

FEB 21 1988

Place On Calendar

S. 3/19/88 Commerce  
S. 3/22/88 Do Pass  
S. 3/24/88 motion R/c by Sturgeon  
S. 3/30/88 Motion R/c withdrawn

HOUSE FILE 2307  
BY COMMITTEE ON SMALL BUSINESS  
AND COMMERCE

(Formerly House Study Bill 692)

Passed House, Date 3/17/88 Passed Senate, Date 3-29-88  
Vote: Ayes 92 Nays 0 Vote: Ayes 47 Nays 0  
Approved April 26, 1988

**A BILL FOR**

1 An Act relating to the regulation of the state's insurance  
2 industry and the administration of the insurance division of  
3 the department of commerce.

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

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HF 2307

**SUB COMMITTEE ASSIGNMENTS**  
CHAIR: Sen. Sturgeon  
COMMITTEE: Commerce  
3/15/88

DIVISION I

1  
2 Section 101. Section 505.12, Code 1987, is amended to read  
3 as follows:

4 505.12 LIFE INSURANCE -- ANNUAL REPORT.

5 Before the first day of ~~August~~ September the commissioner  
6 of insurance shall make an annual report to the governor of  
7 the general conduct and condition of the life insurance  
8 companies doing business in the state, and include therein an  
9 aggregate of the estimated value of all outstanding policies  
10 in each of the companies; and in connection therewith prepare  
11 a separate abstract thereof as to each company, and of all the  
12 returns and statements made to the commissioner by them.

13 Sec. 102. section 505.13, subsection 1, Code Supplement  
14 1987, is amended to read as follows:

15 1. The commissioner shall annually cause the preparation  
16 and printing of a report to be delivered to the governor. The  
17 report shall contain information from the statements required  
18 of insurance companies, other than life insurance companies,  
19 organized or doing business in the state. The reports shall  
20 be delivered on or before the first day of ~~August~~ September  
21 each year.

22 Sec. 103. Section 508.13, Code 1987, is amended to read as  
23 follows:

24 508.13 ANNUAL CERTIFICATE OF AUTHORITY.

25 On receipt of the deposit provided in section 511.8,  
26 subsection 16, and the statement, and the statement and  
27 evidence of investment of foreign companies, all of which  
28 shall be renewed annually, by the first day of March, the  
29 commissioner of insurance shall issue a certificate setting  
30 forth the corporate name of the company, its home office, that  
31 it has fully complied with the laws of the state and is  
32 authorized to transact the business of life insurance for the  
33 ensuing year, which certificate shall expire on the first day  
34 of ~~May~~ June of the ensuing year, or sooner upon thirty days'  
35 notice given by the commissioner, of the next annual valuation

1 of its policies. Such certificate shall be renewed annually,  
2 upon the renewal of the deposit and statement by a domestic  
3 company, or of the statement and evidence of investment by a  
4 foreign company, and compliance with the conditions above  
5 required, and be subject to revocation as the original  
6 certificate.

7 Sec. 104. NEW SECTION. 509A.15 CERTIFICATION OF SELF-  
8 INSURANCE PLANS.

9 1. Within thirty days following the end of a self-  
10 insurance plan's fiscal year, the governing body shall file  
11 with the commissioner of insurance a certificate of  
12 compliance. The certificate of compliance shall be  
13 accompanied by a filing fee of one hundred dollars. The  
14 certificate shall be signed and dated by the appropriate  
15 public official representing the governing body, and shall  
16 certify the following:

17 a. That the plan meets the requirements of this chapter  
18 and the applicable provisions of the Iowa administrative code.

19 b. That an actuarial opinion has been attached to the  
20 certificate which attests to the adequacy of reserves, rates,  
21 and financial condition of the plan. The actuarial opinion  
22 shall be issued by a fellow of the society of actuaries.

23 c. That a written complaint procedure has been  
24 implemented. The certificate shall also list the number of  
25 complaints filed by participants under the written complaint  
26 procedure, and the percentage of participants filing written  
27 complaints, in the prior fiscal year.

28 d. That the governing body has contracted or otherwise  
29 arranged with a third party for plan administration.

30 2. The commissioner shall by rule require the maintenance  
31 of confidentiality of information held by the plan  
32 administrator.

33 3. The failure of the governing body to provide the  
34 certificate of compliance required by subsection 1, or the  
35 failure of the governing body or plan administrator to abide

1 by a requirement of the plan, this chapter, or applicable  
2 rule, is grounds for action against the plan, including cause  
3 for disapproval or discontinuance of the plan.

4 Sec. 105. Section 512.29, Code 1987, is amended to read as  
5 follows:

6 512.29 CERTIFICATE OF AUTHORITY -- FEES.

7 If the commissioner shall approve the articles and also the  
8 bylaws or rules, the commissioner shall issue to the society,  
9 order, or association a certificate of authority, authorizing  
10 it to transact business within this state for a period of one  
11 year from the first day of May June of the year of its issue,  
12 for which certificate and all proceedings in connection  
13 therewith, there shall be paid to the commissioner a fee of  
14 ~~twenty-five~~ one hundred dollars, and for each annual renewal  
15 thereof a like fee shall be paid.

16 Sec. 106. Section 512A.3, Code 1987, is amended to read as  
17 follows:

18 512A.3 INCORPORATION MANDATORY.

19 Before a benevolent association shall operate in this state  
20 it shall first incorporate in accordance with the laws of this  
21 state, and the articles of incorporation and bylaws shall be  
22 submitted to the commissioner. If the commissioner finds they  
23 conform to the requirements of the law and all rules and  
24 regulations promulgated under this chapter, the commissioner  
25 shall approve the articles of incorporation and file them with  
26 the secretary of state. Every benevolent association at the  
27 time of its incorporation shall submit its general plan of  
28 operation to the commissioner and if the commissioner finds it  
29 conforms to the requirements of the law and all reasonable  
30 rules and regulations promulgated under this chapter, the  
31 commissioner shall issue a license to expire on the first day  
32 of May June after issuance. ~~Said~~ The license shall be renewed  
33 from year to year upon application of the association, if the  
34 commissioner finds from examination that it has conformed to  
35 the requirements of all laws and regulations applicable

1 thereto.

2 Sec. 107. Section 515.42, Code 1987, is amended to read as  
3 follows:

4 515.42 TENURE OF CERTIFICATE -- RENEWAL -- EVIDENCE.

5 Such certificate of authority shall expire on the first day  
6 of May June next succeeding its issue, and shall be renewed  
7 annually so long as such company shall transact business in  
8 accordance with the requirements of law; a copy of which  
9 certificate, when certified to by the commissioner of  
10 insurance, shall be admissible in evidence for or against a  
11 company with the same effect as the original.

12 Sec. 108. Section 518.15, unnumbered paragraph 2, Code  
13 1987, is amended to read as follows:

14 Such associations shall pay the same expenses of any  
15 examination made or ordered to be made by the commissioner of  
16 insurance and the same fees for the annual reports and annual  
17 certificates of authority as are required to be paid by  
18 domestic companies organized and doing business under chapter  
19 515, which certificates shall expire May June 1 of the year  
20 following the date of issue.

21 Sec. 109. Section 519.9, Code 1987, is amended to read as  
22 follows:

23 519.9 FEES.

24 Such a mutual insurance corporation shall pay the same fees  
25 for admission into the state, for annual reports, and for  
26 annual certificates of authority as are required to be paid by  
27 domestic mutual companies organized and doing business under  
28 chapter 515; such certificate shall expire May June 1 of the  
29 year following the date of its issue.

30 Sec. 110. Section 520.12, Code 1987, is amended to read as  
31 follows:

32 520.12 CERTIFICATE OF AUTHORITY.

33 Upon compliance with the requirements of this chapter, the  
34 commissioner of insurance shall issue a certificate of  
35 authority or a license to the attorney, authorizing the

1 attorney to make such contracts of insurance, which license  
2 shall specify the kind or kinds of insurance and shall contain  
3 the name of the attorney, the location of the principal office  
4 and the name or designation under which such contracts of  
5 insurance are issued. ~~Such license shall be renewed annually~~  
6 ~~upon a showing that the standard of solvency required herein~~  
7 ~~has been maintained, and that all fees and taxes required have~~  
8 ~~been paid~~ The certificate of authority shall expire on the  
9 first day of June next succeeding its issue, and shall be  
10 renewed annually as long as the company transacts business in  
11 accordance with the requirements of law.

12 DIVISION II

13 Sec. 201. Section 87.4, unnumbered paragraph 2, Code 1987,  
14 is amended to read as follows:

15 A self-insurance association formed under this section and  
16 an association comprised of cities or counties, or both, which  
17 enters have entered into an agreement under chapter 28E for  
18 the purpose of establishing a self-insured group-plan program  
19 for the payment of workers' compensation and benefits are  
20 exempt from taxation under section 432.1.

21 Sec. 202. Section 87.4, Code 1987, is amended by adding  
22 the following new unnumbered paragraph:

23 NEW UNNUMBERED PARAGRAPH. A self-insured program for the  
24 payment of workers' compensation benefits established by an  
25 association comprised of cities and counties, or both, which  
26 have entered into an agreement under chapter 28E, is not  
27 insurance, and is not subject to regulation under chapters 505  
28 through 523C. Membership in such an association together with  
29 payment of premiums due relieves the member from obtaining  
30 insurance as required in section 87.1. Such an association is  
31 not required to submit its plan or program to the commissioner  
32 of insurance for review and approval prior to its  
33 implementation and is not subject to rules or rates adopted by  
34 the commissioner relating to workers' compensation group self-  
35 insurance programs. Such a program is deemed to be in

1 compliance with this chapter.

2 Sec. 203. Section 508C.11, subsection 1, paragraph c, Code  
3 Supplement 1987, is amended to read as follows:

4 c. In a liquidation or rehabilitation proceeding involving  
5 a domestic insurer, be appointed as the liquidator or  
6 rehabilitator. ~~If a foreign or alien member insurer is~~  
7 ~~subject to a liquidation proceeding in its domiciliary~~  
8 ~~jurisdiction or state of entry, the commissioner shall be~~  
9 ~~appointed conservator.~~

10 Sec. 204. Section 508C.12, subsection 1, paragraph b, Code  
11 Supplement 1987, is amended to read as follows:

12 b. Report to the board of directors when the commissioner  
13 has taken any of the actions set forth in paragraph "a" or has  
14 received a report from any other commissioner indicating that  
15 ~~any such action has been taken in another state~~ a member  
16 insurer is impaired or insolvent. Reports to the board of di-  
17 rectors shall contain all significant details of the action  
18 taken or the report received from another commissioner.

19 Sec. 205. Section 511.8, subsection 10, paragraph a, Code  
20 Supplement 1987, is amended to read as follows:

21 a. Real estate in this state which is necessary for the  
22 accommodation of the company or association as a home office  
23 or in the transaction of its business. In the erection of  
24 buildings for such purposes, there may be added rooms for  
25 rent. Before the company or association invests any of its  
26 funds in accordance with this paragraph it shall first obtain  
27 the consent of the ~~executive council of this state~~  
28 commissioner. The maximum amount which a company or  
29 association shall be permitted to invest in accordance with  
30 these provisions shall not exceed ten percent of the legal  
31 reserve. However, a stock company may invest such portion of  
32 its paid-up capital, in addition to ten percent of the legal  
33 reserve, as is not held to constitute a part of its legal  
34 reserve, under section 508.36, and the total legal reserve of  
35 the company shall be equal to or exceed the amount of its

1 paid-up capital stock.

2 Sec. 206. Section 511.24, subsection 6, Code 1987, is  
3 amended by striking the subsection.

4 Sec. 207.

5 1. Chapter 510, Code 1987, is repealed.

6 2. Sections 507.5 and 515.43, Code 1987, are repealed.

7 DIVISION III

8 Sec. 301. Section 507.1, Code 1987, is amended to read as  
9 follows:

10 507.1 "COMPANY" DEFINED.

11 ~~The word "company" as~~ As used in this chapter, ~~shall mean~~  
12 "company" means all companies or associations organized under  
13 the provisions of chapters 508, 511, 512, 512A, 514, 514B,  
14 515, 515C, 518A, associations subject to the provisions of  
15 chapters 518 and 520, and all companies or associations  
16 admitted or seeking to be admitted to this state under the  
17 provisions of any of the chapters herein referred to.

18 Sec. 302. Section 507.8, Code 1987, is amended to read as  
19 follows:

20 507.8 PAYMENT BY COMPANY.

21 The commissioner shall upon the completion of an  
22 examination, or at such regular intervals prior to completion  
23 as the commissioner determines, prepare an account of the  
24 costs incurred in performing and preparing the report of such  
25 examinations which shall be charged to and paid by the  
26 companies examined, and upon failure or refusal of any company  
27 examined to pay such bill or bills, the same may be recovered  
28 in an action brought in the name of the state ~~under the~~  
29 ~~direction of the executive council,~~ and the commissioner may  
30 also revoke the certificate of authority of such company to  
31 transact business within this state.

32 Sec. 303. Section 511.24, subsection 5, Code 1987, is  
33 amended to read as follows:

34 5. ~~For every copy of any paper filed, fifty cents per~~  
35 ~~folio, and for certifying and~~ affixing the official seal to



1 any paper filed with the division, five ten dollars.

2 Sec. 304. Section 515.128, subsection 5, Code 1987, is  
3 amended to read as follows:

4 5. ~~For every copy of any paper filed, fifty cents per~~  
5 ~~folio, and for certifying and~~ affixing the official seal to  
6 any paper filed with the division, five ten dollars.

7 Sec. 305. Section 520.19, Code 1987, is amended to read as  
8 follows:

9 520.19 ANNUAL TAX -- FEES.

10 In lieu of all other taxes, licenses, charges, and fees  
11 whatsoever, such attorney shall pay annually ~~to the director~~  
12 ~~of the department of revenue and finance, or a depository~~  
13 ~~designated by the director of the department of revenue and~~  
14 ~~finance, on account of the transaction of such business in~~  
15 ~~this state, pay to the commissioner~~ the same fees as are paid  
16 by mutual companies transacting the same kind of business, and  
17 an annual tax of two percent, if a domestic reciprocal  
18 organization, and two percent, if a foreign reciprocal  
19 organization, calculated upon the gross premiums or deposits  
20 collected from subscribers in this state during the preceding  
21 calendar year, after deducting therefrom returns, or  
22 cancellations, and all amounts returned to subscribers or  
23 credited to their accounts as savings, and the amount returned  
24 upon canceled policies and rejected applications covering  
25 property situated or on business done within this state.

26 DIVISION IV

27 Sec. 401. Section 515.11, Code 1987, is amended to read as  
28 follows:

29 515.11 PROHIBITED LOANS.

30 No part of the capital referred to shall be directly or  
31 indirectly loaned to any officer, or director, stockholder, or  
32 employee of the company or to a relative of any officer or  
33 director of the company.

34 Sec. 402. Section 515.35, subsection 4, paragraph n,  
35 subparagraph (1), Code 1987, is amended to read as follows:

1 (1) A company organized under this chapter may invest up  
2 to one two percent of its admitted assets in securities or  
3 property of any kind, without restrictions or limitations  
4 except those imposed on business corporations in general.

5 Sec. 403. Section 515.49, Code 1987, is amended by  
6 striking the section and inserting in lieu thereof the  
7 following:

8 515.49 LIMITATION ON RISKS.

9 A company shall not expose itself to loss on any one risk  
10 or hazard to an amount exceeding ten percent of its surplus to  
11 policyholders unless one of the following applies:

12 1. The excess is reinsured in some other good and reliable  
13 company licensed to sell insurance in this state.

14 2. The excess is reinsured by a group of individual  
15 unincorporated insurers who are authorized to sell insurance  
16 in at least one state of the United States and who possess  
17 assets which are held in trust for the benefit of the American  
18 policyholders in the sum of not less than fifty million  
19 dollars, and a certificate of such reinsurance shall be  
20 furnished to the insured.

21 3. The excess is reinsured with a company which has, with  
22 respect to the ceding insurer, created a trust fund, made a  
23 deposit, or obtained letters of credit, on terms satisfactory  
24 to the commissioner.

25 Sec. 404. Section 515.80, Code Supplement 1987, is amended  
26 by striking the section and inserting in lieu thereof the  
27 following:

28 515.80 FORFEITURE OF POLICIES -- NOTICE.

29 No policy or contract of insurance, unless otherwise  
30 provided in section 515.81A or 515.81B, provided for in this  
31 chapter shall be forfeited, suspended, or canceled for  
32 nonpayment of any premium, assessment, or installment provided  
33 for in the policy, or in any note or contract for the payment  
34 thereof, unless within thirty days prior to, or on or after  
35 the maturity thereof, the company serves notice in writing

1 upon the insured that the premium, assessment, or installment  
2 is due or to become due, stating the amount, and the amount  
3 necessary to pay the customary short rates, up to the time  
4 fixed in the notice when the insurance will be suspended,  
5 forfeited, or canceled, which shall not be less than thirty  
6 days after service of the notice, which may be made in person,  
7 or by sending by certified mail a letter addressed to the  
8 insured at the insured's post office as given in or upon the  
9 policy, anything in the policy, application, or a separate  
10 agreement to the contrary notwithstanding.

11 Sec. 405. Section 515.81, Code Supplement 1987, is amended  
12 by striking the section and inserting in lieu thereof the  
13 following:

14 515.81 CANCELLATION OF POLICY -- NOTICE TO INSURED OR  
15 MORTGAGEE.

