

Reprinted 4/8/83

MAR 17 1983

HOUSE FILE 514

Place On Calendar

BY COMMITTEE ON SMALL BUSINESS AND COMMERCE

(Formerly Study Bill 235)

Passed House, Date 3-22-83 (p. 261) Passed Senate, Date 4-20-83 (p. 1342)

Vote: Ayes 79 Nays 16 Vote: Ayes 42 Nays 5

Approved _____

Notes to Recorder: (p. 864) Recommended 4/c

*Reconsidered, amended & passed
4-6-83 (p. 1106)
79-18*

A BILL FOR

1 An Act amending the Iowa uniform securities Act, and providing
2 a civil penalty.

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

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

HF 514

1 Section 1. Section 502.102, subsection 4, paragraph d,
2 subparagraph (2), Code 1983, is amended to read as follows:

3 (2) During any period of twelve consecutive months does
4 not ~~direct-more-than-fifteen-offers-to-sell-or-buy-into~~ effect
5 transactions in this state in any manner to with more than
6 three persons other than those specified in subparagraph (1)
7 of this paragraph, whether or not the offeror or any of the
8 offerees is then present in this state;

9 Sec. 2. Section 502.202, subsection 11, Code 1983, is
10 amended to read as follows:

11 11. Any A security issued in connection with an employee
12 stock purchase, option, savings, pension, profit sharing or
13 similar benefit plan, provided, in the case of plans which
14 are not qualified under section 401 of the Internal Revenue
15 Code of 1954 and which provide for contribution by employees,
16 the administrator is notified in writing ~~thirty~~ fifteen days
17 before the inception of the plan of the terms of the plan.

18 Sec. 3. Section 502.203, subsection 8, Code 1983, is
19 amended to read as follows:

20 8. Any An offer or sale to a bank, savings institution,
21 trust company, insurance company, investment company as de-
22 fined in the Investment Company Act of 1940, pension or profit
23 sharing trust, or other financial institution or institutional
24 buyer, or to a broker-dealer, whether the purchaser is acting
25 for itself or in a fiduciary capacity. However, the adminis-
26 trator, by rule or order, may grant or deny this exemption
27 to a person or class of persons based upon the factors of
28 financial sophistication, net worth, and the amount of assets
29 under investment.

30 Sec. 4. Section 502.203, subsection 9, Code 1983, is
31 amended by striking the subsection and inserting in lieu
32 thereof the following:

33 9. The sale, as part of a single issue, of securities
34 by the issuer of the securities if all of the following con-
35 ditions are satisfied:

1 a. Within any period of twelve consecutive months, sales
2 are made to less than thirty-six purchasers in this state,
3 exclusive of purchases by bona fide institutional investors
4 for their own account for investment.

5 b. Unless permitted by the administrator by rule, or by
6 order issued upon written application showing good cause for
7 the allowance of the sale, the issue is not an issue of:

8 (1) Fractional undivided interests in oil, gas, or other
9 mineral leases, rights, or royalties.

10 (2) Interests in a partnership organized under the laws
11 of or having its principal place of business in a foreign
12 jurisdiction.

13 c. The issuer reasonably believes that all the buyers
14 in this state are purchasing for investment.

15 d. Commission or other remuneration is not paid or given,
16 directly or indirectly, for the sale, except as may be
17 permitted by the administrator by rule, or by order issued
18 upon written application showing good cause for allowance
19 of commission or other remuneration.

20 e. The issuer or a person acting on behalf of the issuer
21 does not offer or sell the securities by any form of general
22 solicitation or advertising.

23 Sec. 5. Section 502.203, Code 1983, is amended by adding
24 the following new subsections:

25 NEW SUBSECTION. 16. The administrator may create by rule
26 a limited offering transactional exemption which furthers
27 the objectives of compatibility with federal exemptions and
28 uniformity among the states.

29 NEW SUBSECTION. 17. a. The offer or sale of securities
30 pursuant to a registration statement filed under the Securities
31 Act of 1933, provided that, prior to the sale, the registration
32 statement has become effective and the administrator has re-
33 ceived all of the following:

34 (1) A notice of intention to sell which has been executed
35 by the issuer, any other person on whose behalf the offering

1 is made, a dealer registered under this chapter, or a duly
2 authorized agent of any such person and which sets forth the
3 name and address of the applicant, the name and address of
4 the issuer, and the title of the securities to be offered
5 in this state.

6 (2) Copies of the documents filed with the securities
7 and exchange commission as the administrator may by rule
8 require.

9 (3) The irrevocable written consent as required by sec-
10 tion 502.609.

11 b. A person filing a notice of intention to sell shall
12 pay a nonreturnable filing fee of one-tenth of one percent
13 of the maximum aggregate offering price at which the registered
14 securities are to be offered in this state, but the fee shall
15 not be less than fifty dollars or more than one thousand
16 dollars. The fee required by this paragraph shall be paid
17 to the administrator for each twelve consecutive month period
18 in which the securities are offered and sold.

19 Sec. 6. Section 502.203, subsection 12, Code 1983, is
20 amended to read as follows:

21 12. Any An offer, but not a sale, of a security for which
22 a registration statement has been filed under this chapter
23 or a written notice has been filed pursuant to section 502.202,
24 subsection 1, 9, or 11 if no stop order or suspension or
25 denial order is in effect and no proceeding is pending under
26 this chapter.

27 Sec. 7. Section 502.209, subsection 1, paragraph e, Code
28 1983, is amended to read as follows:

29 e. The issuance or sale of the securities ~~is-or-would~~
30 ~~be-unfair-or-inequitable-to-purchasers-or~~ has worked ~~or-tended~~
31 ~~to-work~~ a fraud upon purchasers or would so operate;

32 Sec. 8. Section 502.209, subsection 1, paragraph h, Code
33 1983, is amended by striking the paragraph.

34 Sec. 9. Section 502.301, subsection 3, Code 1983, is
35 amended to read as follows:

1 3. Every registration shall expire on the last day of
2 ~~September~~ December in each year.

3 Sec. 10. Section 502.302, subsection 1, Code 1983, is
4 amended to read as follows:

5 1. A broker-dealer or agent may obtain an initial or
6 renewal license by filing with the administrator, or an
7 organization which the administrator by rule designates, an
8 application together with a consent to service of process
9 pursuant to section 502.609 and the appropriate filing fee.
10 The application shall contain ~~whatever~~ the information the
11 administrator ~~by-rule~~ requires by rule concerning the
12 applicant's form and place of organization, proposed method
13 of doing business and financial condition, the qualifications
14 and experience of the applicant, including, in the case of
15 a broker-dealer, the qualifications and experience of any
16 partner, officer, director or controlling person, any
17 injunction or administrative order or conviction of a
18 misdemeanor involving securities and any conviction of a
19 felony, and any other matters which the administrator
20 determines are relevant to the application. If no denial
21 order is in effect and no proceeding is pending under section
22 502.304, registration becomes effective at noon of the
23 thirtieth day after an application is filed. The administrator
24 may by rule or order specify an earlier effective date and
25 may by order defer the effective date until noon of the
26 thirtieth day after the filing of any an amendment.
27 Registration of a broker-dealer automatically constitutes
28 registration of any an agent named in the application or
29 amendments ~~thereto~~ to the application who is a partner, officer
30 or director, or who is a person occupying a similar status
31 or performing similar functions.

32 Sec. 11. Section 502.303, subsection 4, Code 1983, is
33 amended to read as follows:

34 4. The administrator shall make periodic examinations,
35 within or without this state, of the business and records

1 of each registered broker-dealer, at ~~such~~ the times and in
2 ~~such~~ the scope as the administrator determines. The
3 examinations may be made without prior notice to the broker-
4 dealer. The administrator may copy all records the
5 administrator feels are necessary to conduct the examination.
6 The expense reasonably attributable to ~~any-such~~ an examination
7 shall be paid by the broker-dealer whose business is examined,
8 but the expense so payable shall not exceed an amount which
9 the administrator by rule prescribes. For the purpose of
10 avoiding unnecessary duplication of examinations, the
11 administrator may co-operate with securities administrators
12 of other states, the securities and exchange commission, and
13 any national securities exchange or national securities
14 association registered under the Securities Exchange Act of
15 1934. The administrator shall not make public the information
16 obtained in the course of examinations, except when ~~any~~ a
17 duty under this chapter requires the administrator to take
18 action regarding ~~any~~ a broker-dealer or to make the information
19 available to one of the agencies specified ~~herein~~ in this
20 section, or except when the administrator is called as a
21 witness in ~~any~~ a criminal or civil proceeding.

