

House File 2394 - Enrolled

House File 2394

AN ACT

RELATING TO VARIOUS MATTERS INVOLVING INSURANCE AND THE  
INSURANCE DIVISION OF THE DEPARTMENT OF COMMERCE, AND  
INCLUDING PENALTIES AND APPLICABILITY PROVISIONS.

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

Section 1. Section 16.91, subsection 3, Code 2016, is amended to read as follows:

3. With the approval of the authority board the division and its board shall consult with the insurance division of the department of commerce in developing a guaranty contract acceptable to the secondary market and developing any other feature of the program with which the insurance division may have special expertise. ~~The insurance division shall establish the amount for a loss reserve fund.~~ Except as provided in this subsection, the Iowa title guaranty program is not subject to the jurisdiction of or regulation by the insurance division or the commissioner of insurance.

Sec. 2. Section 502.305, subsection 2, Code 2016, is amended to read as follows:

2. *Filing.* Except as provided in ~~subsection 10~~ section 502.302, subsection 3, and section 502.304A, subsection 3, paragraph "g", a person who files a registration statement or a notice filing shall pay a filing fee ~~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 as prescribed by rules adopted pursuant to chapter 17A. The administrator shall retain the filing fee even if the notice filing is withdrawn or the registration is withdrawn, denied, suspended, revoked, or abandoned. The fees collected under ~~this subsection~~ shall be deposited as provided in ~~section 505.7~~. The administrator may adopt rules requiring a filing to be made electronically. The rules may provide for such electronic filing either directly with the administrator or with a designee of the administrator. The rules may require that the filer pay any reasonable costs charged by the designee of the administrator for processing the filings and that the filer submit any fees paid through the designee.

Sec. 3. Section 502.305, subsection 10, Code 2016, is amended by striking the subsection.

Sec. 4. Section 502.306, subsection 1, paragraph a, Code 2016, is amended to read as follows:

a. The registration statement as of its effective date or before the effective date in the case of an order denying effectiveness, ~~an amendment under section 502.305, subsection 10, as of its effective date,~~ or a report under section 502.305, subsection 9, is incomplete in a material respect or contains a statement that, in the light of the circumstances under which it was made, was false or misleading with respect to a material fact.

Sec. 5. NEW SECTION. **507E.3A Fraudulent sales practices — penalty.**

1. A person commits a class "D" felony if the person, with the intent to defraud another person in connection with any sale, solicitation, or negotiation of insurance in this state, willfully does any of the following:

a. Employs any deception, device, scheme, or artifice to defraud.

b. Misrepresents, conceals, or suppresses any material fact.

c. Engages in any act, practice, or course of business which operates as a fraud or deceit upon any person.

2. Notwithstanding subsection 1, a person commits a class "C" felony if the person violates subsection 1, and such violation results in a loss of more than ten thousand dollars.

**Sec. 6. NEW SECTION. 514K.2 Health carrier disclosures — public internet sites.**

1. A carrier that provides small group health coverage pursuant to chapter 513B or individual health coverage pursuant to chapter 513C and that offers for sale a policy, contract, or plan that covers the essential health benefits required pursuant to section 1302 of the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148, and its implementing regulations, shall provide to each of its enrollees at the time of enrollment, and shall make available to prospective enrollees and enrollees, insurance producers licensed under chapter 522B, and the general public, on the carrier's internet site, all of the following information in a clear and understandable form for use in comparing policies, contracts, and plans, and coverage and premiums:

a. Any items or services, including prescription drugs, that have a coinsurance requirement where the cost-sharing required depends on the cost of the item or service.

b. The specific prescription drugs available on the carrier's formulary, the specific prescription drugs covered when furnished by a physician or clinic, and any clinical prerequisites or prior authorization requirements for coverage of the drugs.

c. How medications will specifically be included in or excluded from the deductible, including a description of all out-of-pocket costs that may not apply to the deductible for a prescription drug.