16 Unless otherwise provided in section 515.81A or 515.81B, at  
17 any time after the maturity of a premium, assessment, or  
18 installment provided for in the policy, or any note or  
19 contract for the payment thereof, or after the suspension,  
20 forfeiture, or cancellation of any policy or contract of  
21 insurance, the insured may pay to the company the customary  
22 short rates and costs of action, if one has been commenced or  
23 judgment rendered thereon, and may, if the insured so elects,  
24 have the policy and all contracts or obligations connected  
25 therewith, whether in judgment or otherwise, canceled, and all  
26 such policy and contracts shall be void; and in case of  
27 suspension, forfeiture, or cancellation of any policy or  
28 contract of insurance, the insured shall not be liable for any  
29 greater amount than the short rates earned at the date of such  
30 suspension, forfeiture, or cancellation and the costs of  
31 action provided for in this section. The policy may be  
32 canceled by the insurance company by service of notice in  
33 writing upon the insured which notice shall fix the date of  
34 cancellation which shall be not less than ten days after  
35 service of the notice. The service of notice may be made in

1 person, or by mailing the notice to the insured at the  
2 insured's post office address as given in or upon the policy,  
3 or to another address given to the company in writing by the  
4 insured. A post office department receipt of certified or  
5 registered mailing shall be deemed proof of receipt of the  
6 notice. If the policy is canceled by the insurance company,  
7 the insurer may retain only the pro rata premium, and if the  
8 initial cash premium, or any part thereof, has not been paid,  
9 the policy may be canceled by the insurance company by giving  
10 notice to the insured and ten days' notice to the mortgagee,  
11 or other person to whom the policy is made payable, if any,  
12 without tendering any part or portion of the premium, anything  
13 to the contrary in the policy notwithstanding.

14 Sec. 406. NEW SECTION. 515.81A CANCELLATION OF  
15 COMMERCIAL LINES POLICIES OR CONTRACTS.

16 1. A commercial line policy or contract of insurance which  
17 has not been previously renewed may be canceled by the insurer  
18 if it has been in effect for less than sixty days at the time  
19 notice of cancellation is mailed or delivered.

20 2. A commercial line policy or contract of insurance which  
21 has been renewed or which has been in effect for more than  
22 sixty days shall not be canceled unless at least one of the  
23 following conditions occurs:

24 a. Nonpayment of premium.

25 b. Misrepresentation or fraud made by or with the  
26 knowledge of the insured in obtaining the policy or contract,  
27 when renewing the policy or contract, or in presenting a claim  
28 under the policy or contract.

29 c. Actions by the insured which substantially change or  
30 increase the risk insured.

31 d. Determination by the commissioner that the continuation  
32 of the policy will jeopardize the insurer's solvency or will  
33 constitute a violation of the law of this or any other state.

34 e. The insured has acted in a manner which the insured  
35 knew or should have known was in violation or breach of a

1 policy or contract term or condition.

2 3. A commercial line policy or contract of insurance may  
3 be canceled at any time if the insurer loses reinsurance  
4 coverage which provides coverage to the insurer for a  
5 significant portion of the underlying risk insured and if the  
6 commissioner determines that cancellation because of loss of  
7 reinsurance coverage is justified. In determining whether a  
8 cancellation because of loss of reinsurance coverage is  
9 justified, the commissioner shall consider all of the  
10 following factors:

11 a. The volatility of the premiums charged for reinsurance  
12 in the market.

13 b. The number of reinsurers in the market.

14 c. The variance in the premiums for reinsurance offered by  
15 the reinsurers in the market.

16 d. The attempt by the insurer to obtain alternate  
17 reinsurance.

18 e. Any other factors deemed necessary by the commissioner.

19 4. A commercial line policy or contract of insurance shall  
20 not be canceled except by notice to the insured as provided in  
21 this subsection. A notice of cancellation shall include the  
22 reason for cancellation of the policy or contract. A notice  
23 of cancellation is not effective unless mailed or delivered to  
24 the named insured and a loss payee at least ten days prior to  
25 the effective date of cancellation, or if the cancellation is  
26 because of loss of reinsurance, at least thirty days prior to  
27 the effective date of cancellation. A post office department  
28 certificate of mailing to the named insured at the address  
29 shown in the policy or contract is proof of receipt of the  
30 mailing; however, such a certificate of mailing is not  
31 required if cancellation is for nonpayment of premium.

32 Sec. 407. NEW SECTION. 515.81B NONRENEWAL OF COMMERCIAL  
33 LINES POLICIES OR CONTRACTS.

34 An insurer shall not fail to renew a commercial line policy  
35 or contract of insurance except by notice to the insured as

1 provided in this section. Nonrenewal of a commercial line  
2 policy or contract includes a decision by the insurer not to  
3 renew the policy or contract, an increase in the premium of  
4 twenty-five percent or more, an increase in the deductible of  
5 twenty-five percent or more, or a material reduction in the  
6 limits or coverage of the policy or contract. However, a  
7 premium charge which is assessed after the beginning date of  
8 the policy period for which the premium is due shall not be  
9 deemed a premium increase for the purpose of this section.

10 A notice of nonrenewal is not effective unless mailed or  
11 delivered by the insurer to the named insured and any loss  
12 payee at least forty-five days prior to the expiration date of  
13 the policy. If the insurer fails to meet the notice  
14 requirements of this section, the insured has the option of  
15 continuing the policy for the remainder of the notice period  
16 plus an additional thirty days at the premium rate of the  
17 existing policy or contract. A post office department  
18 certificate of mailing to the named insured at the address  
19 shown in the policy or contract is proof of receipt of the  
20 mailing.

21 This section applies to all forms of commercial property  
22 and casualty insurance written pursuant to this chapter. It  
23 does not apply if the insurer has offered to renew or if the  
24 insured fails to pay a premium due or any advance premium  
25 required by the insurer for renewal.

26 DIVISION V

27 Sec. 501. Section 506.2, Code 1987, is amended to read as  
28 follows:

29 506.2 SALE OF SECURITIES RESTRICTED.

30 Neither the securities in an a domestic insurance company,  
31 nor securities in a holding company, one of the purposes of  
32 which is to organize, purchase, or otherwise acquire control  
33 of an a domestic insurance company, nor membership in an  
34 association in process of organization shall be sold or  
35 solicited until such company or association, and the promoters

1 thereof, shall have first complied with all of the statutory  
2 provisions regulating the organization of such companies and  
3 associations, and also have secured from the commissioner of  
4 insurance a certificate indicating full compliance with the  
5 provisions of this chapter.

6 Sec. 502. Section 507C.20, Code Supplement 1987, is  
7 amended to read as follows:

8 507C.20 DISSOLUTION OR SALE OF INSURER.

9 The commissioner may petition for an order dissolving the  
10 corporate existence of a domestic insurer or the United States  
11 branch of an alien insurer domiciled in this state at the time  
12 the commissioner applies for a liquidation order. The court  
13 shall order dissolution of the corporation upon petition by  
14 the commissioner upon or after the granting of a liquidation  
15 order. If the dissolution has not previously been ordered, it  
16 shall be effected by operation of law upon the discharge of  
17 the liquidator if the insurer is insolvent. However,  
18 dissolution may be ordered by the court upon the discharge of  
19 the liquidator if the insurer is under a liquidation order for  
20 some other reason. Notwithstanding the above, upon  
21 application by the commissioner and following notice as  
22 prescribed by the court and a hearing, the court may sell the  
23 corporation as an entity, together with any of its licenses to  
24 do business, despite the entry of an order of liquidation.  
25 The sale may be made on terms and conditions the court deems  
26 appropriate ~~including, but not limited to, the placing of the~~  
27 ~~proceeds of the sale of the corporate entity and licenses into~~  
28 ~~a trust for the benefit of policyholders and creditors with~~  
29 ~~proceeds to be distributed in the manner set forth in section~~  
30 507C.42. However, the order approving the sale shall provide  
31 that the proceeds of the sale shall become part of the assets  
32 of the liquidation estate, to be distributed in the manner set  
33 forth in section 507C.42, and that the corporate entity and  
34 its licenses shall thereafter be free and clear from the  
35 claims or interests of all claimants, creditors,

1 policyholders, and stockholders of the corporation under  
2 liquidation.

3 Sec. 503. Section 508.12, Code 1987, is amended to read as  
4 follows:

5 508.12 FOREIGN-COMPANIES-MAY-BECOME-DOMESTIC  
6 REDOMESTICATION OF INSURERS.

7 Any-company An insurer which is organized under the laws of  
8 any other state or country, and which has been is admitted to  
9 do business in this state for the purpose of writing insurance  
10 authorized by this chapter, upon may become a domestic insurer  
11 by complying with section 491.33 and with all of the  
12 requirements of law relative to the organization and licensing  
13 of a domestic insurance-companies-and-to-the-execution,  
14 filing, recording and publishing of notice of incorporation  
15 and payment of corporation fees by like domestic corporations,  
16 insurer of the same type and by designating its principal  
17 place of business at a place in this state, and; upon payment  
18 to the commissioner of insurance of a transfer tax in a sum  
19 equal to twenty-five percent of the premium tax paid pursuant  
20 to the provisions of chapter 432 for the last calendar year  
21 immediately preceding its becoming a domestic corporation or  
22 the sum of ten thousand dollars, whichever is the lesser but  
23 not less than one thousand dollars; may become a domestic  
24 corporation and be entitled to like certificates of its  
25 corporate existence and license to transact business in this  
26 state, and be subject in all respects to the authority and  
27 jurisdiction thereof.

28 The certificates of authority, agent's appointments and  
29 licenses, rates, and other items which are in existence at the  
30 time any insurer transfers its corporate domicile to this  
31 state, pursuant to this section, shall continue in full force  
32 and effect upon such transfer. For purposes of existing  
33 authorizations and all other corporate purposes, the insurer  
34 is deemed the same entity as it was prior to the transfer of  
35 its domicile. All outstanding policies of any transferring



1 insurer shall remain in full force and effect and need not be  
2 endorsed as to any new name of the company or its new location  
3 unless so ordered by the commissioner of insurance.

4 Sec. 504. Section 515B.1, Code 1987, is amended to read as  
5 follows:

6 515B.1 SCOPE.

7 This chapter shall apply to all kinds of direct insurance  
8 authorized to be written by an insurer licensed to operate in  
9 this state under chapter 515 or chapter 520, except life,  
10 title, surety, fidelity, disability including accident and  
11 health, credit, mortgage guaranty, ocean marine insurance,  
12 financial guaranty or other forms of insurance offering  
13 protection against investment risk, automobile warranty  
14 coverage, or insurance written pursuant to 15 U.S.C. § 3901 et  
15 seq., or any transaction which, although denominated as  
16 insurance, does not result in the transfer of an insurance  
17 risk.

18 Sec. 505. Section 515B.2, subsection 3, paragraph b, Code  
19 1987, is amended by striking the paragraph and inserting in  
20 lieu thereof the following:

21 b. The claim is one by an insured for damage to property  
22 permanently located in this state.

23 Sec. 506. Section 515B.2, subsection 3, unnumbered  
24 paragraph 2, Code 1987, is amended by striking the paragraph  
25 and inserting in lieu thereof the following:

26 "Covered claim" does not include an amount due any  
27 reinsurer, insurer, insurance pool, underwriting association,  
28 or other group assuming insurance risks, as subrogation,  
29 contribution, or indemnity recoveries or otherwise; a portion  
30 of a claim that is within an insured's deductible or self-  
31 insured retention; a claim for unearned premium calculated on  
32 a retrospective basis, experience-rated plan, or premium  
33 subject to adjustment after termination of the policy; an  
34 amount due an attorney, adjuster, or witness as fees for  
35 services rendered to the insolvent insurer; a fine, penalty.

1 interest, or punitive or exemplary damages; or a claim under a  
2 policy issued by an insolvent insurer with a deductible or  
3 self-insured retention of two hundred thousand dollars or  
4 more. A claim under a liability policy shall be considered to  
5 be a covered claim if as of the deadline set for the filing of  
6 claims against the insolvent insurer or its liquidator, the  
7 insured is a debtor in a liquidation bankruptcy under 11  
8 U.S.C. § 701 et seq. This paragraph does not prevent a person  
9 from presenting a noncovered claim to the insolvent insurer or  
10 its liquidator, but the noncovered claim shall not be asserted  
11 against any other person, including the person to whom  
12 benefits were paid or the insured of the insolvent insurer,  
13 except to the extent that it is outside the coverage of the  
14 policy issued by the insolvent insurer.

15 Sec. 507. Section 515B.5, subsection 1, paragraph a, Code  
16 1987, is amended to read as follows:

17 a. Be obligated to the extent of the covered claims  
18 existing prior to the determination of insolvency and arising  
19 within thirty days after the determination of insolvency, or  
20 before the policy expiration date if less than thirty days  
21 after the determination, or before the insured replaces the  
22 policy or on request effects cancellation if the insured does  
23 so within thirty days of the determination. This obligation  
24 includes only the amount of a covered claim which is in excess  
25 of one hundred dollars and less than three hundred thousand  
26 dollars for all damages arising out of any one accident,  
27 occurrence, or incident regardless of the number of persons  
28 making claims. If the policy of the insolvent insurer  
29 contained an aggregate limit, the association shall not be  
30 obligated for more than three hundred thousand dollars on an  
31 aggregate basis. However, the association shall pay the full  
32 amount of a covered claim arising out of a workers'  
33 compensation policy. In addition, the association is not  
34 liable for an amount in excess of the ~~specified limits of a~~  
35 policy lesser of three hundred thousand dollars or the policy

1 limits, regardless of the theory under which or the type of  
2 damages for which the association is alleged to be liable.

3 Sec. 508. Section 515B.9, subsection 2, Code 1987, is  
4 amended to read as follows:

5 2. A person having a claim which may be recovered under  
6 more than one insurance guaranty association or its equivalent  
7 shall seek recovery first from the association of the place of  
8 residence of the insured. However, if the claim is a first  
9 party claim for damage to property with a permanent location,  
10 recovery shall be first sought from the association of the  
11 location of the property. If the claim is a workers'  
12 compensation claim, recovery shall be first sought from the  
13 association of the residence of the claimant. ~~A person shall~~  
14 ~~not recover any amount of the person's claim against the~~  
15 ~~insured in excess of the amount recovered or recoverable from~~  
16 ~~the association except to the extent the claim exceeds the~~  
17 ~~policy limits of the insolvent insurer.~~ Any sums recovered  
18 from any other guaranty association or equivalent organization  
19 shall be subtracted from the maximum liability of the  
20 association under section 515B.5, subsection 1, paragraph "a".

21 Sec. 509. NEW SECTION. 515B.18 PROHIBITED ADVERTISING.

22 A person shall not advertise or publish, in connection with  
23 the sale of an insurance policy, that claims under the  
24 insurance policy are subject to this chapter or will be paid  
25 by the Iowa insurance guaranty association.

26 Sec. 510. Section 518A.1, subsection 1, paragraph d, Code  
27 1987, is amended to read as follows:

28 d. Any automobile or aircraft or other vehicle, including  
29 loss, expense, or liability resulting from the ownership,  
30 maintenance, or use thereof, but shall not include ~~by county~~  
31 ~~mutuals~~, insurance against bodily injury to the person.

32 DIVISION VI

33 Sec. 601. Section 515D.5, unnumbered paragraph 1, Code  
34 1987, is amended to read as follows:

35 Notwithstanding the provisions of ~~section 515-81-no~~

1 sections 515.80 through 515.81A, a notice of cancellation of a  
2 policy shall not be effective unless mailed or delivered by  
3 the insurer to the named insured at least twenty days prior to  
4 the effective date of cancellation, or, where the cancellation  
5 is for nonpayment of premium notwithstanding the provisions of  
6 section sections 515.80 and 515.81A at least ten days prior to  
7 the date of cancellation. A post-office department  
8 certificate of mailing to the named insured at the address  
9 shown in the policy shall be proof of receipt of such mailing.  
10 Unless the reason accompanies the notice of cancellation, the  
11 notice shall state that, upon written request of the named  
12 insured, mailed or delivered to the insurer not less than  
13 fifteen days prior to the date of cancellation, the insurer  
14 will state the reason for cancellation, together with  
15 notification of the right to a hearing before the commissioner  
16 within fifteen days as provided herein in this chapter.

17 Sec. 602. Section 515D.7, unnumbered paragraph 1, Code  
18 1987, is amended to read as follows:

19 ~~No~~ Notwithstanding the provisions of sections 515.80  
20 through 515.81B, an insurer shall not fail to renew a policy  
21 except by notice to the insured as provided in this chapter.  
22 A notice of intention not to renew shall not be effective  
23 unless mailed or delivered by the insurer to the named insured  
24 at least thirty days prior to the expiration date of the  
25 policy. A post-office department certificate of mailing to  
26 the named insured at the address shown in the policy shall be  
27 proof of receipt of such mailing. Unless the reason  
28 accompanies the notice of intent not to renew, the notice  
29 shall state that, upon written request of the named insured,  
30 mailed or delivered to the insurer not less than twenty days  
31 prior to the expiration date of the policy, the insurer will  
32 state the reason for nonrenewal.

33 Sec. 603. NEW SECTION. 508.39 DIVIDENDS.

34 The directors or managers of a stock company, incorporated  
35 under the laws of this state, shall make no dividends except

1 from the earned profits arising from their business, which  
2 shall not include contributed capital or contributed surplus.

3 Sec. 604. NEW SECTION. 514F.3 PREFERRED PROVIDERS.

4 The commissioner of insurance shall adopt rules for  
5 preferred provider contracts and organizations, both those  
6 that limit choice of specific provider and those that do not.  
7 The rules adopted shall include, but not be limited to, the  
8 following subjects: preferred provider arrangements and  
9 participation requirements, health benefit plans, and civil  
10 penalties.

11 DIVISION VII

12 Sec. 701. Section 294.16, Code 1987, is amended to read as  
13 follows:

14 294.16 ANNUITY CONTRACTS.

15 At the request of an employee through contractual agreement  
16 a school district may purchase group or individual annuity  
17 contracts for employees, from an insurance organization the  
18 employee chooses that is authorized to do business in this  
19 state and through an Iowa-licensed insurance agent or from a  
20 securities dealer or salesperson registered in this state that  
21 the employee selects, for retirement or other purposes, and  
22 may make payroll deductions in accordance with the  
23 arrangements for the purpose of paying the entire premium due  
24 and to become due under the contract. The deductions shall be  
25 made in the manner which will qualify the annuity premiums for  
26 the benefits under section 403(b) of the Internal Revenue Code  
27 of 1954, as defined in section 422.3. The employee's rights  
28 under the annuity contract are nonforfeitable except for the  
29 failure to pay premiums. ~~If an existing tax-sheltered annuity~~  
30 ~~contract is to be replaced by a new contract the agent or~~  
31 ~~representative of the company shall submit a letter of intent~~  
32 ~~by registered mail to the company being replaced, to the~~  
33 ~~insurance commissioner of the state of Iowa, and to the~~  
34 ~~agent's or representative's own company at least thirty days~~  
35 ~~prior to any action. This letter of intent shall contain the~~

~~1 policy-number-and-description-of-the-contract-being-replaced  
2 and-a-description-of-the-replacement-contract:~~

3 Sec. 702. Section 521.5, Code 1987, is amended to read as  
4 follows:

5 521.5 COMMISSION TO HEAR PETITION.