22 Sec. 12. Section 502.304, subsection 1, unnumbered para-
23 graph 1, Code 1983, is amended to read as follows:

24 The administrator may by order deny, suspend or revoke
25 ~~any~~ a registration or may censure ~~any~~ an applicant or
26 registrant or may impose a civil penalty, if the order is
27 found to be in the public interest and it is found that the
28 applicant or registrant or, in the case of a broker-dealer,
29 ~~any~~ a partner, an officer, or a director, ~~any~~ a person
30 occupying a similar status or performing similar functions,
31 or ~~any~~ a person directly or indirectly controlling the broker-
32 dealer:

33 Sec. 13. Section 502.304, Code 1983, is amended by add-
34 ing the following new subsection:

35 NEW SUBSECTION. 7. A civil penalty levied under subsection

1 1 shall not exceed two hundred fifty dollars per violation
2 per person nor ten thousand dollars in a single proceeding
3 against any one person. All administrative fines received
4 shall be deposited in the state general fund.

5 Sec. 14. Section 502.603, subsection 1, paragraph c, Code
6 1983, is amended to read as follows:

7 c. ~~Publish~~ Keep confidential the information obtained
8 in the course of an investigation. However, if the adminis-
9 trator determines that it is necessary or appropriate in the
10 public interest or for the protection of investors, the ad-
11 ministrators may share information with other securities ad-
12 ministrators, regulatory authorities, or governmental agencies
13 or may publish information concerning any a violation of this
14 chapter or any a rule or order hereunder under this chapter.

15 Sec. 15. Section 502.608, subsection 1, Code 1983, is
16 amended to read as follows:

17 1. A document is filed when it is received by the ad-
18 ministrators, except that documents required to be filed under
19 sections 502.202 and 502.203 shall be deemed to be filed with
20 the administrator:

21 a. On the date received by the administrator.

22 b. If it has not been received by the administrator prior
23 to the date by which the document must be filed, on the date
24 the document is mailed with the United States postal service
25 by registered or certified mail addressed to the
26 administrator's office in Des Moines, Iowa.

27 Sec. 16. An applicant for renewal registration as a broker-
28 dealer to be effective January 1, 1984, shall pay a filing
29 fee of two hundred fifty dollars. An applicant for renewal
30 registration as an agent to be effective January 1, 1984,
31 shall pay a filing fee of twenty-five dollars. Subsequent
32 to January 1, 1984, renewal fees are as provided in section
33 502.302, subsection 2.

34

EXPLANATION

35 This bill makes several amendments to the Iowa uniform

1 securities Act.

2 Section 1 narrows the exceptions to the definition of
3 "broker-dealer" to include within the definition a person
4 who does not have an office in Iowa if the person effects
5 security transactions in the state with more than three
6 persons, other than persons or institutions that are excluded.

7 Section 2 shortens the period of prior notification to
8 the administrator of the securities division required for
9 a security issued in connection with an employee stock plan
10 to be an exempt security. The period is shortened from thirty
11 days to fifteen days.

12 Section 3 allows the administrator (commissioner of insur-
13 ance) to grant or deny "institutional buyer" status to any
14 person based upon factors of financial sophistication, net
15 worth, and the amount of assets under investment.

16 Section 4 is intended to clarify the requirements of the
17 "private offer" exemption. It also adds that the exemption
18 does not apply if the issuer offers to sell or sells the se-
19 curities by general solicitation or advertising. The section
20 eliminates the requirement that a sale under this exemption
21 must be reported to the administrator within thirty days.

22 Section 5 permits the administrator to create a limited
23 offering transactional exemption. It also provides that an
24 offering of securities is exempt from registration if it is
25 registered with the securities and exchange commission.

26 Section 6 expands the exemption to allow a distribution
27 of offering memoranda to potential investors prior to final
28 review by the administrator.

29 Section 7 eliminates the power to reject the registration
30 of an issuance when the issuance might be unfair to the
31 purchaser. The administrator retains the power in cases of
32 fraud.

33 Section 8 eliminates the power to reject an issuance because
34 of the financial condition of the issuer.

35 Section 9 changes the expiration date of the annual regis-

1 tration of a broker-dealer or agent from September 30 to De-
2 cember 31.

3 Section 10 allows the administrator to designate an
4 organization other than the administrator to which applicants
5 for broker-dealer or agents may apply for a license.

6 Section 11 allows the administrator in examining a broker-
7 dealer or agent to make copies of all records the administrator
8 feels are necessary to conduct the examination.

9 Section 12 allows the administrator to impose a civil
10 penalty on a broker-dealer or agent for violating certain
11 rules or chapter 502.

12 Section 13 limits the amount of civil penalties that may
13 be imposed on a person per violation and per proceeding.

14 Section 14 provides that information obtained by the admin-
15 istrator as a result of investigations and subpoenas is confi-
16 dential. However, the information may be given to other se-
17 curities administrators or governmental agencies. In the
18 event of a violation of chapter 502 or a rule or order, the
19 information of the violation may be published.

20 Section 15 provides that the filing date of documents is
21 the date on which the documents are received by the
22 administrator. However, for some documents, the date of
23 filing would be the date a document was mailed with the United
24 States postal service by certified or registered mail and
25 addressed to the administrator's office in Des Moines.

26 Section 16 provides for a one-time adjustment of fees for
27 registration of broker-dealer or agent fees to account for
28 the change of the expiration dates for the registrations as
29 provided in section 9.

30 This bill becomes effective July 1 following enactment.

31
32
33
34
35

HOUSE FILE 514
FISCAL NOTE

REQUESTED BY REPRESENTATIVE CHIODO

In compliance with a written request received March 17, 1983, there is hereby submitted a Fiscal Note for House File 514 pursuant to Joint Rule 17. Background information used in developing this Fiscal Note is available from the Legislative Fiscal Bureau, to members of the Legislature upon request.

House File 514 makes several amendments to the Iowa Uniform Securities Act. The most significant of these include:

The commissioner of insurance is permitted to create a limited offering transactional exemption from the requirement of registration, and securities registered with the securities and exchange commission are exempt from registration in Iowa. The power of the commissioner to reject the registration of an issuance because it is unfair to the purchaser, or because of the financial condition of the issuer, is eliminated. The power to reject registration in cases of fraud is maintained.

The definition of "broker-dealer" is changed to include a person who does not have an office in Iowa if the person effects security transactions in the state with more than three persons. The commissioner of insurance is allowed to grant or deny "institutional buyer" status to any person based upon factors of financial sophistication, net worth, and the amount of assets under investment. The requirements of "private offer" exemption are clarified and narrowed to exclude securities where issuers offers to sell or sells by general solicitation or advertising.

If merit review is repealed, it is estimated that the number of filings will increase between twenty and thirty-three percent. This will result in the following additional revenues to the general fund:

| | FY 1984 | FY 1985 |
|--|------------|------------|
| If filings increase 20% (conservative estimate) | \$ 210,100 | \$ 231,100 |
| If filings increase 33% | \$ 346,665 | \$ 381,315 |

In addition, there will be revenue from reimbursement for field examinations of approximately \$70,000 each year. If the examination section is fully staffed, fine receipts of \$25,000 to \$50,000 per year are expected.