2. A carrier that provides a summary of benefits and coverage to its enrollees in accordance with 26 C.F.R. §54.9815-2715, 29 C.F.R. §2590.715-2715, and 45 C.F.R. §147.200 is deemed to be in compliance with this section unless the commissioner of insurance determines that these federal regulations, or the successors to any of these federal regulations, fail to require the information required pursuant to this section in a clear and understandable form.

Sec. 7. Section 521A.1, Code 2016, is amended by adding the

following new subsections:

NEW SUBSECTION. 5A. *“Group-wide supervisor”* means a regulatory official who is authorized, and who is determined or acknowledged by the commissioner pursuant to section 521A.6B to have sufficient significant contacts with an internationally active insurance group, to engage in conducting and coordinating group-wide supervision of the internationally active insurance group.

NEW SUBSECTION. 7A. *“Internationally active insurance group”* means an insurance holding company system that includes an insurer registered under section 521A.4 and that meets all of the following criteria:

a. The insurance holding company system has premiums written in at least three countries.

b. The percentage of gross premiums written outside the United States is at least ten percent of the insurance holding company system’s total gross written premiums.

c. Based on a three-year rolling average, the total assets of the insurance holding company system are at least fifty billion dollars or the total gross written premiums of the insurance holding company system are at least ten billion dollars.

Sec. 8. Section 521A.6A, subsection 1, unnumbered paragraph 1, Code 2016, is amended to read as follows:

With respect to any insurer registered under section 521A.4 and in accordance with ~~subsection 3~~ of this section, the commissioner shall have the power to participate in a supervisory college for any domestic insurer that is part of an insurance holding company system with international operations in order to determine compliance by the insurer with this chapter. The powers of the commissioner with respect to supervisory colleges include but are not limited to the following:

Sec. 9. Section 521A.6A, subsections 2 and 3, Code 2016, are amended by striking the subsections.

Sec. 10. NEW SECTION. **521A.6B Group-wide supervision of internationally active insurance groups.**

1. a. The commissioner may act as the group-wide supervisor of an internationally active insurance group in accordance with

the provisions of this section. However, the commissioner may authorize another regulatory official to act as the group-wide supervisor where the internationally active insurance group meets any of the following conditions:

(1) Does not have substantial insurance operations in the United States.

(2) Has substantial insurance operations in the United States, but not in Iowa.

(3) Has substantial insurance operations in the United States and in Iowa, but the commissioner has determined pursuant to the factors set forth in subsections 2 and 6 that another regulatory official is the appropriate group-wide supervisor.

*b.* In response to a request from an insurance holding company system that does not otherwise qualify as an internationally active insurance group, the commissioner may make a determination of or acknowledge a group-wide supervisor for such an insurance holding company system pursuant to this section.

2. *a.* In cooperation with other state, federal, and international regulatory agencies, the commissioner shall identify a single group-wide supervisor for an internationally active insurance group. The commissioner may determine that the commissioner is the appropriate group-wide supervisor for an internationally active insurance group that conducts substantial insurance operations concentrated in this state, or the commissioner may acknowledge that a regulatory official from another jurisdiction is the appropriate group-wide supervisor for the internationally active insurance group. In making a determination or acknowledgment under this paragraph "a", the commissioner shall consider the following factors:

(1) The place of domicile of the insurers within the internationally active insurance group that hold the largest share of the group's written premiums, assets, or liabilities.

(2) The place of domicile of the top-tiered insurers in the insurance holding company system of the internationally active insurance group.

(3) The location of the executive offices or largest operational offices of the internationally active insurance

group.

(4) Whether another regulatory official is acting as or is seeking to act as the group-wide supervisor of the internationally active insurance group under a regulatory system that the commissioner determines to be either of the following:

(a) Substantially similar to the system of regulation provided under the laws of this state.