6 For the purpose of hearing and determining such petition, a  
7 commission consisting of the governor, commissioner of  
8 insurance, and attorney general is hereby created. ~~In-the  
9 inability-of-the-governor-to-act, the-secretary-of-state-may  
10 act-in-the-governor's-stead.~~

11 Sec. 703. Section 523C.1, Code 1987, is amended by adding  
12 the following new subsections:

13 NEW SUBSECTION. 5. "Reserve account agreement" means an  
14 agreement entered into between a licensed service company and  
15 a depository under section 523C.11.

16 NEW SUBSECTION. 6. "Depository" means an institution  
17 designated by the commissioner as an authorized custodian for  
18 purposes of sections 523C.5 and 523C.11.

19 NEW SUBSECTION. 7. "Custodian" means an institution  
20 meeting the requirements established by the commissioner which  
21 institution has entered into a custodial agreement or reserve  
22 account agreement with a licensed service company.

23 NEW SUBSECTION. 8. "Custodial agreement" means an  
24 agreement entered into between a licensed service company and  
25 a custodian under section 523C.5.

26 NEW SUBSECTION. 9. "Custodial account" means an account  
27 established by agreement between a licensed service company  
28 and a custodian under section 523C.5.

29 Sec. 704. Section 523C.3, subsection 2, paragraph b, Code  
30 1987, is amended to read as follows:

31 b. A surety bond or a copy of custodial agreement as  
32 provided in section 523C.5.

33 Sec. 705. Section 523C.5, Code 1987, is amended to read as  
34 follows:

35 523C.5 REQUIRED BOND.

1 To assure the faithful performance of obligations under  
2 residential service contracts issued and outstanding in this  
3 state, a service company shall, prior to the issuance or  
4 renewal of a license, file with the commissioner a surety bond  
5 in the amount of one hundred thousand dollars, which has been  
6 issued by an authorized surety company and approved by the  
7 commissioner as to issuer, form, and contents or establish a  
8 custodial account in the amount of one hundred thousand  
9 dollars at an authorized depository. The bond or custodial  
10 account shall not be canceled or be subject to cancellation  
11 unless thirty days' advance notice in writing is filed with  
12 the commissioner. ~~Notwithstanding the provisions of chapter~~  
13 17A, if a bond or custodial account is canceled for any reason  
14 and a new bond or notice that a new custodial account has been  
15 established in the required amount is not received by the  
16 commissioner on or before the effective date of cancellation,  
17 the license of the service company is automatically revoked as  
18 of the date the bond or custodial account ceases to be in  
19 effect. A service company whose license is revoked under this  
20 section may file an application for a new license pursuant to  
21 section 523C.3.

22 The bond or custodial account posted by a service company  
23 pursuant to this section shall be for the benefit of, and  
24 subject to recovery thereon by any residential service  
25 contract holder sustaining actionable injury due to the  
26 failure of the service company to faithfully perform its  
27 obligations under a residential service contract because of  
28 insolvency of the service company.

29 If a service company ceases to do business in this state  
30 and furnishes to the commissioner satisfactory proof that it  
31 has discharged all obligations to contract holders, the surety  
32 bond or custodial account shall be released.

33 The commissioner may by rule designate institutions  
34 authorized to act as a depository under this section and  
35 establish requirements for custodians, custodial agreements,

1 custodial accounts, or the method of valuing noncash assets  
2 held in a custodial account which the commissioner believes  
3 necessary to protect the holders of residential service  
4 contracts issued and outstanding in this state.

5 Sec. 706. Section 523C.6, unnumbered paragraph 2, Code  
6 1987, is amended to read as follows:

7 For purposes of this chapter, "net worth" means the excess  
8 of all assets over all liabilities including required  
9 reserves, but excluding assets held in a custodial account  
10 under section 523C.5, computed in accordance with generally  
11 accepted accounting principles. At least twenty thousand  
12 dollars of net worth shall consist of paid-in capital.

13 Sec. 707. Section 523C.11, subsection 1, Code 1987, is  
14 amended to read as follows:

15 1. A service company shall maintain in an independent  
16 depository a reserve account containing cash or marketable  
17 securities in an amount equal to fifty percent of aggregate  
18 annual fees collected on residential service contracts issued  
19 in this state, if any, and-for less actual expenditures for  
20 services rendered under those contracts.

21 Sec. 708. Section 523C.11, Code 1987, is amended by adding  
22 the following new subsection:

23 NEW SUBSECTION. 4. The commissioner may by rule designate  
24 institutions authorized to act as a depository under this  
25 section and may establish requirements for reserve accounts,  
26 reserve account agreements, or the method of valuing  
27 marketable securities which the commissioner believes  
28 necessary to protect the holders of residential service  
29 contracts issued and outstanding in this state.

30 EXPLANATION

31 DIVISION I

32 Sections 101 and 102 change the date from August 1 to  
33 September 1 for the delivery of the life insurance annual  
34 report.

35 Sections 103 and 105 through 110 change renewal dates,



1 including renewal dates for certificates of authority from May  
2 1 to June 1.

3 Section 104 requires a certification of compliance relating  
4 to a self-insurance plan.

5 DIVISION II

6 Sections 201 and 202 relate to self-insurance programs  
7 offered by cities or counties. Under section 202, certain  
8 self-insurance plans no longer have to be submitted to the  
9 insurance division.

10 Section 203 removes authority appointing the commissioner  
11 as conservator if a foreign or alien member insurer is subject  
12 to liquidation under the insurance guaranty association law.

13 Section 204 provides that the commissioner must report to  
14 the board of directors when the commissioner has received a  
15 report from a commissioner in another state indicating that  
16 certain actions have been taken against a member insurer in  
17 the foreign state, under the insurance guaranty association  
18 law.

19 Section 205 changes from the executive council to the  
20 commissioner the authority required to grant approval to the  
21 investment of funds in home office property by a life  
22 insurance company.

23 Section 206 strikes a provision requiring valuation fee for  
24 life insurance companies.

25 Section 207 repeals chapter 510 relating to assessment of  
26 life insurance; repeals section 507.5 relating to a bond  
27 required to be purchased and filed by insurance examiners; and  
28 repeals section 515.43 relating to increasing the maximum  
29 capital of an insurer.

30 DIVISION III

31 Section 301 provides that a benevolent association is  
32 subject to examination as an insurance company.

33 Section 302 provides for the billing of examination costs  
34 for insurance companies at regular intervals prior to the  
35 completion of the examination.

1 Sections 303 and 304 remove costs charged certain companies  
2 for filing certain papers with the insurance commissioner and  
3 raises the cost of affixing the official seal to a paper filed  
4 with the insurance division.

5 Section 305 relates to remitting annual fees of reciprocal  
6 insurers to the commissioner.

7 DIVISION IV

8 Section 401 prohibits an insurance company from making  
9 direct or indirect loans to a director, or employee, or a  
10 relative of an officer or director of an insurance company.

11 Section 402 raises the amount of admitted assets that an  
12 insurance company can invest in property of any kind.

13 Section 403 prohibits a company from exposing itself to  
14 loss or a risk or hazard for a certain amount exceeding its  
15 surplus to policyholders, unless the amount is reinsured.

16 Section 404 provides that an insurance company must provide  
17 notice before a policy or contract of insurance is forfeited,  
18 suspended, or canceled due to nonpayment of a premium,  
19 assessment, or installment.

20 Section 405 provides for the liability of an insured person  
21 for an amount due an insurance company upon the suspension,  
22 forfeiture, or cancellation of a policy or contract of  
23 insurance. The section also provides for notice of  
24 cancellation by the insurance company.

25 Sections 406 and 407 provide for the cancellation and  
26 nonrenewal of a commercial line policy or contract of  
27 insurance.

28 DIVISION V

29 Section 501 provides that section 506.2 relating to  
30 restricting sales of securities applies to domestic insurance  
31 companies only.

32 Section 502 provides that a purchaser of a corporate shell  
33 of an insolvent insurer purchases free of claims against the  
34 previous insurer.

35 Section 503 relates to redomestication of insurers.

1 Section 504 provides that guaranty association coverage  
2 does not apply to automobile warranty coverage.

3 Sections 505 and 508 provide conforming language with  
4 515B.9, subsection 2.

5 Section 506 defines a "covered claim" to exclude certain  
6 claims based on damages and claims by certain insureds.

7 Section 507 provides for certain liability limits for the  
8 payment of a claim by the guaranty association.

9 Section 509 prohibits a person from advertising, in  
10 connection with the sale of an insurance policy, that if the  
11 insurance company becomes insolvent, claims will be paid by  
12 the insurance guaranty association.

13 Section 510 provides language to conform with enacted  
14 sections.

15 DIVISION VI

16 Sections 601 and 602 provide language to conform with  
17 enacted sections.

18 Section 603 provides for the paying of dividends by life  
19 insurance stock companies.

20 Section 604 requires the commissioner to adopt rules  
21 relating to preferred provider contacts and organizations.

22 DIVISION VII

23 Section 701 provides for the sale by certain persons of  
24 individual annuities for school district employees.

25 Section 702 provides for the membership of a commission to  
26 hear consolidation and reinsurance petitions.

27 Sections 703 through 708 relate to custodial agreements and  
28 accounts which may be established in lieu of bond under  
29 certain required conditions.

30 SIMILAR TO HSB 692 (LSB 7628DH)

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HOUSE FILE 2307

H-5222

- 1 Amend House File 2307 as follows:
- 2 1. Page 20, line 17, by inserting after the word
- 3 "organization" the following: "or mutual fund".
- 4 2. Page 20, line 20, by striking the words
- 5 "dealer or salesperson" and inserting the following:
- 6 "dealer, salesperson, or mutual fund".

H-5222 FILED MARCH 2, 1988 BY CONNOLLY of Dubuque

*Adopted 3/7/88 (p. 605)*

HOUSE FILE 2307

H-5234

- 1 Amend House File 2307 as follows:
- 2 1. Page 11, line 16, by inserting after the word
- 3 "insurance" the following: ", except a policy or
- 4 contract for crop hail or multiperil insurance,".
- 5 2. Page 11, line 20, by inserting after the word
- 6 "insurance" the following: ", except a policy or
- 7 contract for crop hail or multiperil insurance,".
- 8 3. Page 12, line 2, by inserting after the word
- 9 "insurance" the following: ". except a policy or
- 10 contract for crop hail or multiperil insurance,".
- 11 4. Page 12, line 19, by inserting after the word
- 12 "insurance" the following: ", except a policy or
- 13 contract for crop hail or multiperil insurance,".

H-5234 FILED MARCH 3, 1988 BY GRONINGA of Cerro Gordo

*Adopted by amendment by 5/2/88  
3/8/88 (p. 605)*

HOUSE FILE 2307

H-5322

- 1 Amend the amendment, H-5234, to House File 2307 as
- 2 follows:
- 3 1. Page 1, by inserting before line 1 the
- 4 following:
- 5 "\_\_\_\_. Page 10, line 10, by inserting after the
- 6 word "notwithstanding." the following: "A post office
- 7 department receipt of certified mailing shall be proof
- 8 of receipt of the registered mailing. However, notice
- 9 of cancellation of a workers' compensation policy due
- 10 to nonpayment of the premium may be made in person, or
- 11 by mail, as otherwise provided, but need not be served
- 12 by certified mail.""
- 13 2. By renumbering as necessary.

H-5322 FILED MARCH 7, 1988 BY GRONINGA of Cerro Gordo

ADOPTED (p. 605)

*Sen. Committee 3/7 88 (p. 606)*

HOUSE FILE 2307  
BY COMMITTEE ON SMALL BUSINESS  
AND COMMERCE

(As Amended and Passed by the House March 7, 1988)

Passed House, Date 3/7/88 (p. 606) Passed Senate, Date 2/29/88 (p. 1090)  
Vote: Ayes 92 Nays 0 Vote: Ayes 47 Nays 0  
Approved April 26, 1988  
*Madison St. Transportation (p. 1108)*  
*" 2/10 3/30 (p. 1170)*

A BILL FOR

1 An Act relating to the regulation of the state's insurance  
2 industry and the administration of the insurance division of  
3 the department of commerce.

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

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House Amendments \_\_\_\_\_

DIVISION I

1  
2 Section 101. Section 505.12, Code 1987, is amended to read  
3 as follows:

4 505.12 LIFE INSURANCE -- ANNUAL REPORT.

5 Before the first day of ~~August~~ September the commissioner  
6 of insurance shall make an annual report to the governor of  
7 the general conduct and condition of the life insurance  
8 companies doing business in the state, and include therein an  
9 aggregate of the estimated value of all outstanding policies  
10 in each of the companies; and in connection therewith prepare  
11 a separate abstract thereof as to each company, and of all the  
12 returns and statements made to the commissioner by them.

13 Sec. 102. section 505.13, subsection 1, Code Supplement  
14 1987, is amended to read as follows:

15 1. The commissioner shall annually cause the preparation  
16 and printing of a report to be delivered to the governor. The  
17 report shall contain information from the statements required  
18 of insurance companies, other than life insurance companies,  
19 organized or doing business in the state. The reports shall  
20 be delivered on or before the first day of ~~August~~ September  
21 each year.

22 Sec. 103. Section 508.13, Code 1987, is amended to read as  
23 follows:

24 508.13 ANNUAL CERTIFICATE OF AUTHORITY.

25 On receipt of the deposit provided in section 511.8,  
26 subsection 16, and the statement, and the statement and  
27 evidence of investment of foreign companies, all of which  
28 shall be renewed annually, by the first day of March, the  
29 commissioner of insurance shall issue a certificate setting  
30 forth the corporate name of the company, its home office, that  
31 it has fully complied with the laws of the state and is  
32 authorized to transact the business of life insurance for the  
33 ensuing year, which certificate shall expire on the first day  
34 of ~~May~~ June of the ensuing year, or sooner upon thirty days'  
35 notice given by the commissioner, of the next annual valuation

1 of its policies. Such certificate shall be renewed annually,  
2 upon the renewal of the deposit and statement by a domestic  
3 company, or of the statement and evidence of investment by a  
4 foreign company, and compliance with the conditions above  
5 required, and be subject to revocation as the original  
6 certificate.

7 Sec. 104. NEW SECTION. 509A.15 CERTIFICATION OF SELF-  
8 INSURANCE PLANS.

9 1. Within thirty days following the end of a self-  
10 insurance plan's fiscal year, the governing body shall file  
11 with the commissioner of insurance a certificate of  
12 compliance. The certificate of compliance shall be  
13 accompanied by a filing fee of one hundred dollars. The  
14 certificate shall be signed and dated by the appropriate  
15 public official representing the governing body, and shall  
16 certify the following:

17 a. That the plan meets the requirements of this chapter  
18 and the applicable provisions of the Iowa administrative code.

19 b. That an actuarial opinion has been attached to the  
20 certificate which attests to the adequacy of reserves, rates,  
21 and financial condition of the plan. The actuarial opinion  
22 shall be issued by a fellow of the society of actuaries.

23 c. That a written complaint procedure has been  
24 implemented. The certificate shall also list the number of  
25 complaints filed by participants under the written complaint  
26 procedure, and the percentage of participants filing written  
27 complaints, in the prior fiscal year.

28 d. That the governing body has contracted or otherwise  
29 arranged with a third party for plan administration.

30 2. The commissioner shall by rule require the maintenance  
31 of confidentiality of information held by the plan  
32 administrator.

33 3. The failure of the governing body to provide the  
34 certificate of compliance required by subsection 1, or the  
35 failure of the governing body or plan administrator to abide

1 by a requirement of the plan, this chapter, or applicable  
2 rule, is grounds for action against the plan, including cause  
3 for disapproval or discontinuance of the plan.

4 Sec. 105. Section 512.29, Code 1987, is amended to read as  
5 follows:

6 512.29 CERTIFICATE OF AUTHORITY -- FEES.

7 If the commissioner shall approve the articles and also the  
8 bylaws or rules, the commissioner shall issue to the society,  
9 order, or association a certificate of authority, authorizing  
10 it to transact business within this state for a period of one  
11 year from the first day of ~~May~~ June of the year of its issue,  
12 for which certificate and all proceedings in connection  
13 therewith, there shall be paid to the commissioner a fee of  
14 ~~twenty-five~~ one hundred dollars, and for each annual renewal  
15 thereof a like fee shall be paid.

16 Sec. 106. Section 512A.3, Code 1987, is amended to read as  
17 follows:

18 512A.3 INCORPORATION MANDATORY.

19 Before a benevolent association shall operate in this state  
20 it shall first incorporate in accordance with the laws of this  
21 state, and the articles of incorporation and bylaws shall be  
22 submitted to the commissioner. If the commissioner finds they  
23 conform to the requirements of the law and all rules and  
24 regulations promulgated under this chapter, the commissioner  
25 shall approve the articles of incorporation and file them with  
26 the secretary of state. Every benevolent association at the  
27 time of its incorporation shall submit its general plan of  
28 operation to the commissioner and if the commissioner finds it  
29 conforms to the requirements of the law and all reasonable  
30 rules and regulations promulgated under this chapter, the  
31 commissioner shall issue a license to expire on the first day  
32 of ~~May~~ June after issuance. ~~Said~~ The license shall be renewed  
33 from year to year upon application of the association, if the  
34 commissioner finds from examination that it has conformed to  
35 the requirements of all laws and regulations applicable



1 thereto.

2 Sec. 107. Section 515.42, Code 1987, is amended to read as  
3 follows:

4 515.42 TENURE OF CERTIFICATE -- RENEWAL -- EVIDENCE.