The bill requires no additional expenditures. However, the securities administrator believes that to accomplish the purpose of the securities regulation statutes without merit review, the securities division would have to restructure. Based upon the experience of the other states which stress disclosure, examination and enforcement (as opposed to merit review of product) it is estimated that six additional professional positions and two supporting clerical positions will be needed. This includes three fewer examiners to review filings for full disclosure, six additional examiners to conduct field audits and exams of broker dealers and agents, and three

MARCH 22, 1983
PAGE THREE

FISCAL NOTE, HOUSE FILE 514
Page Two

additional enforcement staff to pursue cases of fraud. The salary cost of these eight additional positions is \$154,280 each year (\$21,900 x 6 professional staff, \$11,440 x 2 secretarial staff).

In summary, this bill is estimated to result in additional revenues of approximately \$454,165 in fiscal 1984 and \$488,815 in fiscal 1985. No additional expenditure is required, however, accomplishing the purposes of the statute through alternative methods of review would require an additional annual expenditure of \$154,280.
(1338H, 83-410, JMN)

Source: Securities Division, Insurance Department
FILED MARCH 21, 1983

BY DENNIS PROUTY, FISCAL DIRECTOR

H-3528

1 Amend House File 514 as follows:

2 1. Page 1, by inserting before line 1 the
3 following:

4 "Sec. _____. Section 19A.3, Code 1983, is amended
5 by adding the following new subsection:
6 NEW SUBSECTION. 22. The deputy administrator
7 in charge of securities within the department of
8 insurance as designated pursuant to section 502.601."

9 2. Page 3, by inserting before line 34 the
10 following:

11 "Sec. _____. Section 502.209, Code 1983, is amended
12 by adding the following new subsection:

13 NEW SUBSECTION. 6. a. Subsection 1, paragraphs
14 e and h, shall not apply to the registration of an
15 issue offered by a person whose principal place of
16 business is in this state. However, the provisions
17 of subsection 1, paragraph e relating to fraud shall
18 apply to such persons.

19 b. The administrator may adopt rules to:

20 (1) Implement paragraph a and delineate the format
21 and process to be used.

22 (2) Provide procedural safeguards, if the
23 administrator finds these safeguards are necessary."

24 3. Page 6, by inserting after line 4 the following:

25 "Sec. _____. Section 502.601, subsection 1, Code
26 1983, is amended to read as follows:

27 1. ~~The provisions of this~~ This chapter shall be
28 administered by the commissioner of insurance of the
29 state of Iowa. The administrator shall appoint a
30 deputy administrator who shall be ~~subject to~~ exempt
31 from the merit system provided for in chapter 19A.
32 The deputy administrator shall be the principal
33 operations officer of the securities department and
34 shall be responsible to the administrator for the
35 routine administration of the chapter and the
36 management of the securities department. In the
37 absence of the administrator, whether because of
38 vacancy in the office, by reason of absence, physical
39 disability or other cause, the deputy administrator
40 shall be the acting administrator and shall, for the
41 time being, have and exercise the authority conferred
42 upon the administrator. The administrator may by
43 order from time to time delegate to the deputy
44 administrator any or all of the functions assigned
45 to the administrator in this chapter. The
46 administrator shall employ such officers, attorneys,
47 accountants, and other employees as shall be needed
48 for the administration of the chapter."

49 4. Page 6, by inserting after line 33 the
50 following:

H-3528

Page Two

- 1 "Sec. ____ Effective July 1, 1984, 510 Iowa
- 2 administrative code, chapter 50 is repealed. The
- 3 administrator shall adopt new rules pursuant to chapter
- 4 17A prior to the date of repeal."
- 5 5. Renumber as necessary.

BY CHIODO of Polk
SCHROEDER of Pottawattamie
BRANSTAD of Winnebago
BAXTER of Des Moines
HALVORSON of Clayton
SWARTZ of Marshall
CARPENTER of Polk
PARKER of Jasper
SKOW of Guthrie
GRONSTAL of Pottawattamie

H-3528 FILED APRIL 5, 1983

Adopted 4/6/83 (p. 1105)

H-3315

1 Amend House File 514 as follows:

2 1. By striking everything after the enacting
3 clause and inserting in lieu thereof the following:

4 "Section 1. Section 502.203, subsection 8, Code
5 1983, is amended to read as follows:

6 8. Any An offer or sale to a bank, savings
7 institution, trust company, insurance company,
8 investment company as defined in the Investment Company
9 Act of 1940, pension or profit sharing trust, or other
10 financial institution or institutional buyer, or to
11 a broker-dealer, whether the purchaser is acting for
12 itself or in a fiduciary capacity. However, the
13 administrator, by rule or order, may grant or deny
14 this exemption to a person or class of persons based
15 upon the factors of financial sophistication, net
16 worth, and the amount of assets under investment.

17 Sec. 2. Section 502.203, Code 1983, is amended
18 by adding the following new subsection:

19 NEW SUBSECTION. 16. The administrator may create
20 by rule a limited offering transactional exemption
21 which furthers the objectives of compatibility with
22 federal exemptions and uniformity among the states."

BY SCHROEDER of Pottawattamie
HANSON of Delaware
HOFFMANN-BRIGHT of Muscatine
RENKEN of Grundy
DIEMER of Black Hawk
MAULSBY of Calhoun
SCHNEKLOTH of Scott
STROMER of Hancock
VAN CAMP of Scott
ANDERSON of Audubon
GRANDIA of Marion
TORRENCE of Muscatine
McINTEE of Black Hawk

H-3315 FILED MARCH 18, 1983

Law. 3/22/83 (p. 858)

HOUSE FILE 514

H-3313

- 1 Amend House File 514 as follows:
- 2 1. Page 2, line 24, by striking the word
- 3 "subsections" and inserting in lieu thereof the word
- 4 "subsection".
- 5 2. Page 2, by striking lines 29 through 35.
- 6 3. Page 3, by striking lines 1 through 18.
- 7 4. Page 3, by striking lines 27 through 33.
- 8 5. Renumber as necessary.

BY SCHROEDER of Pottawattamie
 HANSON of Delaware
 HOFFMANN-BRIGHT of Muscatine
 RENKEN of Grundy
 MAULSBY of Calhoun
 VAN CAMP of Scott
 ANDERSON of Audubon
 GRANDIA of Marion
 TORRENCE of Muscatine
 McINTEE of Black Hawk

H-3313 FILED MARCH 18, 1983
Adopted 3/22/83 (p. 859)

HOUSE FILE 514

H-3314

- 1 Amend House File 514 as follows:
- 2 1. Page 6, by inserting after line 4 the following:
- 3 "Sec. ____ Section 502.404, Code 1983, is amended
- 4 to read as follows:
- 5 502.404 PROHIBITED TRANSACTIONS OF BROKER-DEALERS
- 6 AND AGENTS. No A broker-dealer or agent shall not
- 7 effect any a transaction in, or induce or attempt
- 8 to induce the purchase or sale of, any security in
- 9 this state by means of any manipulative, deceptive
- 10 or other fraudulent scheme, device, or contrivance,
- 11 fictitious quotation, or in violation of this Act
- 12 or any rule or order hereunder. A broker-dealer or
- 13 agent shall not recommend to a customer the purchase,
- 14 sale or exchange of a security without reasonable
- 15 grounds to believe that the transaction or
- 16 recommendation is suitable for the customer based
- 17 upon reasonable inquiry concerning the customer's
- 18 investment objectives, financial situation and needs,
- 19 and other relevant information known by the broker-
- 20 dealer."
- 21 2. Renumber as necessary.

| | |
|-------------------------------|-----------------------------|
| BY HANSON of Delaware | and TORRENCE of Muscatine |
| STROMER of Hancock | VAN GERPEN of Black Hawk |
| DIEMER of Black Hawk | GRANDIA of Marion |
| HALVORSON of Clayton | VAN CAMP of Scott |
| HOFFMANN-BRIGHT of Muscatine | SCHROEDER of Pottawattamie |
| McINTEE of Black Hawk | VAN MAANEN of Mahaska |
| RENKEN of Grundy | KREWSON of Polk |
| SCHNEKLOTH of Scott | RENSINK of Sioux |
| CLARK of Cerro Gordo | BRANSTAD of Winnebago |
| ANDERSON of Audubon | MULLINS of Kossuth |
| MAULSBY of Calhoun | McKEAN of Jones |
| BENNETT of Ida | MENKE of O'Brien |
| PAULIN of Plymouth | DE GROOT of Lyon |
| HANDORF of Marshall | HERMANN of Scott |
| H-3314 FILED MARCH 18, 1983 | CARPENTER of Polk |

Adopted 3/22 (p. 861)

HOUSE FILE 514

H-3536

- 1 Amend House amendment H-3523 to House File 514
- 2 as follows:
- 3 1. Page 1, by striking lines 49 and 50.
- 4 2. Page 2, by striking lines 1 through 4.
- 5 3. Renumber as necessary.