(b) Otherwise sufficient in terms of providing for group-wide supervision, enterprise risk analysis, and cooperation with other regulatory officials.

(5) Whether another regulatory official acting as or seeking to act as the group-wide supervisor for the internationally active insurance group provides the commissioner with reasonably reciprocal recognition and cooperation.

*b.* Notwithstanding paragraph "a", even if the commissioner is identified pursuant to this subsection as the group-wide supervisor of an internationally active insurance group, the commissioner may determine that it is appropriate to acknowledge another regulatory official to serve as the group-wide supervisor of the internationally active insurance group.

*c.* The acknowledgment of a group-wide supervisor pursuant to this subsection shall be made after consideration of the factors listed in paragraph "a", subparagraphs (1) through (5), and shall be made in cooperation with and subject to the acknowledgment of other regulatory officials involved with supervision of members of the internationally active insurance group, and in consultation with the internationally active insurance group.

3. Notwithstanding any other provision of law, when another regulatory official is acting as the group-wide supervisor of an internationally active insurance group, the commissioner shall acknowledge that regulatory official as the group-wide supervisor of the internationally active insurance group. However, the commissioner shall make a new determination or acknowledgment as to the appropriate group-wide supervisor for the internationally active insurance group in the event that a

material change in the internationally active insurance group results in either of the following:

*a.* The internationally active insurance group's insurers domiciled in Iowa holding the largest share of the group's premiums, assets, or liabilities.

*b.* Iowa being the place of domicile of the top-tiered insurers in the insurance holding company system of the internationally active insurance group.

4. Pursuant to section 521A.6, the commissioner is authorized to collect from any insurer registered pursuant to section 521A.4 all information necessary to determine whether it is appropriate for the commissioner to act as the group-wide supervisor of an internationally active insurance group or to acknowledge another regulatory official to act as the group-wide supervisor of the internationally active insurance group. Prior to issuing a determination or acknowledgment pursuant to this section, the commissioner shall notify the insurer registered pursuant to section 521A.4 and the ultimate controlling person within the internationally active insurance group of the pending determination or acknowledgment. The insurer and the internationally active insurance group shall have not less than thirty days to provide the commissioner with additional information pertinent to the commissioner's pending determination or acknowledgment. The commissioner shall publish the identity of the internationally active insurance groups that the commissioner has determined are subject to group-wide supervision by the commissioner.

5. If a determination is made that the commissioner is the appropriate group-wide supervisor for an internationally active insurance group, the commissioner is authorized to engage in any of the following group-wide supervision activities:

*a.* Assessing the enterprise risks within the internationally active insurance group to ensure all of the following:

(1) That the material financial condition and liquidity risks to members of the internationally active insurance group that are engaged in the business of insurance are identified by management.

(2) That reasonable and effective mitigation measures are in place.

*b.* Requesting, from any member of an internationally active insurance group subject to the commissioner's group-wide supervision, information necessary and appropriate to assess enterprise risk, including but not limited to information about the members of the internationally active insurance group regarding all of the following:

- (1) Governance, risk assessment, and management.
- (2) Capital adequacy.
- (3) Material intercompany transactions.

*c.* Coordinating and, through the authority of the regulatory officials of the jurisdictions where members of the internationally active insurance group are domiciled, compelling the development and implementation of reasonable measures designed to ensure that the internationally active insurance group is able to timely recognize and mitigate enterprise risks to members of the internationally active insurance group that are engaged in the business of insurance.

*d.* Communicating with other state, federal, and international regulatory agencies for members within the internationally active insurance group and sharing relevant information, subject to the confidentiality provisions of section 521A.7, through supervisory colleges as set forth in section 521A.6A or otherwise.