5 Such certificate of authority shall expire on the first day  
6 of May June next succeeding its issue, and shall be renewed  
7 annually so long as such company shall transact business in  
8 accordance with the requirements of law; a copy of which  
9 certificate, when certified to by the commissioner of  
10 insurance, shall be admissible in evidence for or against a  
11 company with the same effect as the original.

12 Sec. 108. Section 518.15, unnumbered paragraph 2, Code  
13 1987, is amended to read as follows:

14 Such associations shall pay the same expenses of any  
15 examination made or ordered to be made by the commissioner of  
16 insurance and the same fees for the annual reports and annual  
17 certificates of authority as are required to be paid by  
18 domestic companies organized and doing business under chapter  
19 515, which certificates shall expire May June 1 of the year  
20 following the date of issue.

21 Sec. 109. Section 519.9, Code 1987, is amended to read as  
22 follows:

23 519.9 FEES.

24 Such a mutual insurance corporation shall pay the same fees  
25 for admission into the state, for annual reports, and for  
26 annual certificates of authority as are required to be paid by  
27 domestic mutual companies organized and doing business under  
28 chapter 515; such certificate shall expire May June 1 of the  
29 year following the date of its issue.

30 Sec. 110. Section 520.12, Code 1987, is amended to read as  
31 follows:

32 520.12 CERTIFICATE OF AUTHORITY.

33 Upon compliance with the requirements of this chapter, the  
34 commissioner of insurance shall issue a certificate of  
35 authority or a license to the attorney, authorizing the

1 attorney to make such contracts of insurance, which license  
2 shall specify the kind or kinds of insurance and shall contain  
3 the name of the attorney, the location of the principal office  
4 and the name or designation under which such contracts of  
5 insurance are issued. ~~Such license shall be renewed annually~~  
6 ~~upon a showing that the standard of solvency required herein~~  
7 ~~has been maintained, and that all fees and taxes required have~~  
8 ~~been paid~~ The certificate of authority shall expire on the  
9 first day of June next succeeding its issue, and shall be  
10 renewed annually as long as the company transacts business in  
11 accordance with the requirements of law.

12 DIVISION II

13 Sec. 201. Section 87.4, unnumbered paragraph 2, Code 1987,  
14 is amended to read as follows:

15 A self-insurance association formed under this section and  
16 an association comprised of cities or counties, or both, which  
17 enters have entered into an agreement under chapter 28E for  
18 the purpose of establishing a self-insured group-plan program  
19 for the payment of workers' compensation and benefits are  
20 exempt from taxation under section 432.1.

21 Sec. 202. Section 87.4, Code 1987, is amended by adding  
22 the following new unnumbered paragraph:

23 NEW UNNUMBERED PARAGRAPH. A self-insured program for the  
24 payment of workers' compensation benefits established by an  
25 association comprised of cities and counties, or both, which  
26 have entered into an agreement under chapter 28E, is not  
27 insurance, and is not subject to regulation under chapters 505  
28 through 523C. Membership in such an association together with  
29 payment of premiums due relieves the member from obtaining  
30 insurance as required in section 87.1. Such an association is  
31 not required to submit its plan or program to the commissioner  
32 of insurance for review and approval prior to its  
33 implementation and is not subject to rules or rates adopted by  
34 the commissioner relating to workers' compensation group self-  
35 insurance programs. Such a program is deemed to be in

1 compliance with this chapter.

2 Sec. 203. Section 508C.11, subsection 1, paragraph c, Code  
3 Supplement 1987, is amended to read as follows:

4 c. In a liquidation or rehabilitation proceeding involving  
5 a domestic insurer, be appointed as the liquidator or  
6 rehabilitator. ~~if-a-foreign-or-alien-member-insurer-is~~  
7 ~~subject-to-a-liquidation-proceeding-in-its-domiciliary~~  
8 ~~jurisdiction-or-state-of-entry,-the-commissioner-shall-be~~  
9 ~~appointed-conservator.~~

10 Sec. 204. Section 508C.12, subsection 1, paragraph b, Code  
11 Supplement 1987, is amended to read as follows:

12 b. Report to the board of directors when the commissioner  
13 has taken any of the actions set forth in paragraph "a" or has  
14 received a report from any other commissioner indicating that  
15 ~~any-such-action-has-been-taken-in-another-state~~ a member  
16 insurer is impaired or insolvent. Reports to the board of di-  
17 rectors shall contain all significant details of the action  
18 taken or the report received from another commissioner.

19 Sec. 205. Section 511.8, subsection 10, paragraph a, Code  
20 Supplement 1987, is amended to read as follows:

21 a. Real estate in this state which is necessary for the  
22 accommodation of the company or association as a home office  
23 or in the transaction of its business. In the erection of  
24 buildings for such purposes, there may be added rooms for  
25 rent. Before the company or association invests any of its  
26 funds in accordance with this paragraph it shall first obtain  
27 the consent of the ~~executive-council-of-this-state~~  
28 commissioner. The maximum amount which a company or  
29 association shall be permitted to invest in accordance with  
30 these provisions shall not exceed ten percent of the legal  
31 reserve. However, a stock company may invest such portion of  
32 its paid-up capital, in addition to ten percent of the legal  
33 reserve, as is not held to constitute a part of its legal  
34 reserve, under section 508.36, and the total legal reserve of  
35 the company shall be equal to or exceed the amount of its

1 paid-up capital stock.

2 Sec. 206. Section 511.24, subsection 6, Code 1987, is  
3 amended by striking the subsection.

4 Sec. 207.

5 1. Chapter 510, Code 1987, is repealed.

6 2. Sections 507.5 and 515.43, Code 1987, are repealed.

7 DIVISION III

8 Sec. 301. Section 507.1, Code 1987, is amended to read as  
9 follows:

10 507.1 "COMPANY" DEFINED.

11 ~~The word "company" as~~ As used in this chapter, ~~shall mean~~  
12 "company" means all companies or associations organized under  
13 the provisions of chapters 508, 511, 512, 512A, 514, 514B,  
14 515, 515C, 518A, associations subject to the provisions of  
15 chapters 518 and 520, and all companies or associations  
16 admitted or seeking to be admitted to this state under the  
17 provisions of any of the chapters herein referred to.

18 Sec. 302. Section 507.8, Code 1987, is amended to read as  
19 follows:

20 507.8 PAYMENT BY COMPANY.

21 The commissioner shall upon the completion of an  
22 examination, or at such regular intervals prior to completion  
23 as the commissioner determines, prepare an account of the  
24 costs incurred in performing and preparing the report of such  
25 examinations which shall be charged to and paid by the  
26 companies examined, and upon failure or refusal of any company  
27 examined to pay such bill or bills, the same may be recovered  
28 in an action brought in the name of the state ~~under the~~  
29 ~~direction of the executive council,~~ and the commissioner may  
30 also revoke the certificate of authority of such company to  
31 transact business within this state.

32 Sec. 303. Section 511.24, subsection 5, Code 1987, is  
33 amended to read as follows:

34 5. ~~For every copy of any paper filed, fifty cents per~~  
35 ~~folio, and for certifying and~~ affixing the official seal to

1 any paper filed with the division, ~~five~~ ten dollars.

2 Sec. 304. Section 515.128, subsection 5, Code 1987, is  
3 amended to read as follows:

4 5. For ~~every copy of any paper filed, fifty cents per~~  
5 ~~folio, and for certifying and~~ affixing the official seal to  
6 any paper filed with the division, ~~five~~ ten dollars.

7 Sec. 305. Section 520.19, Code 1987, is amended to read as  
8 follows:

9 520.19 ANNUAL TAX -- FEES.

10 In lieu of all other taxes, licenses, charges, and fees  
11 whatsoever, such attorney shall pay annually ~~to the director~~  
12 ~~of the department of revenue and finance, or a depository~~  
13 ~~designated by the director of the department of revenue and~~  
14 ~~finance, on account of the transaction of such business in~~  
15 ~~this state, pay to the commissioner~~ the same fees as are paid  
16 by mutual companies transacting the same kind of business, and  
17 an annual tax of two percent, if a domestic reciprocal  
18 organization, and two percent, if a foreign reciprocal  
19 organization, calculated upon the gross premiums or deposits  
20 collected from subscribers in this state during the preceding  
21 calendar year, after deducting therefrom returns, or  
22 cancellations, and all amounts returned to subscribers or  
23 credited to their accounts as savings, and the amount returned  
24 upon canceled policies and rejected applications covering  
25 property situated or on business done within this state.

26 DIVISION IV

27 Sec. 401. Section 515.11, Code 1987, is amended to read as  
28 follows:

29 515.11 PROHIBITED LOANS.

30 No part of the capital referred to shall be directly or  
31 indirectly loaned to any officer, or director, stockholder, or  
32 employee of the company or to a relative of any officer or  
33 director of the company.

34 Sec. 402. Section 515.35, subsection 4, paragraph n,  
35 subparagraph (1), Code 1987, is amended to read as follows:

1 (1) A company organized under this chapter may invest up  
2 to ~~one~~ two percent of its admitted assets in securities or  
3 property of any kind, without restrictions or limitations  
4 except those imposed on business corporations in general.

5 Sec. 403. Section 515.49, Code 1987, is amended by  
6 striking the section and inserting in lieu thereof the  
7 following:

8 515.49 LIMITATION ON RISKS.

9 A company shall not expose itself to loss on any one risk  
10 or hazard to an amount exceeding ten percent of its surplus to  
11 policyholders unless one of the following applies:

12 1. The excess is reinsured in some other good and reliable  
13 company licensed to sell insurance in this state.

14 2. The excess is reinsured by a group of individual  
15 unincorporated insurers who are authorized to sell insurance  
16 in at least one state of the United States and who possess  
17 assets which are held in trust for the benefit of the American  
18 policyholders in the sum of not less than fifty million  
19 dollars, and a certificate of such reinsurance shall be  
20 furnished to the insured.

21 3. The excess is reinsured with a company which has, with  
22 respect to the ceding insurer, created a trust fund, made a  
23 deposit, or obtained letters of credit, on terms satisfactory  
24 to the commissioner.

25 Sec. 404. Section 515.80, Code Supplement 1987, is amended  
26 by striking the section and inserting in lieu thereof the  
27 following:

28 515.80 FORFEITURE OF POLICIES -- NOTICE.

29 No policy or contract of insurance, unless otherwise  
30 provided in section 515.81A or 515.81B, provided for in this  
31 chapter shall be forfeited, suspended, or canceled for  
32 nonpayment of any premium, assessment, or installment provided  
33 for in the policy, or in any note or contract for the payment  
34 thereof, unless within thirty days prior to, or on or after  
35 the maturity thereof, the company serves notice in writing

1 upon the insured that the premium, assessment, or installment  
2 is due or to become due, stating the amount, and the amount  
3 necessary to pay the customary short rates, up to the time  
4 fixed in the notice when the insurance will be suspended,  
5 forfeited, or canceled, which shall not be less than thirty  
6 days after service of the notice, which may be made in person,  
7 or by sending by certified mail a letter addressed to the  
8 insured at the insured's post office as given in or upon the  
9 policy, anything in the policy, application, or a separate  
10 agreement to the contrary notwithstanding. A post office  
11 department receipt of certified mailing shall be proof of  
12 receipt of the registered mailing. However, notice of  
13 cancellation of a workers' compensation policy due to  
14 nonpayment of the premium may be made in person, or by mail,  
15 as otherwise provided, but need not be served by certified  
16 mail.

17 Sec. 405. Section 515.81, Code Supplement 1987, is amended  
18 by striking the section and inserting in lieu thereof the  
19 following:

20 515.81 CANCELLATION OF POLICY -- NOTICE TO INSURED OR  
21 MORTGAGEE.

22 Unless otherwise provided in section 515.81A or 515.81B, at  
23 any time after the maturity of a premium, assessment, or  
24 installment provided for in the policy, or any note or  
25 contract for the payment thereof, or after the suspension,  
26 forfeiture, or cancellation of any policy or contract of  
27 insurance, the insured may pay to the company the customary  
28 short rates and costs of action, if one has been commenced or  
29 judgment rendered thereon, and may, if the insured so elects,  
30 have the policy and all contracts or obligations connected  
31 therewith, whether in judgment or otherwise, canceled, and all  
32 such policy and contracts shall be void; and in case of  
33 suspension, forfeiture, or cancellation of any policy or  
34 contract of insurance, the insured shall not be liable for any  
35 greater amount than the short rates earned at the date of such

1 suspension, forfeiture, or cancellation and the costs of  
2 action provided for in this section. The policy may be  
3 canceled by the insurance company by service of notice in  
4 writing upon the insured which notice shall fix the date of  
5 cancellation which shall be not less than ten days after  
6 service of the notice. The service of notice may be made in  
7 person, or by mailing the notice to the insured at the  
8 insured's post office address as given in or upon the policy,  
9 or to another address given to the company in writing by the  
10 insured. A post office department receipt of certified or  
11 registered mailing shall be deemed proof of receipt of the  
12 notice. If the policy is canceled by the insurance company,  
13 the insurer may retain only the pro rata premium, and if the  
14 initial cash premium, or any part thereof, has not been paid,  
15 the policy may be canceled by the insurance company by giving  
16 notice to the insured and ten days' notice to the mortgagee,  
17 or other person to whom the policy is made payable, if any,  
18 without tendering any part or portion of the premium, anything  
19 to the contrary in the policy notwithstanding.

20 Sec. 406. NEW SECTION. 515.81A CANCELLATION OF  
21 COMMERCIAL LINES POLICIES OR CONTRACTS.

22 1. A commercial line policy or contract of insurance,  
23 except a policy or contract for crop hail or multiperil  
24 insurance, which has not been previously renewed may be  
25 canceled by the insurer if it has been in effect for less than  
26 sixty days at the time notice of cancellation is mailed or  
27 delivered.

28 2. A commercial line policy or contract of insurance,  
29 except a policy or contract for crop hail or multiperil  
30 insurance, which has been renewed or which has been in effect  
31 for more than sixty days shall not be canceled unless at least  
32 one of the following conditions occurs:

33 a. Nonpayment of premium.

34 b. Misrepresentation or fraud made by or with the  
35 knowledge of the insured in obtaining the policy or contract,



1 when renewing the policy or contract, or in presenting a claim  
2 under the policy or contract.

3 c. Actions by the insured which substantially change or  
4 increase the risk insured.

5 d. Determination by the commissioner that the continuation  
6 of the policy will jeopardize the insurer's solvency or will  
7 constitute a violation of the law of this or any other state.

8 e. The insured has acted in a manner which the insured  
9 knew or should have known was in violation or breach of a  
10 policy or contract term or condition.

11 3. A commercial line policy or contract of insurance,  
12 except a policy or contract for crop hail or multiperil  
13 insurance, may be canceled at any time if the insurer loses  
14 reinsurance coverage which provides coverage to the insurer  
15 for a significant portion of the underlying risk insured and  
16 if the commissioner determines that cancellation because of  
17 loss of reinsurance coverage is justified. In determining  
18 whether a cancellation because of loss of reinsurance coverage  
19 is justified, the commissioner shall consider all of the  
20 following factors:

21 a. The volatility of the premiums charged for reinsurance  
22 in the market.

23 b. The number of reinsurers in the market.

24 c. The variance in the premiums for reinsurance offered by  
25 the reinsurers in the market.

26 d. The attempt by the insurer to obtain alternate  
27 reinsurance.

28 e. Any other factors deemed necessary by the commissioner.

29 4. A commercial line policy or contract of insurance,  
30 except a policy or contract for crop hail or multiperil  
31 insurance, shall not be canceled except by notice to the  
32 insured as provided in this subsection. A notice of  
33 cancellation shall include the reason for cancellation of the  
34 policy or contract. A notice of cancellation is not effective  
35 unless mailed or delivered to the named insured and a loss

1 payee at least ten days prior to the effective date of  
2 cancellation, or if the cancellation is because of loss of  
3 reinsurance, at least thirty days prior to the effective date  
4 of cancellation. A post office department certificate of  
5 mailing to the named insured at the address shown in the  
6 policy or contract is proof of receipt of the mailing;  
7 however, such a certificate of mailing is not required if  
8 cancellation is for nonpayment of premium.

9 Sec. 407. NEW SECTION. 515.81B NONRENEWAL OF COMMERCIAL  
10 LINES POLICIES OR CONTRACTS.

11 An insurer shall not fail to renew a commercial line policy  
12 or contract of insurance except by notice to the insured as  
13 provided in this section. Nonrenewal of a commercial line  
14 policy or contract includes a decision by the insurer not to  
15 renew the policy or contract, an increase in the premium of  
16 twenty-five percent or more, an increase in the deductible of  
17 twenty-five percent or more, or a material reduction in the  
18 limits or coverage of the policy or contract. However, a  
19 premium charge which is assessed after the beginning date of  
20 the policy period for which the premium is due shall not be  
21 deemed a premium increase for the purpose of this section.

22 A notice of nonrenewal is not effective unless mailed or  
23 delivered by the insurer to the named insured and any loss  
24 payee at least forty-five days prior to the expiration date of  
25 the policy. If the insurer fails to meet the notice  
26 requirements of this section, the insured has the option of  
27 continuing the policy for the remainder of the notice period  
28 plus an additional thirty days at the premium rate of the  
29 existing policy or contract. A post office department  
30 certificate of mailing to the named insured at the address  
31 shown in the policy or contract is proof of receipt of the  
32 mailing.

33 This section applies to all forms of commercial property  
34 and casualty insurance written pursuant to this chapter. It  
35 does not apply if the insurer has offered to renew or if the

1 insured fails to pay a premium due or any advance premium  
2 required by the insurer for renewal.

3 DIVISION V

4 Sec. 501. Section 506.2, Code 1987, is amended to read as  
5 follows:

6 506.2 SALE OF SECURITIES RESTRICTED.