BY HOLVECK of Polk
McKEAN of Jones
CHAPMAN of Linn
KREWSON of Polk
ROSENBERG of Story

H-3536 FILED APRIL 6, 1983
LOST (p. 1104)

HOUSE FILE 514

H-3534

- 1 Amend House amendment H-3528, to House File 514
- 2 as follows:
- 3 1. Page 1, by striking lines 9 through 23.
- 4 2. Renumber as necessary.

BY HOLVECK of Polk
McKEAN of Jones
CHAPMAN of Linn
KREWSON of Polk
ROSENBERG of Story

H-3534 FILED APRIL 6, 1983
LOST (p. 1102)

HOUSE FILE 514

H-3537

- 1 Amend House amendment H-3528 to House File 514
- 2 as follows:
- 3 1. Page 1, by striking lines 2 through 8.
- 4 2. Page 1, by striking lines 24 through 48.
- 5 3. Renumber as necessary.

BY HOLVECK of Polk
McKEAN of Jones
CHAPMAN of Linn
KREWSON of Polk
ROSENBERG of Story

H-3537 FILED APRIL 6, 1983
LOST (p. 1104)

APRIL 7, 1983
PAGE SEVEN

HOUSE FILE 514

H-3533

1 Amend House amendment H-3528, to House File 514
2 as follows:
3 1. By striking page 1, line 2 through page 2,
4 line 4 and inserting in lieu thereof the following:
5 "____. Page 6, by inserting after line 33 the
6 following:
7 "Sec. _____. The legislative council shall establish
8 a study committee consisting of members of the house
9 committee on small business and commerce and the
10 senate committee on small business and economic
11 development and both political parties for the purpose
12 of studying the securities division of the department
13 of insurance to determine whether the current merit
14 review system of proposed registration of securities
15 shall be modified or eliminated. The study committee
16 shall make a report to the legislative council and
17 the General assembly meeting in the year 1984
18 containing its findings and recommendations. The
19 report shall be accompanied by bill drafts designed
20 to carry out the recommendations of the study
21 committee.""

BY HOLVECK of Polk
McKEAN of Jones
CHAPMAN of Linn
KREWSON of Polk
ROSENBERG of Story

H-3533 FILED APRIL 6, 1983
LOST (p. 1101)

HOUSE FILE 514

H-3535

1 Amend House amendment H-3528, to House File 514
2 as follows:
3 1. Page 1, line 12, by striking the word
4 "subsection" and inserting in lieu thereof the word
5 "subsections".
6 2. Page 1, by inserting after line 23 the
7 following:
8 "NEW SUBSECTION. 7. If it is ultimately determined
9 that subsection 6, exempting from merit review an
10 issue by a person located and chartered or organized
11 in this state is invalid, then all issuers whether
12 located, chartered, or organized in this state or
13 outside of this state shall be subject to merit
14 review."

BY HOLVECK of Polk
McKEAN of Jones
CHAPMAN of Linn
KREWSON of Polk
ROSENBERG of Story

H-3535 FILED APRIL 6, 1983
LOST (p. 1103)

In Finance 4/26/83 Do Pass 4/26 (p. 1241)

HOUSE FILE 514

BY COMMITTEE ON SMALL
BUSINESS AND COMMERCE

(As Amended and Passed by the House)

Passed House, Date 4-27-83 (p. 1630) Passed Senate, Date 4-20-83 (p. 1242)

Vote: Ayes 96 Nays 2 Vote: Ayes 42 Nays 5

Approved June 2, 1983

Motion to reconsider (p. 1630) prevailed 51-9 *Passed Senate for House amendment*
5-11-83 (p. 1656)

Passed House 5-9-83 (p. 1964)
92-3

32-14

A BILL FOR

1 An Act amending the Iowa uniform securities Act, and providing
2 a civil penalty.

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

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

House Amendments _____

Deleted Language *

327 1 Section 1. Section 19A.3, Code 1983, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 22. The deputy administrator in charge
4 of securities within the department of insurance as designated
5 pursuant to section 502.601.

6 Sec. 2. Section 502.102, subsection 4, paragraph d,
7 subparagraph (2), Code 1983, is amended to read as follows:

8 (2) During any period of twelve consecutive months does
9 not ~~direct more than fifteen offers to sell or buy into~~ effect
10 transactions in this state in any manner to with more than
11 three persons other than those specified in subparagraph (1)
12 of this paragraph, whether or not the offeror or any of the
13 offerees is then present in this state;

14 Sec. 3. Section 502.202, subsection 11, Code 1983, is
15 amended to read as follows:

16 11. Any A security issued in connection with an employee
17 stock purchase, option, savings, pension, profit sharing or
18 similar benefit plan, provided, in the case of plans which
19 are not qualified under section 401 of the Internal Revenue
20 Code of 1954 and which provide for contribution by employees,
21 the administrator is notified in writing ~~thirty~~ fifteen days
22 before the inception of the plan of the terms of the plan.

23 Sec. 4. Section 502.203, subsection 8, Code 1983, is
24 amended to read as follows:

25 8. Any An offer or sale to a bank, savings institution,
26 trust company, insurance company, investment company as de-
27 fined in the Investment Company Act of 1940, pension or profit
28 sharing trust, or other financial institution or institutional
29 buyer, or to a broker-dealer, whether the purchaser is acting
30 for itself or in a fiduciary capacity. However, the adminis-
31 trator, by rule or order, may grant or deny this exemption
32 to a person or class of persons based upon the factors of
33 financial sophistication, net worth, and the amount of assets
34 under investment.

35 Sec. 5. Section 502.203, subsection 9, Code 1983, is

1 amended by striking the subsection and inserting in lieu
2 thereof the following:

3 9. The sale, as part of a single issue, of securities
4 by the issuer of the securities if all of the following con-
5 ditions are satisfied:

6 a. Within any period of twelve consecutive months, sales
7 are made to less than thirty-six purchasers in this state,
8 exclusive of purchases by bona fide institutional investors
9 for their own account for investment.

10 b. Unless permitted by the administrator by rule, or by
11 order issued upon written application showing good cause for
12 the allowance of the sale, the issue is not an issue of:

13 (1) Fractional undivided interests in oil, gas, or other
14 mineral leases, rights, or royalties.

15 (2) Interests in a partnership organized under the laws
16 of or having its principal place of business in a foreign
17 jurisdiction.

18 c. The issuer reasonably believes that all the buyers
19 in this state are purchasing for investment.

20 d. Commission or other remuneration is not paid or given,
21 directly or indirectly, for the sale, except as may be
22 permitted by the administrator by rule, or by order issued
23 upon written application showing good cause for allowance
24 of commission or other remuneration.

25 e. The issuer or a person acting on behalf of the issuer
26 does not offer or sell the securities by any form of general
27 solicitation or advertising.

28 Sec. 6. Section 502.203, Code 1983, is amended by adding
29 the following new subsection:

30 NEW SUBSECTION. 16. The administrator may create by rule
31 a limited offering transactional exemption which furthers
32 the objectives of compatibility with federal exemptions and
33 uniformity among the states.

5052
3567

*34 Sec. 7. Section 502.203, subsection 12, Code 1983, is
35 amended to read as follows:

1 12. Any An offer, but not a sale, of a security for which
2 a registration statement has been filed under this chapter
3 or a written notice has been filed pursuant to section 502.202,
4 subsection 1, 9, or 11 if no stop order or suspension or
5 denial order is in effect and no proceeding is pending under
6 this chapter.