*e.* Entering into agreements with or obtaining documentation from any insurer registered under section 521A.4, any member of an internationally active insurance group, and any other state, federal, or international regulatory agency for members of the internationally active insurance group, that provides the basis for or otherwise clarifies the commissioner's role as group-wide supervisor of an internationally active insurance group, including provisions for resolving disputes with other regulatory officials. Such agreements or documentation shall not serve as evidence in any proceeding that any insurer or person within an insurance company holding company system not domiciled or incorporated in this state is doing business in this state or is otherwise subject to jurisdiction in this state.

*f.* Other activities of group-wide supervision, consistent with the authority and purposes set forth in this section, as

considered necessary by the commissioner.

6. If the commissioner acknowledges that another regulatory official from a jurisdiction that is not accredited by the national association of insurance commissioners is the group-wide supervisor of an internationally active insurance group, the commissioner may reasonably cooperate through a supervisory college or otherwise, with group-wide supervision undertaken by that regulatory official provided that all of the following occur:

*a.* The commissioner's cooperation is in compliance with the laws of this state.

*b.* The regulatory official acknowledged as the group-wide supervisor of the internationally active insurance group also recognizes and cooperates with the commissioner's activities as a group-wide supervisor for other internationally active insurance groups, where applicable. If such recognition and cooperation is not reasonably reciprocal, the commissioner may refuse recognition and cooperation to that regulatory official.

7. The commissioner is authorized to enter into agreements with or obtain documentation from any insurer registered under section 521A.4, any affiliate of the insurer, and any other state, federal, or international regulatory agency for members of the internationally active insurance group, that provides the basis for or otherwise clarifies another regulatory official's role as group-wide supervisor of an internationally active insurance group.

8. An insurer registered under section 521A.4 that is subject to this section shall be liable for and shall pay the reasonable expenses of the commissioner's participation in the administration of this section, including the engagement of attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff and all reasonable travel expenses. Any persons so retained shall be under the direction and control of the commissioner and shall act in a purely advisory capacity.

9. The commissioner shall adopt rules pursuant to chapter 17A to administer this section.

Sec. 11. Section 521A.7, subsection 1, Code 2016, is amended to read as follows:

1. All information, documents, and copies thereof obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to section 521A.6 or 521A.6A, and all information reported or provided to the commissioner pursuant to sections 521A.4 and, 521A.5, 521A.6A, and 521A.6B, shall be given confidential treatment and, shall not be subject to subpoena, shall not be subject to discovery or admissible in evidence in a private civil action, and shall not be made public by the commissioner or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer and its affiliates who would be affected thereby, notice and opportunity to be heard, determines that the interests of policyholders, shareholders, or the public will be served by the publication thereof, in which event the commissioner may publish all or any part thereof in such manner as the commissioner may deem appropriate. However, the commissioner is authorized to use the information, documents, or copies obtained by, disclosed to, or reported or provided to the commissioner as described in this subsection, in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties.

Sec. 12. Section 523I.808, Code 2016, is amended to read as follows:

**523I.808 Examination fee.**

An examination fee shall be submitted with the cemetery's annual report in an amount equal to five dollars for each certificate of interment rights issued during the fiscal-year time period covered by the report. The cemetery may charge the examination fee directly to the purchaser of the interment rights.

Sec. 13. Section 523I.813, subsections 1 and 2, Code 2016, are amended to read as follows:

1. A perpetual care cemetery shall file an annual report at the end of each fiscal-year reporting period of the cemetery.

2. The report shall be filed with the commissioner within four months following the end of the cemetery's fiscal-year reporting period in the form required by the commissioner.

Sec. 14. APPLICABILITY. The following provision of this Act is applicable to health insurance policies, contracts, or plans that are delivered, issued for delivery, continued, or renewed on or after January 1, 2017:

1. The section of this Act enacting section 514K.2.

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LINDA UPMEYER  
Speaker of the House

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PAM JOCHUM  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2394, Eighty-sixth General Assembly.

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CARMINE BOAL  
Chief Clerk of the House

Approved \_\_\_\_\_, 2016

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TERRY E. BRANSTAD  
Governor