7 Neither the securities in an a domestic insurance company,  
8 nor securities in a holding company, one of the purposes of  
9 which is to organize, purchase, or otherwise acquire control  
10 of ~~an~~ a domestic insurance company, nor membership in an  
11 association in process of organization shall be sold or  
12 solicited until such company or association, and the promoters  
13 thereof, shall have first complied with all of the statutory  
14 provisions regulating the organization of such companies and  
15 associations, and also have secured from the commissioner of  
16 insurance a certificate indicating full compliance with the  
17 provisions of this chapter.

18 Sec. 502. Section 507C.20, Code Supplement 1987, is  
19 amended to read as follows:

20 507C.20 DISSOLUTION OR SALE OF INSURER.

21 The commissioner may petition for an order dissolving the  
22 corporate existence of a domestic insurer or the United States  
23 branch of an alien insurer domiciled in this state at the time  
24 the commissioner applies for a liquidation order. The court  
25 shall order dissolution of the corporation upon petition by  
26 the commissioner upon or after the granting of a liquidation  
27 order. If the dissolution has not previously been ordered, it  
28 shall be effected by operation of law upon the discharge of  
29 the liquidator if the insurer is insolvent. However,  
30 dissolution may be ordered by the court upon the discharge of  
31 the liquidator if the insurer is under a liquidation order for  
32 some other reason. Notwithstanding the above, upon  
33 application by the commissioner and following notice as  
34 prescribed by the court and a hearing, the court may sell the  
35 corporation as an entity, together with any of its licenses to

1 do business, despite the entry of an order of liquidation.  
2 The sale may be made on terms and conditions the court deems  
3 appropriate ~~including, but not limited to, the placing of the~~  
4 ~~proceeds of the sale of the corporate entity and licenses into~~  
5 ~~a trust for the benefit of policyholders and creditors with~~  
6 ~~proceeds to be distributed in the manner set forth in section~~  
7 ~~507C.42. However, the order approving the sale shall provide~~  
8 that the proceeds of the sale shall become part of the assets  
9 of the liquidation estate, to be distributed in the manner set  
10 forth in section 507C.42, and that the corporate entity and  
11 its licenses shall thereafter be free and clear from the  
12 claims or interests of all claimants, creditors,  
13 policyholders, and stockholders of the corporation under  
14 liquidation.

15 Sec. 503. Section 508.12, Code 1987, is amended to read as  
16 follows:

17 508.12 FOREIGN COMPANIES MAY BECOME DOMESTIC  
18 REDOMESTICATION OF INSURERS.

19 Any company An insurer which is organized under the laws of  
20 any other state or country, and which has been is admitted to  
21 do business in this state for the purpose of writing insurance  
22 authorized by this chapter, upon may become a domestic insurer  
23 by complying with section 491.33 and with all of the  
24 requirements of law relative to the organization and licensing  
25 of a domestic insurance companies and to the execution,  
26 fitting, recording and publishing of notice of incorporation  
27 and payment of corporation fees by like domestic corporations,  
28 insurer of the same type and by designating its principal  
29 place of business at a place in this state, and; upon payment  
30 to the commissioner of insurance of a transfer tax in a sum  
31 equal to twenty-five percent of the premium tax paid pursuant  
32 to the provisions of chapter 432 for the last calendar year  
33 immediately preceding its becoming a domestic corporation or  
34 the sum of ten thousand dollars, whichever is the lesser but  
35 not less than one thousand dollars; may become a domestic

1 corporation and be entitled to like certificates of its  
2 corporate existence and license to transact business in this  
3 state, and be subject in all respects to the authority and  
4 jurisdiction thereof.

5 The certificates of authority, agent's appointments and  
6 licenses, rates, and other items which are in existence at the  
7 time any insurer transfers its corporate domicile to this  
8 state, pursuant to this section, shall continue in full force  
9 and effect upon such transfer. For purposes of existing  
10 authorizations and all other corporate purposes, the insurer  
11 is deemed the same entity as it was prior to the transfer of  
12 its domicile. All outstanding policies of any transferring  
13 insurer shall remain in full force and effect and need not be  
14 endorsed as to any new name of the company or its new location  
15 unless so ordered by the commissioner of insurance.

16 Sec. 504. Section 515B.1, Code 1987, is amended to read as  
17 follows:

18 515B.1 SCOPE.

19 This chapter shall apply to all kinds of direct insurance  
20 authorized to be written by an insurer licensed to operate in  
21 this state under chapter 515 or chapter 520, except life,  
22 title, surety, fidelity, disability including accident and  
23 health, credit, mortgage guaranty, ocean marine insurance,  
24 financial guaranty or other forms of insurance offering  
25 protection against investment risk, automobile warranty  
26 coverage, or insurance written pursuant to 15 U.S.C. § 3901 et  
27 seq., or any transaction which, although denominated as  
28 insurance, does not result in the transfer of an insurance  
29 risk.

30 Sec. 505. Section 515B.2, subsection 3, paragraph b, Code  
31 1987, is amended by striking the paragraph and inserting in  
32 lieu thereof the following:

33 b. The claim is one by an insured for damage to property  
34 permanently located in this state.

35 Sec. 506. Section 515B.2, subsection 3, unnumbered

1 paragraph 2, Code 1987, is amended by striking the paragraph  
2 and inserting in lieu thereof the following:

3 "Covered claim" does not include an amount due any  
4 reinsurer, insurer, insurance pool, underwriting association,  
5 or other group assuming insurance risks, as subrogation,  
6 contribution, or indemnity recoveries or otherwise; a portion  
7 of a claim that is within an insured's deductible or self-  
8 insured retention; a claim for unearned premium calculated on  
9 a retrospective basis, experience-rated plan, or premium  
10 subject to adjustment after termination of the policy; an  
11 amount due an attorney, adjuster, or witness as fees for  
12 services rendered to the insolvent insurer; a fine, penalty,  
13 interest, or punitive or exemplary damages; or a claim under a  
14 policy issued by an insolvent insurer with a deductible or  
15 self-insured retention of two hundred thousand dollars or  
16 more. A claim under a liability policy shall be considered to  
17 be a covered claim if as of the deadline set for the filing of  
18 claims against the insolvent insurer or its liquidator, the  
19 insured is a debtor in a liquidation bankruptcy under 11  
20 U.S.C. § 701 et seq. This paragraph does not prevent a person  
21 from presenting a noncovered claim to the insolvent insurer or  
22 its liquidator, but the noncovered claim shall not be asserted  
23 against any other person, including the person to whom  
24 benefits were paid or the insured of the insolvent insurer,  
25 except to the extent that it is outside the coverage of the  
26 policy issued by the insolvent insurer.

27 Sec. 507. Section 515B.5, subsection 1, paragraph a, Code  
28 1987, is amended to read as follows:

29 a. Be obligated to the extent of the covered claims  
30 existing prior to the determination of insolvency and arising  
31 within thirty days after the determination of insolvency, or  
32 before the policy expiration date if less than thirty days  
33 after the determination, or before the insured replaces the  
34 policy or on request effects cancellation if the insured does  
35 so within thirty days of the determination. This obligation

1 includes only the amount of a covered claim which is in excess  
2 of one hundred dollars and less than three hundred thousand  
3 dollars for all damages arising out of any one accident,  
4 occurrence, or incident regardless of the number of persons  
5 making claims. If the policy of the insolvent insurer  
6 contained an aggregate limit, the association shall not be  
7 obligated for more than three hundred thousand dollars on an  
8 aggregate basis. However, the association shall pay the full  
9 amount of a covered claim arising out of a workers'  
10 compensation policy. In addition, the association is not  
11 liable for an amount in excess of the specified-limits-of-a  
12 policy lesser of three hundred thousand dollars or the policy  
13 limits, regardless of the theory under which or the type of  
14 damages for which the association is alleged to be liable.

15 Sec. 508. Section 515B.9, subsection 2, Code 1987, is  
16 amended to read as follows:

17 2. A person having a claim which may be recovered under  
18 more than one insurance guaranty association or its equivalent  
19 shall seek recovery first from the association of the place of  
20 residence of the insured. However, if the claim is a first  
21 party claim for damage to property with a permanent location,  
22 recovery shall be first sought from the association of the  
23 location of the property. If the claim is a workers'  
24 compensation claim, recovery shall be first sought from the  
25 association of the residence of the claimant. ~~A person shall~~  
26 ~~not recover any amount of the person's claim against the~~  
27 ~~insured in excess of the amount recovered or recoverable from~~  
28 ~~the association except to the extent the claim exceeds the~~  
29 ~~policy limits of the insolvent insurer.~~ Any sums recovered  
30 from any other guaranty association or equivalent organization  
31 shall be subtracted from the maximum liability of the  
32 association under section 515B.5, subsection 1, paragraph "a".

33 Sec. 509. NEW SECTION. 515B.18 PROHIBITED ADVERTISING.

34 A person shall not advertise or publish, in connection with  
35 the sale of an insurance policy, that claims under the

1 insurance policy are subject to this chapter or will be paid  
2 by the Iowa insurance guaranty association.

3 Sec. 510. Section 518A.1, subsection 1, paragraph d, Code  
4 1987, is amended to read as follows:

5 d. Any automobile or aircraft or other vehicle, including  
6 loss, expense, or liability resulting from the ownership,  
7 maintenance, or use thereof, but shall not include ~~by-county~~  
8 ~~mutuals~~, insurance against bodily injury to the person.

9 DIVISION VI

10 Sec. 601. Section 515D.5, unnumbered paragraph 1, Code  
11 1987, is amended to read as follows:

12 Notwithstanding the provisions of ~~section 515.81~~ no  
13 sections 515.80 through 515.81A, a notice of cancellation of a  
14 policy shall not be effective unless mailed or delivered by  
15 the insurer to the named insured at least twenty days prior to  
16 the effective date of cancellation, or, where the cancellation  
17 is for nonpayment of premium notwithstanding the provisions of  
18 section sections 515.80 and 515.81A at least ten days prior to  
19 the date of cancellation. A post-office department  
20 certificate of mailing to the named insured at the address  
21 shown in the policy shall be proof of receipt of such mailing.  
22 Unless the reason accompanies the notice of cancellation, the  
23 notice shall state that, upon written request of the named  
24 insured, mailed or delivered to the insurer not less than  
25 fifteen days prior to the date of cancellation, the insurer  
26 will state the reason for cancellation, together with  
27 notification of the right to a hearing before the commissioner  
28 within fifteen days as provided herein in this chapter.

29 Sec. 602. Section 515D.7, unnumbered paragraph 1, Code  
30 1987, is amended to read as follows:

31 No Notwithstanding the provisions of sections 515.80  
32 through 515.81B, an insurer shall not fail to renew a policy  
33 except by notice to the insured as provided in this chapter.  
34 A notice of intention not to renew shall not be effective  
35 unless mailed or delivered by the insurer to the named insured



1 at least thirty days prior to the expiration date of the  
2 policy. A post-office department certificate of mailing to  
3 the named insured at the address shown in the policy shall be  
4 proof of receipt of such mailing. Unless the reason  
5 accompanies the notice of intent not to renew, the notice  
6 shall state that, upon written request of the named insured,  
7 mailed or delivered to the insurer not less than twenty days  
8 prior to the expiration date of the policy, the insurer will  
9 state the reason for nonrenewal.

10 Sec. 603. NEW SECTION. 508.39 DIVIDENDS.

11 The directors or managers of a stock company, incorporated  
12 under the laws of this state, shall make no dividends except  
13 from the earned profits arising from their business, which  
14 shall not include contributed capital or contributed surplus.

15 Sec. 604. NEW SECTION. 514F.3 PREFERRED PROVIDERS.

16 The commissioner of insurance shall adopt rules for  
17 preferred provider contracts and organizations, both those  
18 that limit choice of specific provider and those that do not.  
19 The rules adopted shall include, but not be limited to, the  
20 following subjects: preferred provider arrangements and  
21 participation requirements, health benefit plans, and civil  
22 penalties.

23 DIVISION VII

24 Sec. 701. Section 294.16, Code 1987, is amended to read as  
25 follows:

26 294.16 ANNUITY CONTRACTS.

27 At the request of an employee through contractual agreement  
28 a school district may purchase group or individual annuity  
29 contracts for employees, from an insurance organization or  
30 mutual fund the employee chooses that is authorized to do  
31 business in this state and through an Iowa-licensed insurance  
32 agent or from a securities dealer, salesperson, or mutual fund  
33 registered in this state that the employee selects, for  
34 retirement or other purposes, and may make payroll deductions  
35 in accordance with the arrangements for the purpose of paying

1 the entire premium due and to become due under the contract.  
 2 The deductions shall be made in the manner which will qualify  
 3 the annuity premiums for the benefits under section 403(b) of  
 4 the Internal Revenue Code of 1954, as defined in section  
 5 422.3. The employee's rights under the annuity contract are  
 6 nonforfeitable except for the failure to pay premiums. ~~If an~~  
 7 ~~existing tax-sheltered annuity contract is to be replaced by a~~  
 8 ~~new contract the agent or representative of the company shall~~  
 9 ~~submit a letter of intent by registered mail to the company~~  
 10 ~~being replaced, to the insurance commissioner of the state of~~  
 11 ~~Iowa, and to the agent's or representative's own company at~~  
 12 ~~least thirty days prior to any action. This letter of intent~~  
 13 ~~shall contain the policy number and description of the~~  
 14 ~~contract being replaced and a description of the replacement~~  
 15 ~~contract.~~

16 Sec. 702. Section 521.5, Code 1987, is amended to read as  
 17 follows:

18 521.5 COMMISSION TO HEAR PETITION.

19 For the purpose of hearing and determining such petition, a  
 20 commission consisting of the governor, commissioner of  
 21 insurance, and attorney general is hereby created. ~~In the~~  
 22 ~~inability of the governor to act, the secretary of state may~~  
 23 ~~act in the governor's stead.~~

24 Sec. 703. Section 523C.1, Code 1987, is amended by adding  
 25 the following new subsections:

26 NEW SUBSECTION. 5. "Reserve account agreement" means an  
 27 agreement entered into between a licensed service company and  
 28 a depository under section 523C.11.

29 NEW SUBSECTION. 6. "Depository" means an institution  
 30 designated by the commissioner as an authorized custodian for  
 31 purposes of sections 523C.5 and 523C.11.

32 NEW SUBSECTION. 7. "Custodian" means an institution  
 33 meeting the requirements established by the commissioner which  
 34 institution has entered into a custodial agreement or reserve  
 35 account agreement with a licensed service company.

1     NEW SUBSECTION. 8. "Custodial agreement" means an  
2 agreement entered into between a licensed service company and  
3 a custodian under section 523C.5.

4     NEW SUBSECTION. 9. "Custodial account" means an account  
5 established by agreement between a licensed service company  
6 and a custodian under section 523C.5.

7     Sec. 704. Section 523C.3, subsection 2, paragraph b, Code  
8 1987, is amended to read as follows:

9     b. A surety bond or a copy of custodial agreement as  
10 provided in section 523C.5.

11    Sec. 705. Section 523C.5, Code 1987, is amended to read as  
12 follows:

13    523C.5   REQUIRED BOND.

14    To assure the faithful performance of obligations under  
15 residential service contracts issued and outstanding in this  
16 state, a service company shall, prior to the issuance or  
17 renewal of a license, file with the commissioner a surety bond  
18 in the amount of one hundred thousand dollars, which has been  
19 issued by an authorized surety company and approved by the  
20 commissioner as to issuer, form, and contents or establish a  
21 custodial account in the amount of one hundred thousand  
22 dollars at an authorized depository. The bond or custodial  
23 account shall not be canceled or be subject to cancellation  
24 unless thirty days' advance notice in writing is filed with  
25 the commissioner. Notwithstanding ~~the provisions of~~ chapter  
26 17A, if a bond or custodial account is canceled for any reason  
27 and a new bond or notice that a new custodial account has been  
28 established in the required amount is not received by the  
29 commissioner on or before the effective date of cancellation,  
30 the license of the service company is automatically revoked as  
31 of the date the bond or custodial account ceases to be in  
32 effect. A service company whose license is revoked under this  
33 section may file an application for a new license pursuant to  
34 section 523C.3.

35    The bond or custodial account posted by a service company

1 pursuant to this section shall be for the benefit of, and  
2 subject to recovery thereon by any residential service  
3 contract holder sustaining actionable injury due to the  
4 failure of the service company to faithfully perform its  
5 obligations under a residential service contract because of  
6 insolvency of the service company.

7 If a service company ceases to do business in this state  
8 and furnishes to the commissioner satisfactory proof that it  
9 has discharged all obligations to contract holders, the surety  
10 bond or custodial account shall be released.

11 The commissioner may by rule designate institutions  
12 authorized to act as a depository under this section and  
13 establish requirements for custodians, custodial agreements,  
14 custodial accounts, or the method of valuing noncash assets  
15 held in a custodial account which the commissioner believes  
16 necessary to protect the holders of residential service  
17 contracts issued and outstanding in this state.

18 Sec. 706. Section 523C.6, unnumbered paragraph 2, Code  
19 1987, is amended to read as follows:

20 For purposes of this chapter, "net worth" means the excess  
21 of all assets over all liabilities including required  
22 reserves, but excluding assets held in a custodial account  
23 under section 523C.5, computed in accordance with generally  
24 accepted accounting principles. At least twenty thousand  
25 dollars of net worth shall consist of paid-in capital.

26 Sec. 707. Section 523C.11, subsection 1, Code 1987, is  
27 amended to read as follows:

28 1. A service company shall maintain in an independent  
29 depository a reserve account containing cash or marketable  
30 securities in an amount equal to fifty percent of aggregate  
31 annual fees collected on residential service contracts issued  
32 in this state, if any, and-for less actual expenditures for  
33 services rendered under those contracts.

34 Sec. 708. Section 523C.11, Code 1987, is amended by adding  
35 the following new subsection:

1 NEW SUBSECTION. 4. The commissioner may by rule designate  
2 institutions authorized to act as a depository under this  
3 section and may establish requirements for reserve accounts,  
4 reserve account agreements, or the method of valuing  
5 marketable securities which the commissioner believes  
6 necessary to protect the holders of residential service  
7 contracts issued and outstanding in this state.