* 7 Sec. 8. Section 502.209, Code 1983, is amended by adding
8 the following new subsection:

9 NEW SUBSECTION. 6. a. Subsection 1, paragraphs e and
10 h, shall not apply to the registration of an issue offered
11 by a person whose principal place of business is in this
12 state. However, the provisions of subsection 1, paragraph
13 e relating to fraud shall apply to such persons.

14 b. The administrator may adopt rules to:

15 (1) Implement paragraph a and delineate the format and
16 process to be used.

17 (2) Provide procedural safeguards, if the administrator
18 finds these safeguards are necessary.

19 Sec. 9. Section 502.301, subsection 3, Code 1983, is
20 amended to read as follows:

21 3. Every registration shall expire on the last day of
22 September ~~December~~ in each year.

23 Sec. 10. Section 502.302, subsection 1, Code 1983, is
24 amended to read as follows:

25 1. A broker-dealer or agent may obtain an initial or
26 renewal license by filing with the administrator, or an
27 organization which the administrator by rule designates, an
28 application together with a consent to service of process
29 pursuant to section 502.609 and the appropriate filing fee.
30 The application shall contain whatever the information the
31 administrator ~~by-rule~~ requires by rule concerning the
32 applicant's form and place of organization, proposed method
33 of doing business and financial condition, the qualifications
34 and experience of the applicant, including, in the case of
35 a broker-dealer, the qualifications and experience of any

1 partner, officer, director or controlling person, any
2 injunction or administrative order or conviction of a
3 misdemeanor involving securities and any conviction of a
4 felony, and any other matters which the administrator
5 determines are relevant to the application. If no denial
6 order is in effect and no proceeding is pending under section
7 502.304, registration becomes effective at noon of the
8 thirtieth day after an application is filed. The administrator
9 may by rule or order specify an earlier effective date and
10 may by order defer the effective date until noon of the
11 thirtieth day after the filing of any an amendment.

12 Registration of a broker-dealer automatically constitutes
13 registration of any an agent named in the application or
14 amendments thereto to the application who is a partner, officer
15 or director, or who is a person occupying a similar status
16 or performing similar functions.

17 Sec. 11. Section 502.303, subsection 4, Code 1983, is
18 amended to read as follows:

19 4. The administrator shall make periodic examinations,
20 within or without this state, of the business and records
21 of each registered broker-dealer, at such the times and in
22 such the scope as the administrator determines. The
23 examinations may be made without prior notice to the broker-
24 dealer. The administrator may copy all records the
25 administrator feels are necessary to conduct the examination.
26 The expense reasonably attributable to any-such an examination
27 shall be paid by the broker-dealer whose business is examined,
28 but the expense so payable shall not exceed an amount which
29 the administrator by rule prescribes. For the purpose of
30 avoiding unnecessary duplication of examinations, the
31 administrator may co-operate with securities administrators
32 of other states, the securities and exchange commission, and
33 any national securities exchange or national securities
34 association registered under the Securities Exchange Act of
35 1934. The administrator shall not make public the information

1 obtained in the course of examinations, except when any a
2 duty under this chapter requires the administrator to take
3 action regarding any a broker-dealer or to make the information
4 available to one of the agencies specified herein in this
5 section, or except when the administrator is called as a
6 witness in any a criminal or civil proceeding.

7 Sec. 12. Section 502.304, subsection 1, unnumbered para-
8 graph 1, Code 1983, is amended to read as follows:

9 The administrator may by order deny, suspend or revoke
10 any a registration or may censure any an applicant or
11 registrant or may impose a civil penalty, if the order is
12 found to be in the public interest and it is found that the
13 applicant or registrant or, in the case of a broker-dealer,
14 any a partner, an officer, or a director, any a person
15 occupying a similar status or performing similar functions,
16 or any a person directly or indirectly controlling the broker-
17 dealer:

18 Sec. 13. Section 502.304, Code 1983, is amended by add-
19 ing the following new subsection:

20 NEW SUBSECTION. 7. A civil penalty levied under subsection
21 1 shall not exceed two hundred fifty dollars per violation
22 per person nor ten thousand dollars in a single proceeding
23 against any one person. All administrative fines received
24 shall be deposited in the state general fund.

25 Sec. 14. Section 502.404, Code 1983, is amended to read
26 as follows:

27 502.404 PROHIBITED TRANSACTIONS OF BROKER-DEALERS AND
28 AGENTS. No A broker-dealer or agent shall not effect any
29 a transaction in, or induce or attempt to induce the purchase
30 or sale of, any security in this state by means of any
31 manipulative, deceptive or other fraudulent scheme, device,
32 or contrivance, fictitious quotation, or in violation of this
33 Act or any rule or order hereunder. A broker-dealer or agent
34 shall not recommend to a customer the purchase, sale or
35 exchange of a security without reasonable grounds to believe

1 that the transaction or recommendation is suitable for the
 2 customer based upon reasonable inquiry concerning the
 3 customer's investment objectives, financial situation and
 4 needs, and other relevant information known by the broker-
 5 dealer.

6 Sec. 15. Section 502.601, subsection 1, Code 1983, is
 7 amended to read as follows:

8 1. ~~The provisions of this~~ This chapter shall be
 9 administered by the commissioner of insurance of the state
 10 of Iowa. The administrator shall appoint a deputy
 11 administrator who shall be ~~subject to~~ exempt from the merit
 12 system provided for in chapter 19A. The deputy administrator
 13 shall be the principal operations officer of the securities
 14 department and shall be responsible to the administrator for
 15 the routine administration of the chapter and the management
 16 of the securities department. In the absence of the
 17 administrator, whether because of vacancy in the office, by
 18 reason of absence, physical disability or other cause, the
 19 deputy administrator shall be the acting administrator and
 20 shall, for the time being, have and exercise the authority
 21 conferred upon the administrator. The administrator may by
 22 order from time to time delegate to the deputy administrator
 23 any or all of the functions assigned to the administrator
 24 in this chapter. The administrator shall employ such officers,
 25 attorneys, accountants, and other employees as shall be needed
 26 for the administration of the chapter.

27 Sec. 16. Section 502.603, subsection 1, paragraph c, Code
 28 1983, is amended to read as follows:

29 c. ~~Publish~~ Keep confidential the information obtained
 30 in the course of an investigation. However, if the adminis-
 31 trator determines that it is necessary or appropriate in the
 32 public interest or for the protection of investors, the ad-
 33 ministrators may share information with other securities ad-
 34 ministrators, regulatory authorities, or governmental agencies
 35 or may publish information concerning any a violation of this

1 chapter or any a rule or order hereunder under this chapter.

2 Sec. 17. Section 502.608, subsection 1, Code 1983, is
3 amended to read as follows:

4 1. A document is filed when it is received by the ad-
5 ministrator, except that documents required to be filed under
6 sections 502.202 and 502.203 shall be deemed to be filed with
7 the administrator:

8 a. On the date received by the administrator.

9 b. If it has not been received by the administrator prior
10 to the date by which the document must be filed, on the date
11 the document is mailed with the United States postal service
12 by registered or certified mail addressed to the
13 administrator's office in Des Moines, Iowa.

14 Sec. 18. An applicant for renewal registration as a broker-
15 dealer to be effective January 1, 1984, shall pay a filing
16 fee of two hundred fifty dollars. An applicant for renewal
17 registration as an agent to be effective January 1, 1984,
18 shall pay a filing fee of twenty-five dollars. Subsequent
19 to January 1, 1984, renewal fees are as provided in section
20 502.302, subsection 2.

21 Sec. 19. Effective July 1, 1984, 510 Iowa administrative
22 code, chapter 50 is repealed. The administrator shall adopt
23 new rules pursuant to chapter 17A prior to the date of repeal.

