve as treasurer; a representative of the banking industry appointed by the governor, who shall be selected from a list of three nominations made by the secretary of agriculture; and four representatives of the grain industry appointed by the governor, subject to confirmation by the senate, two of whom shall be representatives of producers and who shall be actively participating producers, and two of whom shall be representatives of licensed grain dealers and licensed warehouse operators and who shall be actively participating licensed grain dealers and licensed warehouse operators, each of whom shall be selected from a list of three nominations made by the secretary of agriculture. The term of membership of the banking industry representative and the grain industry representatives is three years, and the representatives are eligible for reappointment. However, of the grain industry representatives, only actively participating producers, and grain dealers and warehouse operators are eligible for reappointment. The banking industry representative and the grain industry representatives are entitled to a per diem as specified in section 7E.6 for each day spent in the performance of the duties of the board, plus actual expenses incurred in the performance of those duties. Four members of the board constitute a quorum, and the affirmative vote of four members is necessary for any action taken by the board, except that a lesser number may adjourn a meeting. A vacancy in the membership of the board does not impair the rights of a quorum to exercise all the rights and perform all the duties of the board.

Sec. 3. Section 502.305, subsection 2, Code Supplement 2009, is amended to read as follows:

2. *Filing.* Except as provided in subsection 10 and section 502.304A, subsection 3, paragraph "g", a person who files a registration statement or a notice filing shall pay a filing fee of one-tenth of one percent of the proposed aggregate sales price of the securities to be offered to persons in this state pursuant to the registration statement or notice filing. However, except as provided in subsection 10, section 502.302, subsection 1, paragraph "a", and section 502.304A, subsection 3, paragraph "g", the annual filing fee shall not be less than fifty dollars or more than one thousand dollars. 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.

Sec. 4. Section 505.7, Code Supplement 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 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 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.

Sec. 5. Section 505.8, Code Supplement 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 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.

Sec. 6. Section 505.17, Code 2009, is amended to read as follows:

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 or insurance holding company, 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 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.

Sec. 7. NEW SECTION. 505.18 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 plans in the state for the previous fiscal 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 plan offered 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.

Sec. 8. NEW SECTION. 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 policy holder 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 all comments received on the insurance division's internet site prior to approval or disapproval of the proposed rate increase by the commissioner.

4. The consumer advocate shall present the public testimony and comments received for consideration by the commissioner in determining whether to approve or disapprove such health insurance rate increase proposals.

4A. *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.

d. For the purposes of this section, "health insurance" does not include Medicare supplemental health insurance as defined under § 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.

5. The commissioner shall adopt rules pursuant to chapter 17A to implement the provisions of this section.

Sec. 9. NEW SECTION. 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 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.2, 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, 508.6, 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.

Sec. 10. Section 511.8, subsection 5, Code Supplement 2009, is amended to read as follows:

5. *Corporate obligations.* Subject to the restrictions contained in subsection 8 hereof, bonds or other evidences of indebtedness issued, assumed, or guaranteed by a corporation incorporated under the laws of the United States of America, or of any state, district, or insular or territorial possession thereof; or of the Dominion of Canada, or any province thereof; and which meet the following qualifications:

a. (1) If fixed interest-bearing obligations, the net earnings of the issuing, assuming, or guaranteeing corporation available for its fixed charges for a period of five fiscal years next preceding the date of acquisition of the obligations

by such insurance company shall have averaged per year not less than one and one-half times such average annual fixed charges of the issuing, assuming, or guaranteeing corporation applicable to such period, and, during at least one of the last two years of such period, its net earnings shall have been not less than one and one-half times its fixed charges for such year; or if, at the date of acquisition, the obligations are adequately secured and have investment qualities and characteristics wherein the speculative elements are not predominant.

(2) However, with respect to fixed interest-bearing obligations which are issued, assumed, or guaranteed by a financial company, the net earnings by the financial company available for its fixed charges for the period of five fiscal years preceding the date of acquisition of the obligations by the insurance company shall have averaged per year not less than one and one-fourth times such average annual fixed charges of the issuing, assuming, or guaranteeing financial company applicable to such period, and, during at least one of the last two years of the period, its net earnings shall have been not less than one and one-fourth times its fixed charges for such year; or if, at the date of acquisition, the obligations are adequately secured and speculative elements are not predominant in their investment qualities and characteristics. As used in this ~~paragraph~~ subparagraph (2), "*financial company*" means a corporation which on the average over its last five fiscal years preceding the date of acquisition of its obligations by the insurer, has had at least fifty percent of its net income, including income derived from subsidiaries, derived from the business of wholesale, retail, installment, mortgage, commercial, industrial or consumer financing, or from banking or factoring, or from similar or related lines of business.

b. If adjustment, income, or other contingent interest obligations, the net earnings of the issuing, assuming, or guaranteeing corporation available for its fixed charges for a period of five fiscal years next preceding the date of acquisition of the obligations by such insurance company shall have averaged per year not less than one and one-half times such average annual fixed charges of the issuing, assuming, or guaranteeing corporation and its average annual maximum contingent interest applicable to such period and, during at least one of the last two years of such period, its net earnings shall have been not less than one and one-half times the sum of its fixed charges and maximum contingent interest for

such year, or if, at the date of acquisition, the obligations are adequately secure and have investment qualities and characteristics and speculative elements are not predominant.

c. Are securities that at the date of acquisition are rated three by the securities valuation office of the national association of insurance commissioners or have the equivalent rating by a rating organization that is approved by the national association of insurance commissioners as an acceptable rating organization and are listed or admitted to trading on a securities exchange in the United States or are publicly held and actively traded in the over-the-counter market and market quotations are readily available. If a security acquired under this paragraph is subsequently downgraded from a three rating by the securities valuation office of the national association of insurance commissioners or the equivalent by a national association of insurance commissioners' acceptable rating organization, the security no longer qualifies as a legal reserve investment.

d. The term "net earnings available for fixed charges" as used herein shall mean in this section means the net income after deducting all operating and maintenance expenses, taxes other than any income taxes, depreciation, and depletion, but nonrecurring items of income or expense may be excluded.

e. The term "fixed charges" as used herein shall include in this section includes interest on unfunded debt and funded debt on a parity with or having a priority to the obligation under consideration.

f. The term "corporation" as used in this chapter includes a joint stock association, a limited liability company, a partnership, or a trust.

g. The securities, real estate, and mortgages described in this section include participations, which means instruments evidencing partial or undivided collective interests in such securities, real estate, and mortgages.

Sec. 11. Section 511.8, subsection 8, Code Supplement 2009, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. In addition to the restrictions contained in paragraphs "a" and "b", the investments of any company or association in securities included under subsection 5, paragraph "c", are not eligible in excess of two percent of the legal reserve, but not more than one-eighth of one percent of the legal reserve shall be invested in the securities of any one corporation.