8 SIMILAR TO HSB 692 (LSB 7628DH)

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125 B 692

House Study Bill 692

Small Business and Commerce: Groninga, Chair; Brammer, Halvorson of Clayton, **BINESS AND COMMERCE**  
Schnekieth and Shultz.

HOUSE FILE 2307  
BY (PROPOSED INSURANCE DIVISION  
OF DEPARTMENT OF COMMERCE  
BILL)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the regulation of the state's insurance  
2 industry and the administration of the insurance division of  
3 the department of commerce.

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

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DIVISION I

2 Section 101. Section 505.12, Code 1987, is amended to read  
3 as follows:

4 505.12 LIFE INSURANCE -- ANNUAL REPORT.

5 Before the first day of ~~August~~ September the commissioner  
6 of insurance shall make an annual report to the governor of  
7 the general conduct and condition of the life insurance  
8 companies doing business in the state, and include therein an  
9 aggregate of the estimated value of all outstanding policies  
10 in each of the companies; and in connection therewith prepare  
11 a separate abstract thereof as to each company, and of all the  
12 returns and statements made to the commissioner by them.

13 Sec. 102. section 505.13, subsection 1, Code Supplement  
14 1987, is amended to read as follows:

15 1. The commissioner shall annually cause the preparation  
16 and printing of a report to be delivered to the governor. The  
17 report shall contain information from the statements required  
18 of insurance companies, other than life insurance companies,  
19 organized or doing business in the state. The reports shall  
20 be delivered on or before the first day of ~~August~~ September  
21 each year.

22 Sec. 103. Section 508.13, Code 1987, is amended to read as  
23 follows:

24 508.13 ANNUAL CERTIFICATE OF AUTHORITY.

25 On receipt of the deposit provided in section 511.8,  
26 subsection 16, and the statement, and the statement and  
27 evidence of investment of foreign companies, all of which  
28 shall be renewed annually, by the first day of March, the  
29 commissioner of insurance shall issue a certificate setting  
30 forth the corporate name of the company, its home office, that  
31 it has fully complied with the laws of the state and is  
32 authorized to transact the business of life insurance for the  
33 ensuing year, which certificate shall expire on the first day  
34 of ~~May~~ June of the ensuing year, or sooner upon thirty days'  
35 notice given by the commissioner, of the next annual valuation

1 of its policies. Such certificate shall be renewed annually,  
2 upon the renewal of the deposit and statement by a domestic  
3 company, or of the statement and evidence of investment by a  
4 foreign company, and compliance with the conditions above  
5 required, and be subject to revocation as the original  
6 certificate.

7 Sec. 104. Section 510.14, Code 1987, is amended to read as  
8 follows:

9 510.14 CERTIFICATE OF AUTHORITY.

10 Upon compliance with the provisions of this chapter by an  
11 association, the commissioner of insurance shall issue to it a  
12 certificate, setting forth that it has fully complied with the  
13 provisions of this chapter, and is authorized to transact  
14 business for a period of one year from May June 1 of the year  
15 of its issue.

16 Sec. 105. Section 512.29, Code 1987, is amended to read as  
17 follows:

18 512.29 CERTIFICATE OF AUTHORITY -- FEES.

19 If the commissioner shall approve the articles and also the  
20 bylaws or rules, the commissioner shall issue to the society,  
21 order, or association a certificate of authority, authorizing  
22 it to transact business within this state for a period of one  
23 year from the first day of May June of the year of its issue,  
24 for which certificate and all proceedings in connection  
25 therewith, there shall be paid to the commissioner a fee of  
26 twenty-five one hundred dollars, and for each annual renewal  
27 thereof a like fee shall be paid.

28 Sec. 106. Section 512A.3, Code 1987, is amended to read as  
29 follows:

30 512A.3 INCORPORATION MANDATORY.

31 Before a benevolent association shall operate in this state  
32 it shall first incorporate in accordance with the laws of this  
33 state, and the articles of incorporation and bylaws shall be  
34 submitted to the commissioner. If the commissioner finds they  
35 conform to the requirements of the law and all rules and



1 regulations promulgated under this chapter, the commissioner  
2 shall approve the articles of incorporation and file them with  
3 the secretary of state. Every benevolent association at the  
4 time of its incorporation shall submit its general plan of  
5 operation to the commissioner and if the commissioner finds it  
6 conforms to the requirements of the law and all reasonable  
7 rules and regulations promulgated under this chapter, the  
8 commissioner shall issue a license to expire on the first day  
9 of May June after issuance. ~~Said~~ The license shall be renewed  
10 from year to year upon application of the association, if the  
11 commissioner finds from examination that it has conformed to  
12 the requirements of all laws and regulations applicable  
13 thereto.

14 Sec. 107. Section 515.42, Code 1987, is amended to read as  
15 follows:

16 515.42 TENURE OF CERTIFICATE -- RENEWAL -- EVIDENCE.

17 Such certificate of authority shall expire on the first day  
18 of May June next succeeding its issue, and shall be renewed  
19 annually so long as such company shall transact business in  
20 accordance with the requirements of law; a copy of which  
21 certificate, when certified to by the commissioner of  
22 insurance, shall be admissible in evidence for or against a  
23 company with the same effect as the original.

24 Sec. 108. Section 518.15, unnumbered paragraph 2, Code  
25 1987, is amended to read as follows:

26 Such associations shall pay the same expenses of any  
27 examination made or ordered to be made by the commissioner of  
28 insurance and the same fees for the annual reports and annual  
29 certificates of authority as are required to be paid by  
30 domestic companies organized and doing business under chapter  
31 515, which certificates shall expire May June 1 of the year  
32 following the date of issue.

33 Sec. 109. Section 519.9, Code 1987, is amended to read as  
34 follows:

35 519.9 FEES.

1 Such a mutual insurance corporation shall pay the same fees  
2 for admission into the state, for annual reports, and for  
3 annual certificates of authority as are required to be paid by  
4 domestic mutual companies organized and doing business under  
5 chapter 515; such certificate shall expire May June 1 of the  
6 year following the date of its issue.

7 Sec. 110. Section 520.12, Code 1987, is amended to read as  
8 follows:

9 520.12 CERTIFICATE OF AUTHORITY.

10 Upon compliance with the requirements of this chapter, the  
11 commissioner of insurance shall issue a certificate of  
12 authority or a license to the attorney, authorizing the  
13 attorney to make such contracts of insurance, which license  
14 shall specify the kind or kinds of insurance and shall contain  
15 the name of the attorney, the location of the principal office  
16 and the name or designation under which such contracts of  
17 insurance are issued. ~~Such license shall be renewed annually~~  
18 ~~upon a showing that the standard of solvency required herein~~  
19 ~~has been maintained, and that all fees and taxes required have~~  
20 ~~been paid~~ The certificate of authority shall expire on the  
21 first day of June next succeeding its issue, and shall be  
22 renewed annually as long as the company transacts business in  
23 accordance with the requirements of law.

24 DIVISION II

25 Sec. 201. Section 87.4, unnumbered paragraph 2, Code 1987,  
26 is amended to read as follows:

27 A self-insurance association formed under this section and  
28 an association comprised of cities or counties, or both, which  
29 enters have entered into an agreement under chapter 28E for  
30 the purpose of establishing a self-insured group-plan program  
31 for the payment of workers' compensation and benefits are  
32 exempt from taxation under section 432.1.

33 Sec. 202. Section 87.4, Code 1987, is amended by adding  
34 the following new unnumbered paragraph:

35 NEW UNNUMBERED PARAGRAPH. A self-insured program for the

1 payment of workers' compensation benefits established by an  
2 association comprised of cities and counties, or both, which  
3 have entered into an agreement under chapter 28E, is not  
4 insurance, and is not subject to regulation under chapters 505  
5 through 523C. Membership in such an association together with  
6 payment of premiums due relieves the member from obtaining  
7 insurance as required in section 87.1. Such an association is  
8 not required to submit its plan or program to the commissioner  
9 of insurance for review and approval prior to its  
10 implementation and is not subject to rules or rates adopted by  
11 the commissioner relating to workers' compensation group self-  
12 insurance programs. Such a program is deemed to be in  
13 compliance with this chapter.

14 Sec. 203. Section 508C.11, subsection 1, paragraph c, Code  
15 Supplement 1987, is amended to read as follows:

16 c. In a liquidation or rehabilitation proceeding involving  
17 a domestic insurer, be appointed as the liquidator or  
18 rehabilitator. ~~If a foreign or alien member insurer is~~  
19 ~~subject to a liquidation proceeding in its domiciliary~~  
20 ~~jurisdiction or state of entry, the commissioner shall be~~  
21 ~~appointed conservator.~~

22 Sec. 204. Section 508C.12, subsection 1, paragraph b, Code  
23 Supplement 1987, is amended to read as follows:

24 b. Report to the board of directors when the commissioner  
25 has taken any of the actions set forth in paragraph "a" or has  
26 received a report from any other commissioner indicating that  
27 any such action has been taken in another state a member  
28 insurer is impaired or insolvent. Reports to the board of di-  
29 rectors shall contain all significant details of the action  
30 taken or the report received from another commissioner.

31 Sec. 205. Section 511.8, subsection 10, paragraph a, Code  
32 Supplement 1987, is amended to read as follows:

33 a. Real estate in this state which is necessary for the  
34 accommodation of the company or association as a home office  
35 or in the transaction of its business. In the erection of

1 buildings for such purposes, there may be added rooms for  
 2 rent. Before the company or association invests any of its  
 3 funds in accordance with this paragraph it shall first obtain  
 4 the consent of the ~~executive-council-of-this-state~~  
 5 commissioner. The maximum amount which a company or  
 6 association shall be permitted to invest in accordance with  
 7 these provisions shall not exceed ten percent of the legal  
 8 reserve. However, a stock company may invest such portion of  
 9 its paid-up capital, in addition to ten percent of the legal  
 10 reserve, as is not held to constitute a part of its legal  
 11 reserve, under section 508.36, and the total legal reserve of  
 12 the company shall be equal to or exceed the amount of its  
 13 paid-up capital stock.

14 Sec. 206. Section 511.24, subsection 6, Code 1987, is  
 15 amended by striking the subsection.

16 Sec. 207.

17 1. Chapter 510, Code 1987, is repealed.

18 2. Sections 507.5 and 515.43, Code 1987, are repealed.

19 DIVISION III

20 Sec. 301. Section 507.1, Code 1987, is amended to read as  
 21 follows:

22 507.1 "COMPANY" DEFINED.

23 ~~The word "company" as~~ As used in this chapter, ~~shall mean~~  
 24 "company" means all companies or associations organized under  
 25 the provisions of chapters 508, 510, 511, 512, 512A, 514,  
 26 514B, 515, 515C, 518A, associations subject to the provisions  
 27 of chapters 518 and 520, and all companies or associations  
 28 admitted or seeking to be admitted to this state under the  
 29 provisions of any of the chapters herein referred to.

30 Sec. 302. Section 507.8, Code 1987, is amended to read as  
 31 follows:

32 507.8 PAYMENT BY COMPANY.

33 The commissioner shall upon the completion of an  
 34 examination, or at such regular intervals prior to completion  
 35 as the commissioner determines, prepare an account of the

1 costs incurred in performing and preparing the report of such  
2 examinations which shall be charged to and paid by the  
3 companies examined, and upon failure or refusal of any company  
4 examined to pay such bill or bills, the same may be recovered  
5 in an action brought in the name of the state under the  
6 ~~direction of the executive council~~, and the commissioner may  
7 also revoke the certificate of authority of such company to  
8 transact business within this state.

9 Sec. 303. Section 511.24, subsection 5, Code 1987, is  
10 amended to read as follows:

11 5. For ~~every copy of any paper filed, fifty cents per~~  
12 ~~folio, and for certifying and~~ affixing the official seal to  
13 any paper filed with the division, ~~five~~ ten dollars.

14 Sec. 304. Section 515.128, subsection 5, Code 1987, is  
15 amended to read as follows:

16 5. For ~~every copy of any paper filed, fifty cents per~~  
17 ~~folio, and for certifying and~~ affixing the official seal to  
18 any paper filed with the division, ~~five~~ ten dollars.

19 Sec. 305. Section 520.19, Code 1987, is amended to read as  
20 follows:

21 520.19 ANNUAL TAX -- FEES.

22 In lieu of all other taxes, licenses, charges, and fees  
23 whatsoever, such attorney shall ~~pay annually to the director~~  
24 ~~of the department of revenue and finance, or a depository~~  
25 ~~designated by the director of the department of revenue and~~  
26 ~~finance, on account of the transaction of such business in~~  
27 ~~this state, pay to the commissioner~~ the same fees as are paid  
28 by mutual companies transacting the same kind of business, and  
29 an annual tax of two percent, if a domestic reciprocal  
30 organization, and two percent, if a foreign reciprocal  
31 organization, calculated upon the gross premiums or deposits  
32 collected from subscribers in this state during the preceding  
33 calendar year, after deducting therefrom returns, or  
34 cancellations, and all amounts returned to subscribers or  
35 credited to their accounts as savings, and the amount returned

1 upon canceled policies and rejected applications covering  
2 property situated or on business done within this state.

3 DIVISION IV

4 Sec. 401. Section 515.11, Code 1987, is amended to read as  
5 follows:

6 515.11 PROHIBITED LOANS.

7 No part of the capital referred to shall be directly or  
8 indirectly loaned to any officer, or director, stockholder, or  
9 employee of the company or to a relative of any officer or  
10 director of the company.

11 Sec. 402. Section 515.35, subsection 4, paragraph n,  
12 subparagraph (1), Code 1987, is amended to read as follows:

13 (1) A company organized under this chapter may invest up  
14 to one two percent of its admitted assets in securities or  
15 property of any kind, without restrictions or limitations  
16 except those imposed on business corporations in general.

17 Sec. 403. Section 515.80, Code Supplement 1987, is amended  
18 by striking the section and inserting in lieu thereof the  
19 following:

20 515.80 FORFEITURE OF POLICIES -- NOTICE.

21 No policy or contract of insurance, unless otherwise  
22 provided in section 515.81A or 515.81B, provided for in this  
23 chapter shall be forfeited, suspended, or canceled for  
24 nonpayment of any premium, assessment, or installment provided  
25 for in the policy, or in any note or contract for the payment  
26 thereof, unless within thirty days prior to, or on or after  
27 the maturity thereof, the company serves notice in writing  
28 upon the insured that the premium, assessment, or installment  
29 is due or to become due, stating the amount, and the amount  
30 necessary to pay the customary short rates, up to the time  
31 fixed in the notice when the insurance will be suspended,  
32 forfeited, or canceled, which shall not be less than thirty  
33 days after service of the notice, which may be made in person,  
34 or by sending by certified mail a letter addressed to the  
35 insured at the insured's post office as given in or upon the

1 policy, anything in the policy, application, or a separate  
2 agreement to the contrary notwithstanding.

3 Sec. 404. Section 515.81, Code Supplement 1987, is amended  
4 by striking the section and inserting in lieu thereof the  
5 following:

6 515.81 CANCELLATION OF POLICY -- NOTICE TO INSURED OR  
7 MORTGAGEE.

8 Unless otherwise provided in section 515.81A or 515.81B, at  
9 any time after the maturity of a premium, assessment, or  
10 installment provided for in the policy, or any note or  
11 contract for the payment thereof, or after the suspension,  
12 forfeiture, or cancellation of any policy or contract of  
13 insurance, the insured may pay to the company the customary  
14 short rates and costs of action, if one has been commenced or  
15 judgment rendered thereon, and may, if the insured so elects,  
16 have the policy and all contracts or obligations connected  
17 therewith, whether in judgment or otherwise, canceled, and all  
18 such policy and contracts shall be void; and in case of  
19 suspension, forfeiture, or cancellation of any policy or  
20 contract of insurance, the insured shall not be liable for any  
21 greater amount than the short rates earned at the date of such  
22 suspension, forfeiture, or cancellation and the costs of  
23 action provided for in this section. The policy may be  
24 canceled by the insurance company by service of notice in  
25 writing upon the insured which notice shall fix the date of  
26 cancellation which shall be not less than ten days after  
27 service of the notice. The service of notice may be made in  
28 person, or by mailing the notice to the insured at the  
29 insured's post office address as given in or upon the policy,  
30 or to an other address given to the company in writing by the  
31 insured. A post office department receipt of certified or  
32 registered mailing shall be deemed proof of receipt of the  
33 notice. If the policy is canceled by the insurance company,  
34 the insurer may retain only the pro rata premium, and if the  
35 initial cash premium, or any part thereof, has not been paid,

1 the policy may be canceled by the insurance company by giving  
2 notice to the insured and ten days' notice to the mortgagee,  
3 or other person to whom the policy is made payable, if any,  
4 without tendering any part or portion of the premium, anything  
5 to the contrary in the policy notwithstanding.

6 Sec. 405. NEW SECTION. 515.81A CANCELLATION OF  
7 COMMERCIAL LINES POLICIES OR CONTRACTS.

8 1. A commercial line policy or contract of insurance which  
9 has not been previously renewed may be canceled by the insurer  
10 if it has been in effect for less than sixty days at the time  
11 notice of cancellation is mailed or delivered.

12 2. A commercial line policy or contract of insurance which  
13 has been renewed or which has been in effect for more than  
14 sixty days shall not be canceled unless at least one of the  
15 following conditions occurs:

16 a. Nonpayment of premium.

17 b. Misrepresentation or fraud made by or with the  
18 knowledge of the insured in obtaining the policy or contract,  
19 when renewing the policy or contract, or in presenting a claim  
20 under the policy or contract.

21 c. Actions by the insured which substantially change or  
22 increase the risk insured.

23 d. Determination by the commissioner that the continuation  
24 of the policy will jeopardize the insurer's solvency or will  
25 constitute a violation of the law of this or any other state.

26 e. The insured has acted in a manner which the insured  
27 knew or should have known was in violation or breach of a  
28 policy or contract term or condition.

29 3. A commercial line policy or contract of insurance may  
30 be canceled at any time if the insurer loses reinsurance  
31 coverage which provides coverage to the insurer for a  
32 significant portion of the underlying risk insured and if the  
33 commissioner determines that cancellation because of loss of  
34 reinsurance coverage is justified. In determining whether a  
35 cancellation because of loss of reinsurance coverage is



1 justified, the commissioner shall consider all of the  
2 following factors:

3 a. The volatility of the premiums charged for reinsurance  
4 in the market.