24
25
26
27
28
29
30
31
32
33
34
35

HOUSE FILE 514

S-3567

Amend House File 514, as amended, passed, and reprinted by the House, as follows:

1. Page 2, line 33, by inserting after the word "states." the following: "Any rules adopted which authorize a limited offering exemption shall establish:
 - a. Limitations on the amount of cheap and promotional shares allowable under any offering.
 - b. Limitations on the amount of stock options allowable under an offering.
 - c. Criteria for disclosure and review of issuers.
 - d. Criteria to determine and assure the suitability of investors. However, unless the rules specify alternative criteria, a person shall not be considered a suitable investor to purchase shares under a limited offering exemption to the extent that the purchase of shares exceeds the greater of:
 - (1) Fifteen thousand dollars.
 - (2) Twenty-five percent of the person's annual income for the last calendar year.
 - (3) Twenty-five percent of the person's net worth exclusive of equity in residence, automobiles, furnishings, jewelry, and personal effects."

S-3567 FILED
APRIL 14, 1983

BY CHARLES BRUNER

7/10 4/20/83 (p. 1341)

HOUSE FILE 514

S-3581

- 1 Amend Senate amendment S-3523 to House File 514
2 as amended, passed, and reprinted by the House, as
3 follows:
1. Page 1, by inserting after line 6 the following:
2. Page 7, by inserting after line 23 the following:
"Sec. _____. The legislative council shall establish a study committee consisting of members of the house committee on small business and commerce and the senate committee on small business and economic development and both political parties for the purpose of studying the securities division of the department of insurance to determine whether the current merit review system of proposed registration of securities shall be modified or eliminated. The study committee shall make a report to the legislative council and the general assembly meeting in the year 1984 containing its findings and recommendations. The report shall be accompanied by bill drafts designed to carry out the recommendations of the study committee."

2. Renumber as necessary.

S-3581 FILED
APRIL 18, 1983

BY TOM MANN, JR.

Out of order 4/20/83 (p. 1342)

HOUSE FILE 514

S-3523

- 1 Amend House File 514 as amended, passed and reprint-
2 ed by the House as follows:
3 1. Page 3, by striking lines 7 through 18.
4 2. Page 6, line 11, by striking the words "subject
5 to exempt from" and inserting in lieu thereof the words
6 "subject to".

S-3523 FILED
APRIL 12, 1983

BY TOM MANN, JR.
ROBERT M. CARR

Out of order 4/20/83 (p. 1341)

HOUSE FILE 514

S-3562

- 1 Amend House File 514 as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 1, line 31, by striking the words "or
4 deny".
5 2. Page 3, by striking lines 7 through 18 and
6 inserting in lieu thereof the following:
7 "Sec. ____ . Section 502.209, subsection 1, paragraph
8 e, Code 1983, is amended to read as follows:
9 e. The issuance or sale of the securities ~~is-or~~
10 ~~would-be-unfair-or-inequitable-to-purchasers-or~~ has
11 worked or tended to work a fraud upon purchasers or
12 would so operate;"
13 3. Page 7, by inserting after line 23 the follow-
14 ing:
15 "Sec. ____ . Section 502.209, subsection 1, paragraph
16 h, Code 1983, is repealed."
17 4. Renumber as necessary.

S-3562 FILED
APRIL 14, 1983

BY EMIL HUSAK
BILL HUTCHINS CALVIN HULTMAN
JOHN NYSTROM RAY TAYLOR

*A. Adopted B. Adopted 4/20/83 (p. 1339)
C. Adopted as amended by 3633 (p. 1241)*

HOUSE FILE 514

S-3626

- 1 Amend House File 514 as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 1, line 11, by striking the word "three"
4 and inserting in lieu thereof the word "five".
5 2. Page 3, by striking lines 7 through 18.
6 3. Page 6, line 11, by striking the words "subject
7 to exempt from" and inserting in lieu thereof the
8 words "subject to".
9 4. Page 7, by inserting after line 23 the
10 following:
11 "Sec. _____. The legislative council shall establish
12 a study committee consisting of members of the house
13 committee on small business and commerce and the
14 senate committee on small business and economic
15 development and both political parties for the purpose
16 of studying the securities division of the department
17 of insurance to determine whether the current merit
18 review system of proposed registration of securities
19 shall be modified or eliminated. The study committee
20 shall make a report to the legislative council and
21 the general assembly meeting in the year 1984
22 containing its findings and recommendations. The
23 report shall be accompanied by bill drafts designed
24 to carry out the recommendations of the study
25 committee."

S-3626 FILED
APRIL 19, 1983

BY TOM MANN, JR.

A. Holt, B. Lusk, C. Lusk, D. Lusk 4/20/83 (711336-57)

HOUSE FILE 514

S-3633

- 1 Amend the amendment, S-3562, to House File 514
2 as amended, passed and reprinted by the House as
3 follows:
4 1. Page 1, by striking lines 13 through 16 and
5 inserting in lieu thereof the following:
6 "3. Page 3, by inserting after line 6 the
7 following:
8 "Sec. _____. Section 502.209, subsection 1,
9 paragraph h, Code 1983, is amended to read as follows:
10 h. The financial condition of the issuer affects
11 or would affect the soundness of the securities, ~~or,~~
12 except that applications for registration of securities
13 by companies which are in the development stage shall
14 not be denied based solely upon the financial condition
15 of the company, unless the administrator determines
16 that the company is likely to fail within one year
17 from the effective date of the offering, assuming
18 successful completion of the offering. For purposes
19 of this rule, a "development stage company" is defined
20 as a company which has been in existence for five
21 years or less."

S-3633 FILED & ADOPTED BY ARTHUR A. SMALL, JR.
APRIL 20, 1983 (p. 1341)

HOUSE FILE 514

S-3627

1 Amend House File 514 as amended, passed and reprint-
2 ed by the House as follows:

- ~~A~~ 3 1. Page 1, by striking lines 1 through 5.
~~B~~ 4 2. Page 7, by striking lines 21 through 23.

S-3627 FILED
APRIL 20, 1983

BY TOM MANN, JR.

DIVISION A - WITHDRAWN (p. 1342)
DIVISION B - ADOPTED (p. 1342)

HOUSE FILE 514

S-3632

1 Amend House File 514, as amended, passed, and
2 reprinted by the House, as follows:

- 3 1. Page 2, line 33, by inserting after the
4 word "states" the words "and provides criteria
5 to determine and assure the suitability of
6 investors".

S-3632 FILED & ADOPTED
APRIL 20, 1983 (p. 1341)

BY CHARLES BRUNER

SENATE AMENDMENT TO HOUSE FILE 514

H-3843

1 Amend House File 514, as amended, passed and
2 reprinted by the House as follows:

3 1. Page 1, line 31, by striking the words "or
4 deny".

5 2. Page 2, line 33, by inserting after the word
6 "states" the words "and provides criteria to determine
7 and assure the suitability of investors".

8 3. Page 3, by inserting after line 6 the following:

9 "Sec. ____ . Section 502.209, subsection 1,
10 paragraph h, Code 1983, is amended to read as follows:

11 h. The financial condition of the issuer affects
12 or would affect the soundness of the securities, ~~or,~~
13 except that applications for registration of securities
14 by companies which are in the development stage shall
15 not be denied based solely upon the financial condition
16 of the company, unless the administrator determines
17 that the company is likely to fail within one year
18 from the effective date of the offering, assuming
19 successful completion of the offering. For purposes
20 of this rule, a "development stage company" is defined
21 as a company which has been in existence for five
22 years or less."

23 4. Page 3, by striking lines 7 through 18 and
24 inserting in lieu thereof the following:

25 "Sec. ____ . Section 502.209, subsection 1, paragraph
26 e, Code 1983, is amended to read as follows:

27 e. The issuance or sale of the securities ~~is-or~~
28 ~~would-be-unfair-or-inequitable-to-purchasers-or~~ has
29 worked or tended to work a fraud upon purchasers or
30 would so operate;"

31 5. Page 7, by striking lines 21 through 23.

32 6. Renumber as necessary.

H-3843 FILED APRIL 25, 1983

RECEIVED FROM THE SENATE

*House amended (3865A) & concurred
4/27/83 (p. 1629)*

*Motion to reconsider (p. 1631) prevailed 5/9
House further amended (4111B) & concurred
5/9 (p. 1963)*

HOUSE FILE 514

H-3865

1 Amend the Senate amendment H-3843, to House File
2 514 as amended, passed, and reprinted by the House,
3 as follows:

- A 4 1. Page 1, by striking lines 8 through 30.
5 2. Page 1, by inserting before line 31 the
6 following:
7 "____. Page 7, by inserting after line 20 the
8 following:
9 "Sec. _____. The legislative council shall establish
10 a study committee consisting of members of the house
11 committee on small business and commerce and the
12 senate committee on small business and economic
B 13 development and both political parties for the purpose
14 of studying the securities division of the department
15 of insurance to determine whether the current merit
16 review system of proposed registration of securities
17 shall be modified or eliminated. The study committee
18 shall make a report to the legislative council and
19 the general assembly meeting in the year 1984
20 containing its findings and recommendations. The
21 report shall be accompanied by bill drafts designed
22 to carry out the recommendations of the study
23 committee.
24 Sec. _____. Section 8 of this Act is repealed on
25 July 1, 1985."
26 3. Renumber as necessary.

BY HOLVECK of Polk
McKEAN of Jones
ROSENBERG of Story
KREWSON of Polk
CHAPMAN of Linn
CLARK of Cerro Gordo
HAMMOND of Story

H-3865 FILED APRIL 27, 1983

DIVISION A - ADOPTED (p. 1429)

DIVISION B - LOST

Motion to reconsider (p 1631) w/d 5/9

HOUSE FILE 514

H-4111

1 Amend the Senate amendment, H-3843, to House File
2 514, as amended, passed, and reprinted by the House,
3 as follows:

A 4 1. Page 1, by striking lines 8 through 30.

5 2. Page 1, by inserting before line 31 the

B 6 following:

7 "____. Page 7, by inserting after line 20 the

8 following:

9 "Sec. ____.

10 1. The legislative council shall establish a joint
11 interim subcommittee of the committees on commerce
12 of the senate and small business and commerce of the
13 house to serve as an advisory committee on securities
14 regulation.

15 2. The advisory committee on securities regulation
16 shall review and study the desirability of merit
17 review of securities and the structure, funding and
18 staffing of the securities division of the Iowa
19 department of insurance. The advisory committee shall
20 hold at least one public hearing to seek public input.

21 3. The advisory committee shall report its findings
22 and recommendations, including any proposed
23 legislation, to the legislative council and the general
24 assembly on or before January 15, 1984.

25 Sec. ____ Effective July 1, 1984, the new
26 subsection added to section 502.209 by this Act is
27 repealed and the following amendment to section
28 502.209, subsection 1, paragraphs e and h is enacted.

29 Sec. ____ Section 502.209, subsection 1, paragraphs
30 e and h, Code 1983, are amended to read as follows:

31 e. The issuance or sale of the securities ~~is or~~
32 ~~would be unfair or inequitable to purchasers or~~ has
33 worked or tended to work a fraud upon purchasers or
34 would so operate;

35 h. The financial condition of the issuer affects
36 or would affect the soundness of the securities; ~~or,~~
37 except that applications for registration of securities
38 by companies which are in the development stage shall
39 not be denied based solely upon the financial condition
40 of the company. For purposes of this rule, a
41 "development stage company" is defined as a company
42 which has been in existence for five years or less."

43 3. Renumber as necessary.

BY CHIODO of Polk

SCHROEDER of Pottawattamie

H-4111 FILED MAY 9, 1983

A- WITHDRAWN BY UNANIMOUS CONSENT (p. 1963)

B -ADOPTED (p. 1963)

HOUSE AMENDMENT TO SENATE AMENDMENT TO
HOUSE FILE 514

S-3885

Amend the Senate amendment, H-3843, to House File
2 514, as amended, passed, and reprinted by the House,
3 as follows:

4 1. Page 1, by striking lines 8 through 30.

5 2. Page 1, by inserting before line 31 the

6 following:

7 "____. Page 7, by inserting after line 20 the

8 following:

9 "Sec. ____.

10 1. The legislative council shall establish a joint
11 interim subcommittee of the committees on commerce
12 of the senate and small business and commerce of the
13 house to serve as an advisory committee on securities
14 regulation.

15 2. The advisory committee on securities regulation
16 shall review and study the desirability of merit
17 review of securities and the structure, funding and
18 staffing of the securities division of the Iowa
19 department of insurance. The advisory committee shall
20 hold at least one public hearing to seek public input.

21 3. The advisory committee shall report its findings
22 and recommendations, including any proposed
23 legislation, to the legislative council and the general
24 assembly on or before January 15, 1984.

25 Sec. ____ Effective July 1, 1984, the new
26 subsection added to section 502.209 by this Act is
27 repealed and the following amendment to section
28 502.209, subsection 1, paragraphs e and h is enacted.

29 Sec. ____ Section 502.209, subsection 1, paragraphs
30 e and h, Code 1983, are amended to read as follows:

31 e. ~~The issuance or sale of the securities is or~~
32 ~~would-be-unfair-or-inequitable-to-purchasers-or~~ has
33 worked or tended to work a fraud upon purchasers or
34 would so operate;

35 h. The financial condition of the issuer affects
36 or would affect the soundness of the securities; ~~or,~~
37 except that applications for registration of securities
38 by companies which are in the development stage shall
39 not be denied based solely upon the financial condition
40 of the company. For purposes of this rule, a
41 "development stage company" is defined as a company
42 which has been in existence for five years or less."

43 3. Renumber as necessary.

S-3885 FILED
MAY 10, 1983

RECEIVED FROM THE HOUSE

Senate concurred 5/11/83 (p. 1656)

HOUSE FILE 514

AN ACT

AMENDING THE IOWA UNIFORM SECURITIES ACT, AND PROVIDING A
CIVIL PENALTY.

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

Section 1. Section 19A.3, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 22. The deputy administrator in charge of securities within the department of insurance as designated pursuant to section 502.601.

Sec. 2. Section 502.102, subsection 4, paragraph d, subparagraph (2), Code 1983, is amended to read as follows:

(2) During any period of twelve consecutive months does not ~~direct more than fifteen offers to sell or buy into~~ effect transactions in this state in any manner to with more than three persons other than those specified in subparagraph (1) of this paragraph, whether or not the offeror or any of the offerees is then present in this state;

Sec. 3. Section 502.202, subsection 11, Code 1983, is amended to read as follows:

11. Any ~~any~~ security issued in connection with an employee stock purchase, option, savings, pension, profit sharing or similar benefit plan, provided, in the case of plans which are not qualified under section 401 of the Internal Revenue Code of 1954 and which provide for contribution by employees, the administrator is notified in writing thirty fifteen days before the inception of the plan of the terms of the plan.

Sec. 4. Section 502.203, subsection 8, Code 1983, is amended to read as follows:

8. Any ~~an~~ offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit

sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in a fiduciary capacity. However, the administrator, by rule or order, may grant this exemption to a person or class of persons based upon the factors of financial sophistication, net worth, and the amount of assets under investment.

Sec. 5. Section 502.203, subsection 9, Code 1983, is amended by striking the subsection and inserting in lieu thereof the following:

9. The sale, as part of a single issue, of securities by the issuer of the securities if all of the following conditions are satisfied:

a. Within any period of twelve consecutive months, sales are made to less than thirty-six purchasers in this state, exclusive of purchases by bona fide institutional investors for their own account for investment.

b. Unless permitted by the administrator by rule, or by order issued upon written application showing good cause for the allowance of the sale, the issue is not an issue of:

(1) Fractional undivided interests in oil, gas, or other mineral leases, rights, or royalties.

(2) Interests in a partnership organized under the laws of or having its principal place of business in a foreign jurisdiction.

c. The issuer reasonably believes that all the buyers in this state are purchasing for investment.

d. Commission or other remuneration is not paid or given, directly or indirectly, for the sale, except as may be permitted by the administrator by rule, or by order issued upon written application showing good cause for allowance of commission or other remuneration.

e. The issuer or a person acting on behalf of the issuer does not offer or sell the securities by any form of general solicitation or advertising.