5 b. The number of reinsurers in the market.

6 c. The variance in the premiums for reinsurance offered by  
7 the reinsurers in the market.

8 d. The attempt by the insurer to obtain alternate  
9 reinsurance.

10 e. Any other factors deemed necessary by the commissioner.

11 4. A commercial line policy or contract of insurance shall  
12 not be canceled except by notice to the insured as provided in  
13 this subsection. A notice of cancellation shall include the  
14 reason for cancellation of the policy or contract. A notice  
15 of cancellation is not effective unless mailed or delivered to  
16 the named insured and a loss payee at least ten days prior to  
17 the effective date of cancellation, or if the cancellation is  
18 because of loss of reinsurance, at least thirty days prior to  
19 the effective date of cancellation. A post office department  
20 certificate of mailing to the named insured at the address  
21 shown in the policy or contract is proof of receipt of the  
22 mailing; however, such a certificate of mailing is not  
23 required if cancellation is for nonpayment of premium.

24 5. This section applies to all forms of commercial  
25 property and casualty insurance written pursuant to this  
26 chapter. However, this section shall not govern workers'  
27 compensation or crop and hail insurance, which shall be  
28 governed by sections 515.80 and 515.81.

29 Sec. 406. NEW SECTION. 515.81B NONRENEWAL OF COMMERCIAL  
30 LINES POLICIES OR CONTRACTS.

31 An insurer shall not fail to renew a commercial line policy  
32 or contract of insurance except by notice to the insured as  
33 provided in this section. Nonrenewal of a commercial line  
34 policy or contract includes a decision by the insurer not to  
35 renew the policy or contract, an increase in the premium of

1 twenty-five percent or more, an increase in the deductible of  
2 twenty-five percent or more, or a material reduction in the  
3 limits or coverage of the policy or contract. However, a  
4 premium charge which is assessed after the beginning date of  
5 the policy period for which the premium is due shall not be  
6 deemed a premium increase for the purpose of this section.

7 A notice of nonrenewal is not effective unless mailed or  
8 delivered by the insurer to the named insured and any loss  
9 payee at least forty-five days prior to the expiration date of  
10 the policy. If the insurer fails to meet the notice  
11 requirements of this section, the insured has the option of  
12 continuing the policy for the remainder of the notice period  
13 plus an additional thirty days at the premium rate of the  
14 existing policy or contract. A post office department  
15 certificate of mailing to the named insured at the address  
16 shown in the policy or contract is proof of receipt of the  
17 mailing.

18 This section applies to all forms of commercial property  
19 and casualty insurance written pursuant to this chapter. It  
20 does not apply if the insurer has offered to renew or if the  
21 insured fails to pay a premium due or any advance premium  
22 required by the insurer for renewal. This section does not  
23 apply to workers' compensation or crop and hail insurance,  
24 which shall be governed by sections 515.80 and 515.81.

25 Sec. 407. Section 515.49, Code 1987, is amended by  
26 striking the section and inserting in lieu thereof the  
27 following:

28 A company shall not expose itself to loss on any one risk  
29 or hazard to an amount exceeding ten percent of its surplus to  
30 policyholders unless one of the following applies:

31 1. The excess is reinsured in some other good and reliable  
32 company licensed to sell insurance in this state.

33 2. The excess is reinsured by a group of individual  
34 unincorporated insurers who are authorized to sell insurance  
35 in at least one state of the United States and who possess

1 assets which are held in trust for the benefit of the American  
2 policyholders in the sum of not less than fifty million  
3 dollars, and a certificate of such reinsurance shall be  
4 furnished to the insured.

5 3. The excess is reinsured with a company which has, with  
6 respect to the ceding insurer, created a trust fund, made a  
7 deposit, or obtained letters of credit, on terms satisfactory  
8 to the commissioner.

9 DIVISION V

10 Sec. 501. Section 506.2, Code 1987, is amended to read as  
11 follows:

12 506.2 SALE OF SECURITIES RESTRICTED.

13 Neither the securities in ~~an~~ a domestic insurance company,  
14 nor securities in a holding company, one of the purposes of  
15 which is to organize, purchase, or otherwise acquire control  
16 of ~~an~~ a domestic insurance company, nor membership in an  
17 association in process of organization shall be sold or  
18 solicited until such company or association, and the promoters  
19 thereof, shall have first complied with all of the statutory  
20 provisions regulating the organization of such companies and  
21 associations, and also have secured from the commissioner of  
22 insurance a certificate indicating full compliance with the  
23 provisions of this chapter.

24 Sec. 502. Section 507C.20, Code Supplement 1987, is  
25 amended to read as follows:

26 507C.20 DISSOLUTION OR SALE OF INSURER.

27 The commissioner may petition for an order dissolving the  
28 corporate existence of a domestic insurer or the United States  
29 branch of an alien insurer domiciled in this state at the time  
30 the commissioner applies for a liquidation order. The court  
31 shall order dissolution of the corporation upon petition by  
32 the commissioner upon or after the granting of a liquidation  
33 order. If the dissolution has not previously been ordered, it  
34 shall be effected by operation of law upon the discharge of  
35 the liquidator if the insurer is insolvent. However,

1 dissolution may be ordered by the court upon the discharge of  
2 the liquidator if the insurer is under a liquidation order for  
3 some other reason. Notwithstanding the above, upon  
4 application by the commissioner and following notice as  
5 prescribed by the court and a hearing, the court may sell the  
6 corporation as an entity, together with any of its licenses to  
7 do business, despite the entry of an order of liquidation.  
8 The sale may be made on terms and conditions the court deems  
9 appropriate ~~including, but not limited to, the placing of the~~  
10 ~~proceeds of the sale of the corporate entity and licenses into~~  
11 ~~a trust for the benefit of policyholders and creditors with~~  
12 ~~proceeds to be distributed in the manner set forth in section~~  
13 ~~507E.42. However, the order approving the sale shall provide~~  
14 that the proceeds of the sale shall become part of the assets  
15 of the liquidation estate, to be distributed in the manner set  
16 forth in section 507C.42, and that the corporate entity and  
17 its licenses shall thereafter be free and clear from the  
18 claims or interests of all claimants, creditors,  
19 policyholders, and stockholders of the corporation under  
20 liquidation.

21 Sec. 503. Section 515B.1, Code 1987, is amended to read as  
22 follows:

23 515B.1 SCOPE.

24 This chapter shall apply to all kinds of direct insurance  
25 authorized to be written by an insurer licensed to operate in  
26 this state under chapter 515 or chapter 520, except life,  
27 title, surety, fidelity, disability including accident and  
28 health, credit, mortgage guaranty, ocean marine insurance,  
29 financial guaranty or other forms of insurance offering  
30 protection against investment risk, automobile warranty  
31 coverage, or insurance written pursuant to 15 U.S.C. § 3901 et  
32 seq., or any transaction which, although denominated as  
33 insurance, does not result in the transfer of an insurance  
34 risk.

35 Sec. 504. Section 515B.2, subsection 3, paragraph b, Code

1 1987, is amended by striking the paragraph and inserting in  
2 lieu thereof the following:

3 b. The claim is one by an insured for damage to property  
4 permanently located in this state.

5 Sec. 505. Section 515B.2, subsection 3, unnumbered  
6 paragraph 2, Code 1987, is amended by striking the paragraph  
7 and inserting in lieu thereof the following:

8 "Covered claim" does not include  
9 an amount due any reinsurer, insurer, insurance pool,  
10 underwriting association, or other group assuming insurance  
11 risks, as subrogation, contribution, or indemnity recoveries  
12 or otherwise; a portion of a claim that is within an insured's  
13 deductible or self-insured retention; a claim for unearned  
14 premium calculated on a retrospective basis, experience-rated  
15 plan, or premium subject to adjustment after termination of  
16 the policy; an amount due an attorney, adjuster, or witness as  
17 fees for services rendered to the insolvent insurer; a fine,  
18 penalty, interest, or punitive or exemplary damages; or a  
19 claim under a policy issued by an insolvent insurer with a  
20 deductible or self-insured retention of two hundred thousand  
21 dollars or more. A claim under a liability policy shall be  
22 considered to be a covered claim if as of the deadline set for  
23 the filing of claims against the insolvent insurer or its  
24 liquidator, the insured is a debtor in a liquidation  
25 bankruptcy under 11 U.S.C. § 701 et seq.

26 This paragraph does not prevent a person from presenting a  
27 noncovered claim to the insolvent insurer or its liquidator,  
28 but the noncovered claim shall not be asserted against any  
29 other person, including the person to whom benefits were paid  
30 or the insured of the insolvent insurer, except to the extent  
31 that it is outside the coverage of the policy issued by the  
32 insolvent insurer.

33 Sec. 506. Section 515B.5, subsection 1, paragraph a, Code  
34 1987, is amended to read as follows:

35 a. Be obligated to the extent of the covered claims

1 existing prior to the determination of insolvency and arising  
2 within thirty days after the determination of insolvency, or  
3 before the policy expiration date if less than thirty days  
4 after the determination, or before the insured replaces the  
5 policy or on request effects cancellation if the insured does  
6 so within thirty days of the determination. This obligation  
7 includes only the amount of a covered claim which is in excess  
8 of one hundred dollars and less than three hundred thousand  
9 dollars for all damages arising out of any one accident,  
10 occurrence, or incident regardless of the number of persons  
11 making claims. If the policy of the insolvent insurer  
12 contained an aggregate limit, the association shall not be  
13 obligated for more than three hundred thousand dollars on an  
14 aggregate basis. However, the association shall pay the full  
15 amount of a covered claim arising out of a workers'  
16 compensation policy. In addition, the association is not  
17 liable for an amount in excess of the ~~specified-limits-of-a~~  
18 ~~policy~~ lesser of three hundred thousand dollars or the policy  
19 limits, regardless of the theory under which or the type of  
20 damages for which the association is alleged to be liable.

21 Sec. 507. Section 515B.9, subsection 2, Code 1987, is  
22 amended to read as follows:

23 2. A person having a claim which may be recovered under  
24 more than one insurance guaranty association or its equivalent  
25 shall seek recovery first from the association of the place of  
26 residence of the insured. However, if the claim is a first  
27 party claim for damage to property with a permanent location,  
28 recovery shall be first sought from the association of the  
29 location of the property. If the claim is a workers'  
30 compensation claim, recovery shall be first sought from the  
31 association of the residence of the claimant. ~~A person shall~~  
32 ~~not-recover-any-amount-of-the-person's-claim-against-the~~  
33 ~~insured-in-excess-of-the-amount-recovered-or-recoverable-from~~  
34 ~~the-association-except-to-the-extent-the-claim-exceeds-the~~  
35 ~~policy-limits-of-the-insolvent-insurer.~~ Any sums recovered

1 from any other guaranty association or equivalent organization  
2 shall be subtracted from the maximum liability of the  
3 association under section 515B.5, subsection 1, paragraph "a".

4 Sec. 508. NEW SECTION. 515B.18 PROHIBITED ADVERTISING.

5 A person shall not advertise or publish, in connection with  
6 the sale of an insurance policy, that claims under the  
7 insurance policy are subject to this chapter or will be paid  
8 by the Iowa insurance guaranty association.

9 Sec. 509. Section 518A.1, subsection 1, paragraph d, Code  
10 1987, is amended to read as follows:

11 d. Any automobile or aircraft or other vehicle, including  
12 loss, expense, or liability resulting from the ownership,  
13 maintenance, or use thereof, but shall not include ~~by-county~~  
14 ~~mutuals~~, insurance against bodily injury to the person.

15 DIVISION VI

16 Sec. 601. Section 515D.5, unnumbered paragraph 1, Code  
17 1987, is amended to read as follows:

18 Notwithstanding the provisions of ~~section-515.81~~ sections  
19 515.80 through 515.81A, a notice of cancellation of a policy  
20 shall not be effective unless mailed or delivered by the  
21 insurer to the named insured at least twenty days prior to the  
22 effective date of cancellation, or, where the cancellation is  
23 for nonpayment of premium notwithstanding the provisions of  
24 section sections 515.80 and 515.81A at least ten days prior to  
25 the date of cancellation. A post-office department  
26 certificate of mailing to the named insured at the address  
27 shown in the policy shall be proof of receipt of such mailing.  
28 Unless the reason accompanies the notice of cancellation, the  
29 notice shall state that, upon written request of the named  
30 insured, mailed or delivered to the insurer not less than  
31 fifteen days prior to the date of cancellation, the insurer  
32 will state the reason for cancellation, together with  
33 notification of the right to a hearing before the commissioner  
34 within fifteen days as provided herein in this chapter.

35 Sec. 602. Section 515D.7, unnumbered paragraph 1, Code

1 1987, is amended to read as follows:

2 No Notwithstanding the provisions of sections 515.80  
3 through 515.81B, an insurer shall not fail to renew a policy  
4 except by notice to the insured as provided in this chapter.  
5 A notice of intention not to renew shall not be effective  
6 unless mailed or delivered by the insurer to the named insured  
7 at least thirty days prior to the expiration date of the  
8 policy. A post-office department certificate of mailing to  
9 the named insured at the address shown in the policy shall be  
10 proof of receipt of such mailing. Unless the reason  
11 accompanies the notice of intent not to renew, the notice  
12 shall state that, upon written request of the named insured,  
13 mailed or delivered to the insurer not less than twenty days  
14 prior to the expiration date of the policy, the insurer will  
15 state the reason for nonrenewal.

16 Sec. 603. NEW SECTION. 508.39 DIVIDENDS.

17 The directors or managers of a stock company, incorporated  
18 under the laws of this state, shall make no dividends except  
19 from the earned profits arising from their business, which  
20 shall not include contributed capital or contributed surplus.

21 Sec. 604. NEW SECTION. 514F.3 PREFERRED PROVIDERS.

22 The commissioner of insurance shall adopt rules for  
23 preferred provider contracts and organizations, both those  
24 that limit choice of specific provider and those that do not.  
25 The rules adopted shall include, but not be limited to, the  
26 following subjects: preferred provider arrangements and  
27 participation requirements, health benefit plans, and civil  
28 penalties.

29 DIVISION VII

30 Sec. 701. Section 294.16, Code 1987, is amended to read as  
31 follows:

32 294.16 ANNUITY CONTRACTS.

33 At the request of an employee through contractual agreement  
34 a school district may purchase group or individual annuity  
35 contracts for employees, from an insurance organization the



1 employee chooses that is authorized to do business in this  
2 state and through an Iowa-licensed insurance agent or from a  
3 securities dealer or salesperson registered in this state that  
4 the employee selects, for retirement or other purposes, and  
5 may make payroll deductions in accordance with the  
6 arrangements for the purpose of paying the entire premium due  
7 and to become due under the contract. The deductions shall be  
8 made in the manner which will qualify the annuity premiums for  
9 the benefits under section 403(b) of the Internal Revenue Code  
10 of 1954, as defined in section 422.3. The employee's rights  
11 under the annuity contract are nonforfeitable except for the  
12 failure to pay premiums. ~~If an existing tax-sheltered annuity~~  
13 ~~contract is to be replaced by a new contract the agent or~~  
14 ~~representative of the company shall submit a letter of intent~~  
15 ~~by registered mail to the company being replaced, to the~~  
16 ~~insurance commissioner of the state of Iowa, and to the~~  
17 ~~agent's or representative's own company at least thirty days~~  
18 ~~prior to any action. This letter of intent shall contain the~~  
19 ~~policy number and description of the contract being replaced~~  
20 ~~and a description of the replacement contract.~~

21 Sec. 702. Section 521.5, Code 1987, is amended to read as  
22 follows:

23 521.5 COMMISSION TO HEAR PETITION.

24 For the purpose of hearing and determining such petition, a  
25 commission consisting of the governor, commissioner of  
26 insurance, and attorney general is hereby created. ~~In the~~  
27 ~~inability of the governor to act, the secretary of state may~~  
28 ~~act in the governor's stead.~~

29 EXPLANATION

30 DIVISION I

31 Sections 101 and 102 change the date from August 1 to  
32 September 1 for the delivery of the life insurance annual  
33 report.

34 Sections 103 through 110 change renewal dates, including  
35 renewal dates for certificates of authority from May 1 to June

1 1.

2 Section 105 also increases certain annual certification  
3 fees.

4 DIVISION II

5 Sections 201 and 202 relate to self-insurance programs  
6 offered by cities or counties. Under section 202, certain  
7 self-insurance plans no longer have to be submitted to the  
8 insurance division.

9 Section 203 removes authority appointing the commissioner  
10 as conservator if a foreign or alien member insurer is subject  
11 to liquidation under the insurance guaranty association law.

12 Section 204 provides that the commissioner must report to  
13 the board of directors when the commissioner has received a  
14 report from a commissioner in another state indicating that  
15 certain actions have been taken against a member insurer in  
16 the foreign state, under the insurance guaranty association  
17 law.

18 Section 205 changes from the executive council to the  
19 commissioner the authority required to grant approval to the  
20 investment of funds in home office property by a life  
21 insurance company.

22 Section 206 strikes a provision requiring valuation fee for  
23 life insurance companies.

24 Section 207 repeals chapter 510 relating to assessment of  
25 life insurance; repeals section 507.5 relating to a bond  
26 required to be purchased and filed by insurance examiners; and  
27 repeals section 515.43 relating to increasing the maximum  
28 capital of an insurer.

29 DIVISION III

30 Section 301 provides that a benevolent association is  
31 subject to examination as an insurance company.

32 Section 302 provides for the billing of examination costs  
33 for insurance companies at regular intervals prior to the  
34 completion of the examination.

35 Sections 303 and 304 remove costs charged certain companies

1 for filing certain papers with the insurance commissioner and  
2 raises the cost of affixing the official seal to a paper filed  
3 with the insurance division.

4 Section 305 relates to remitting annual fees of reciprocal  
5 insurers to the commissioner.

6 DIVISION IV

7 Section 401 prohibits an insurance company from making  
8 direct or indirect loans to a director, or employee, or a  
9 relative of an officer or director of an insurance company.