Sec. 6. Section 502.203, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 16. The administrator may create by rule a limited offering transactional exemption which furthers the objectives of compatibility with federal exemptions and uniformity among the states and provides criteria to determine and assure the suitability of investors.

Sec. 7. Section 502.203, subsection 12, Code 1983, is amended to read as follows:

12. Any an offer, but not a sale, of a security for which a registration statement has been filed under this chapter or a written notice has been filed pursuant to section 502.202, subsection 1, 9, or 11 if no stop order or suspension or denial order is in effect and no proceeding is pending under this chapter.

Sec. 8. Section 502.209, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 6. a. Subsection 1, paragraphs e and h, shall not apply to the registration of an issue offered by a person whose principal place of business is in this state. However, the provisions of subsection 1, paragraph e relating to fraud shall apply to such persons.

b. The administrator may adopt rules to:

- (1) Implement paragraph a and delineate the format and process to be used.
- (2) Provide procedural safeguards, if the administrator finds these safeguards are necessary.

Sec. 9. Section 502.301, subsection 3, Code 1983, is amended to read as follows:

3. Every registration shall expire on the last day of September ~~December~~ in each year.

Sec. 10. Section 502.302, subsection 1, Code 1983, is amended to read as follows:

1. A broker-dealer or agent may obtain an initial or renewal license by filing with the administrator, or an organization which the administrator by rule designates, an application together with a consent to service of process pursuant to section 502.609 and the appropriate filing fee. The application shall contain ~~whatever~~ the information the

administrator ~~by-rule~~ requires by rule concerning the applicant's form and place of organization, proposed method of doing business and financial condition, the qualifications and experience of the applicant, including, in the case of a broker-dealer, the qualifications and experience of any partner, officer, director or controlling person, any injunction or administrative order or conviction of a misdemeanor involving securities and any conviction of a felony, and any other matters which the administrator determines are relevant to the application. If no denial order is in effect and no proceeding is pending under section 502.304, registration becomes effective at noon of the thirtieth day after an application is filed. The administrator may by rule or order specify an earlier effective date and may by order defer the effective date until noon of the thirtieth day after the filing of any an amendment. Registration of a broker-dealer automatically constitutes registration of any an agent named in the application or amendments ~~thereto~~ to the application who is a partner, officer or director, or who is a person occupying a similar status or performing similar functions.

Sec. 11. Section 502.303, subsection 4, Code 1983, is amended to read as follows:

4. The administrator shall make periodic examinations, within or without this state, of the business and records of each registered broker-dealer, at ~~such the~~ times and in ~~such the~~ scope as the administrator determines. The examinations may be made without prior notice to the broker-dealer. The administrator may copy all records the administrator feels are necessary to conduct the examination. The expense reasonably attributable to ~~any-such an~~ examination shall be paid by the broker-dealer whose business is examined, but the expense so payable shall not exceed an amount which the administrator by rule prescribes. For the purpose of avoiding unnecessary duplication of examinations, the administrator may co-operate with securities administrators of other states, the securities and exchange commission, and

any national securities exchange or national securities association registered under the Securities Exchange Act of 1934. The administrator shall not make public the information obtained in the course of examinations, except when any a duty under this chapter requires the administrator to take action regarding any a broker-dealer or to make the information available to one of the agencies specified herein in this section, or except when the administrator is called as a witness in any a criminal or civil proceeding.

Sec. 12. Section 502.304, subsection 1, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The administrator may by order deny, suspend or revoke any a registration or may censure any an applicant or registrant or may impose a civil penalty, if the order is found to be in the public interest and it is found that the applicant or registrant or, in the case of a broker-dealer, any a partner, an officer, or a director, any a person occupying a similar status or performing similar functions, or any a person directly or indirectly controlling the broker-dealer:

Sec. 13. Section 502.304, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 7. A civil penalty levied under subsection 1 shall not exceed two hundred fifty dollars per violation per person nor ten thousand dollars in a single proceeding against any one person. All administrative fines received shall be deposited in the state general fund.

Sec. 14. Section 502.404, Code 1983, is amended to read as follows:

502.404 PROHIBITED TRANSACTIONS OF BROKER-DEALERS AND AGENTS. No A broker-dealer or agent shall not effect any a transaction in, or induce or attempt to induce the purchase or sale of, any security in this state by means of any manipulative, deceptive or other fraudulent scheme, device, or contrivance, fictitious quotation, or in violation of this Act or any rule or order hereunder. A broker-dealer or agent shall not recommend to a customer the purchase, sale or

exchange of a security without reasonable grounds to believe that the transaction or recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and other relevant information known by the broker-dealer.

Sec. 15. Section 502.601, subsection 1, Code 1983, is amended to read as follows:

1. ~~The provisions of this~~ This chapter shall be administered by the commissioner of insurance of the state of Iowa. The administrator shall appoint a deputy administrator who shall be ~~subject to~~ exempt from the merit system provided for in chapter 19A. The deputy administrator shall be the principal operations officer of the securities department and shall be responsible to the administrator for the routine administration of the chapter and the management of the securities department. In the absence of the administrator, whether because of vacancy in the office, by reason of absence, physical disability or other cause, the deputy administrator shall be the acting administrator and shall, for the time being, have and exercise the authority conferred upon the administrator. The administrator may by order from time to time delegate to the deputy administrator any or all of the functions assigned to the administrator in this chapter. The administrator shall employ such officers, attorneys, accountants, and other employees as shall be needed for the administration of the chapter.

Sec. 16. Section 502.603, subsection 1, paragraph c, Code 1983, is amended to read as follows:

c. ~~Publish~~ Keep confidential the information obtained in the course of an investigation. However, if the administrator determines that it is necessary or appropriate in the public interest or for the protection of investors, the administrator may share information with other securities administrators, regulatory authorities, or governmental agencies or may publish information concerning any a violation of this chapter or any a rule or order hereunder under this chapter.

Sec. 17. Section 502.608, subsection 1, Code 1983, is amended to read as follows:

1. A document is filed when it is received by the administrator, except that documents required to be filed under sections 502.202 and 502.203 shall be deemed to be filed with the administrator:

a. On the date received by the administrator.

b. If it has not been received by the administrator prior to the date by which the document must be filed, on the date the document is mailed with the United States postal service by registered or certified mail addressed to the administrator's office in Des Moines, Iowa.

Sec. 18. An applicant for renewal registration as a broker-dealer to be effective January 1, 1984, shall pay a filing fee of two hundred fifty dollars. An applicant for renewal registration as an agent to be effective January 1, 1984, shall pay a filing fee of twenty-five dollars. Subsequent to January 1, 1984, renewal fees are as provided in section 502.302, subsection 2.

Sec. 19.

1. The legislative council shall establish a joint interim subcommittee of the committees on commerce of the senate and small business and commerce of the house to serve as an advisory committee on securities regulation.

2. The advisory committee on securities regulation shall review and study the desirability of merit review of securities and the structure, funding and staffing of the securities division of the Iowa department of insurance. The advisory committee shall hold at least one public hearing to seek public input.

3. The advisory committee shall report its findings and recommendations, including any proposed legislation, to the legislative council and the general assembly on or before January 15, 1984.

Sec. 20. Effective July 1, 1984, the new subsection added to section 502.209 by this Act is repealed and the following amendment to section 502.209, subsection 1, paragraphs e and h is enacted.

Sec. 21. Section 502.209, subsection 1, paragraphs e and h, Code 1983, are amended to read as follows:

e. The issuance or sale of the securities ~~is or would be unfair or inequitable to purchasers or~~ has worked or tended to work a fraud upon purchasers or would so operate;

h. The financial condition of the issuer affects or would affect the soundness of the securities, ~~or, except that~~ applications for registration of securities by companies which are in the development stage shall not be denied based solely upon the financial condition of the company. For purposes of this rule, a "development stage company" is defined as a company which has been in existence for five years or less.

DONALD D. AVENSON
Speaker of the House

ROBERT T. ANDERSON
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 514, Seventieth General Assembly.

Approved June 2, 1983

JOSEPH O'HERN
Chief Clerk of the House

TERRY E. BRANSTAD
Governor