10 Section 402 raises the amount of admitted assets that an  
11 insurance company can invest in property of any kind.

12 Section 403 provides that an insurance company must provide  
13 notice before a policy or contract of insurance is forfeited,  
14 suspended, or canceled due to nonpayment of a premium,  
15 assessment, or installment.

16 Section 404 provides for the liability of an insured person  
17 for an amount due an insurance company upon the suspension,  
18 forfeiture, or cancellation of a policy or contract of  
19 insurance. The section also provides for notice of  
20 cancellation by the insurance company.

21 Sections 405 and 406 provide for the cancellation and  
22 nonrenewal of a commercial line policy or contract of  
23 insurance.

24 Section 407 prohibits a company from exposing itself to  
25 loss or a risk or hazard for a certain amount exceeding its  
26 surplus to policyholders, unless the amount is reinsured.

27 DIVISION V

28 Section 501 provides that section 506.2 relating to  
29 restricting sales of securities applies to domestic insurance  
30 companies only.

31 Section 502 provides that a purchaser of a corporate shell  
32 of an insolvent insurer purchases free of claims against the  
33 previous insurer.

34 Section 503 provides that guaranty association coverage  
35 does not apply to automobile warranty coverage.

1 Sections 504 and 507 provide conforming language with  
2 515B.9, subsection 2.

3 Section 505 defines a "covered claim" to exclude certain  
4 claims based on damages and claims by certain insureds.

5 Section 506 provides for certain liability limits for the  
6 payment of a claim by the guaranty association.

7 Section 508 prohibits a person from advertising, in  
8 connection with the sale of an insurance policy, that if the  
9 insurance company becomes insolvent, claims will be paid by  
10 the insurance guaranty association.

11 Section 509 provides language to conform with enacted  
12 sections.

13 DIVISION VI

14 Sections 601 and 602 provide language to conform with  
15 enacted sections.

16 Section 603 provides for the paying of dividends by life  
17 insurance stock companies.

18 Section 604 requires the commissioner to adopt rules  
19 relating to preferred provider contacts and organizations.

20 DIVISION VII

21 Section 701 provides for the sale by certain persons of  
22 individual annuities for school district employees.

23 Section 702 provides for the membership of a commission to  
24 hear consolidation and reinsurance petitions.

25 BACKGROUND STATEMENT

26 SUBMITTED BY THE AGENCY

27 The bill amends provisions related to the regulation of the  
28 insurance industry and the administration of the insurance  
29 division, including the following:

30 DIVISION I

31 Sections 101 and 102: These amendments would change from  
32 August 1 to September 1 the date of the life insurance annual  
33 report. Presently, computerization of the division and of the  
34 national association of insurance commissioners could provide  
35 for labor saving computer (rather than manual) generation of

1 this report if the date is moved to September, since NAIC data  
2 base is not complete until mid-August.

3 Sections 103 through 110: These amendments change from May  
4 1 to June 1 the certificate renewal date. This would not  
5 adversely effect the companies but would positively affect the  
6 workflow deadlines of the division -- as well as enabling the  
7 division to use the IRIS reports of the national association  
8 of insurance commissioners through its new computerization  
9 abilities. This reduces the manual labor intensive work of  
10 inputting extensive data into the Iowa review which is dupli-  
11 cated by IRIS.

12 Section 105: This amendment also increases the initial  
13 licensing and annual renewal fees and also increases certain  
14 annual certification fees to one hundred dollars each. The  
15 current renewal fee of twenty-five dollars (which is the only  
16 fee remitted by fraternalists since they are not subject to  
17 premium taxes) has been at the current level for more than  
18 forty years. This increase would establish renewal fees for  
19 fraternalists at the same level as those assessed on other types  
20 of insurers.

21 Section 110: The amendment also standardizes the language  
22 of reciprocal insurers with that of other insurers.

23 DIVISION II

24 Section 203: The deleted language is a part of the NAIC  
25 model Act which was necessary in order to create reciprocal  
26 status when a state lacks a uniform insurers liquidation Act.  
27 However, Iowa now has such an Act, Iowa Code ch 507A, and thus  
28 this language is unnecessary and could be erroneously con-  
29 strued to require the commissioner of this state to create an  
30 auxiliary conservatorship even when there are no assets of the  
31 insolvent insurer in this state.

32 Section 205: Currently, the statute requires approval by  
33 the executive council before a life insurance company may  
34 invest its funds, for legal reserve purposes, in home office  
35 property. Presently regulatory provisions contained elsewhere

1 provide oversight of investments and legal reserves, making  
2 the approval of the executive council duplicative for proper  
3 business purposes. It is no longer necessary to delay home  
4 office transactions and to infringe upon the time of the  
5 executive council for such purposes.

6 This amendment would provide the commissioner of insurance,  
7 who must regulate the legal reserves of life insurance  
8 companies, with the duty to review and approve home office  
9 investments.

10 Section 206: This amendment would remove the \$20 per mil-  
11 lion dollars valuation fee for life insurance companies, which  
12 is no longer in use.

13 Section 207: This amendment repeals chapter 510 of the  
14 Code relating to assessment life insurance. This chapter is  
15 unnecessary and has not been used in recent years. The  
16 amendment also repeals the present statutory requirement of a  
17 \$5,000 bond purchased by insurance examiners to be filed with  
18 and approved by the commissioner of insurance; the requirement  
19 is no longer necessary given the purchase of blanket bonds  
20 under chapter 18. The amendment also repeals a statutory  
21 procedure for increasing an insurer's capital over the  
22 "maximum" allowed by law; there is no "maximum" capital set  
23 forth elsewhere in the Code, making this section unnecessary  
24 and confusing.

25

### DIVISION III

26 Section 301: Presently, there is no clear statutory  
27 authority to charge benevolent associations for examination  
28 costs. However, there is a statutory duty to examine  
29 benevolent associations. This amendment would authorize the  
30 assessment of examination costs against benevolent  
31 associations, as is presently charged against all other  
32 regulated insurance entities.

33 Section 302: The present statutory language provides for  
34 the charging of examination costs at the completion of the  
35 examination. However, many present day examinations require

1 significant periods of time to complete, necessitating the  
2 charging of costs at earlier intervals to maintain the cash  
3 flow of the division's revolving fund for examinations. Ad-  
4 ditionally, companies are presently voluntarily paying  
5 examination costs on a biweekly basis. This amendment would  
6 authorize the billing of incurred-to-date costs prior to  
7 completion of an examination, and would conform the Code to  
8 present practices.

9 Sections 303 and 304: These amendments increase from \$5 to  
10 \$10 the costs charged for affixing the official seal to papers  
11 filed with the division by insurance companies, and removes  
12 the present charges for copies and for certification of such  
13 papers. This will reduce the administrative costs and time  
14 for both companies and the division.

15 Section 305: This amendment provides for annual fees of  
16 reciprocal insurers to be remitted to the commissioner of  
17 insurance, as is presently required of other insurers.

18 DIVISION IV

19 Section 401: This amendment expands the restrictions on  
20 loans within an insurance company other than life to conform  
21 to restrictions on life insurance companies.

22 Section 402: This amendment would increase from 1% to 2%  
23 that percent of an insurer's admitted assets in its "basket"  
24 or "other" investments, enabling companies to invest with more  
25 flexibility in existing financial markets.

26 Section 407: Section 515.49 contains capital requirements  
27 for various combinations of lines of property and casualty  
28 business which are less than the \$2 million presently required  
29 by other Code sections for all newly formed insurers. The  
30 deleted language is not followed by the insurance department  
31 as a matter of practice and is treated as an anachronism by  
32 the insurance industry. It is inconsistent with the \$2  
33 million figure.

34 DIVISION V

35 Section 501: Presently, the provisions relating to

1 oversight of insurance securities could be interpreted to  
2 apply to all insurers doing business in this state (over  
3 1500). The intent, and present division practice, relates  
4 only to Iowa domestic companies, which this amendment  
5 clarifies.

6 Section 502: This amendment makes clear that, when the  
7 corporate shell of an insolvent insurer is sold, the shell and  
8 its licenses shall remain free from all claims against the  
9 former insurer. This addition to the language of section  
10 507C.20 will facilitate the sale of the corporate shells of  
11 insolvent insurers and thereby increase the proceeds available  
12 for distribution to policyholders and claimants.

13 Section 503: This amendment precludes guaranty association  
14 coverage for automobile warranty coverage, which is not truly  
15 "insurance" in nature. Coverage for risk retention groups,  
16 formed under 15 U.S.C. section 3901 et seq., is prohibited by  
17 federal law.

18 Section 504: This amendment brings the language of section  
19 515B.2(3)(b) into conformity with section 515B.9(2).

20 Section 505: This amendment reorganizes into a more  
21 understandable format the existing language. It does,  
22 however, add new provisions. In many instances, when an  
23 insurer is experiencing financial difficulties, its claims are  
24 improperly handled. The damages arising out of this should be  
25 claims against the estate of the insolvent insurer and not the  
26 guaranty association. The amendment also adds an exclusion.  
27 Many large insureds who are sophisticated in purchasing  
28 insurance have large deductibles. Since they can select  
29 insurers and negotiate terms, it is believed that they should  
30 stand the expense of their own claims. There is, however, an  
31 exception to protect the public in case the insured is  
32 bankrupt.

33 Section 506: Most insurance policies today have an  
34 aggregate limit. This would provide a comparable limit for  
35 the association.



1 Section 507: This language eliminates a conflict between  
2 section 515B.9(2) and section 515B.5 and brings the language  
3 into conformity with the same provision in other states.

4 Section 508: This amendment conforms Iowa law to the  
5 national association of insurance commissioners insurance  
6 guaranty association model Act, and prohibits insurance  
7 companies or their agents from telling prospective insureds  
8 that the insurance guaranty association will pay their claims  
9 in the event the insurance company is declared insolvent.

10 Section 509: This amendment removes the reference  
11 exception for county mutuals, which was overlooked when state  
12 mutuals and county mutuals were part of the same chapter in  
13 the 1962 Code.

14 DIVISION VI

15 Section 601: This amendment makes the necessary Code  
16 reference change to conform to previous legislation.

17 Section 602: This amendment clarifies that section 515D.7,  
18 rather than section 515.81, controls nonrenewal of automobile  
19 insurance.

20 Section 603: This new section would provide that  
21 dividends, in the life insurance companies, could be paid only  
22 out of earned surplus (as is presently the case in insurance  
23 companies other than life).

24 Section 604: Presently, preferred provider organizations,  
25 i.e., arrangements wherein a health benefit plan provides for  
26 treatment by select providers, are unregulated. This bill  
27 would authorize the division of insurance to adopt rules  
28 regulating those entities, in particular, to adopt the  
29 national association of insurance commissioners' model  
30 provision.

31 DIVISION VII

32 Section 701: Presently, a school district may arrange to  
33 have its employees purchase individual annuities only through  
34 an insurer authorized to do business in this state and an  
35 Iowa-licensed insurance agent. This bill would expand the

1 authorization to allow arrangements to be made for purchase  
2 through a securities dealer or salesperson registered in the  
3 state.

4 Section 702: This amendment would make it no longer nec-  
5 essary for the governor to serve as the member of a commission  
6 to hear and determine consolidation and reinsurance petitions.

7 COMPANION TO LSB 7627DS

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HOUSE FILE 2307

AN ACT

RELATING TO THE REGULATION OF THE STATE'S INSURANCE INDUSTRY  
AND THE ADMINISTRATION OF THE INSURANCE DIVISION OF THE  
DEPARTMENT OF COMMERCE.

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

DIVISION I

Section 101. Section 505.12, Code 1987, is amended to read as follows:

505.12 LIFE INSURANCE -- ANNUAL REPORT.

Before the first day of August ~~September~~ the commissioner of insurance shall make an annual report to the governor of the general conduct and condition of the life insurance companies doing business in the state, and include therein an aggregate of the estimated value of all outstanding policies in each of the companies; and in connection therewith prepare a separate abstract thereof as to each company, and of all the returns and statements made to the commissioner by them.

Sec. 102. Section 505.13, subsection 1, Code Supplement 1987, is amended to read as follows:

1. The commissioner shall annually cause the preparation and printing of a report to be delivered to the governor. The report shall contain information from the statements required of insurance companies, other than life insurance companies, organized or doing business in the state. The reports shall be delivered on or before the first day of August ~~September~~ each year.

Sec. 103. Section 508.13, Code 1987, is amended to read as follows:

508.13 ANNUAL CERTIFICATE OF AUTHORITY.

On receipt of the deposit provided in section 511.8, subsection 16, and the statement, and the statement and

evidence of investment of foreign companies, all of which shall be renewed annually, by the first day of March, the commissioner of insurance shall issue a certificate setting forth the corporate name of the company, its home office, that it has fully complied with the laws of the state and is authorized to transact the business of life insurance for the ensuing year, which certificate shall expire on the first day of May ~~June~~ of the ensuing year, or sooner upon thirty days' notice given by the commissioner, of the next annual valuation of its policies. Such certificate shall be renewed annually, upon the renewal of the deposit and statement by a domestic company, or of the statement and evidence of investment by a foreign company, and compliance with the conditions above required, and be subject to revocation as the original certificate.

Sec. 104. NEW SECTION. 509A.15 CERTIFICATION OF SELF-INSURANCE PLANS.

1. Within thirty days following the end of a self-insurance plan's fiscal year, the governing body shall file with the commissioner of insurance a certificate of compliance. The certificate of compliance shall be accompanied by a filing fee of one hundred dollars. The certificate shall be signed and dated by the appropriate public official representing the governing body, and shall certify the following:

a. That the plan meets the requirements of this chapter and the applicable provisions of the Iowa administrative code.

b. That an actuarial opinion has been attached to the certificate which attests to the adequacy of reserves, rates, and financial condition of the plan. The actuarial opinion shall be issued by a fellow of the society of actuaries.

c. That a written complaint procedure has been implemented. The certificate shall also list the number of complaints filed by participants under the written complaint procedure, and the percentage of participants filing written complaints, in the prior fiscal year.

d. That the governing body has contracted or otherwise arranged with a third party for plan administration.

2. The commissioner shall by rule require the maintenance of confidentiality of information held by the plan administrator.

3. The failure of the governing body to provide the certificate of compliance required by subsection 1, or the failure of the governing body or plan administrator to abide by a requirement of the plan, this chapter, or applicable rule, is grounds for action against the plan, including cause for disapproval or discontinuance of the plan.

Sec. 105. Section 512.29, Code 1987, is amended to read as follows:

512.29 CERTIFICATE OF AUTHORITY -- FEES.

If the commissioner shall approve the articles and also the bylaws or rules, the commissioner shall issue to the society, order, or association a certificate of authority, authorizing it to transact business within this state for a period of one year from the first day of May June of the year of its issue, for which certificate and all proceedings in connection therewith, there shall be paid to the commissioner a fee of twenty-five one hundred dollars, and for each annual renewal thereof a like fee shall be paid.

Sec. 106. Section 512A.3, Code 1987, is amended to read as follows:

512A.3 INCORPORATION MANDATORY.

Before a benevolent association shall operate in this state it shall first incorporate in accordance with the laws of this state, and the articles of incorporation and bylaws shall be submitted to the commissioner. If the commissioner finds they conform to the requirements of the law and all rules and regulations promulgated under this chapter, the commissioner shall approve the articles of incorporation and file them with the secretary of state. Every benevolent association at the time of its incorporation shall submit its general plan of operation to the commissioner and if the commissioner finds it conforms to the requirements of the law and all reasonable

rules and regulations promulgated under this chapter, the commissioner shall issue a license to expire on the first day of May June after issuance. Said ~~The~~ license shall be renewed from year to year upon application of the association, if the commissioner finds from examination that it has conformed to the requirements of all laws and regulations applicable thereto.

Sec. 107. Section 515.42, Code 1987, is amended to read as follows:

515.42 TENURE OF CERTIFICATE -- RENEWAL -- EVIDENCE.

Such certificate of authority shall expire on the first day of May June next succeeding its issue, and shall be renewed annually so long as such company shall transact business in accordance with the requirements of law; a copy of which certificate, when certified to by the commissioner of insurance, shall be admissible in evidence for or against a company with the same effect as the original.

Sec. 108. Section 518.15, unnumbered paragraph 2, Code 1987, is amended to read as follows:

Such associations shall pay the same expenses of any examination made or ordered to be made by the commissioner of insurance and the same fees for the annual reports and annual certificates of authority as are required to be paid by domestic companies organized and doing business under chapter 515, which certificates shall expire May June 1 of the year following the date of issue.

Sec. 109. Section 519.9, Code 1987, is amended to read as follows:

519.9 FEES.

Such a mutual insurance corporation shall pay the same fees for admission into the state, for annual reports, and for annual certificates of authority as are required to be paid by domestic mutual companies organized and doing business under chapter 515; such certificate shall expire May June 1 of the year following the date of its issue.

Sec. 110. Section 520.12, Code 1987, is amended to read as follows:

520.12 CERTIFICATE OF AUTHORITY.

Upon compliance with the requirements of this chapter, the commissioner of insurance shall issue a certificate of authority or a license to the attorney, authorizing the attorney to make such contracts of insurance, which license shall specify the kind or kinds of insurance and shall contain the name of the attorney, the location of the principal office and the name or designation under which such contracts of insurance are issued. ~~Such license shall be renewed annually upon a showing that the standard of solvency required herein has been maintained, and that all fees and taxes required have been paid.~~ The certificate of authority shall expire on the first day of June next succeeding its issue, and shall be renewed annually as long as the company transacts business in accordance with the requirements of law.

## DIVISION II

Sec. 201. Section 87.4, unnumbered paragraph 2, Code 1987, is amended to read as follows:

A self-insurance association formed under this section and an association comprised of cities or counties, or both, which enters have entered into an agreement under chapter 28E for the purpose of establishing a self-insured group-plan program for the payment of workers' compensation and benefits are exempt from taxation under section 432.1.

Sec. 202. Section 87.4, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A self-insured program for the payment of workers' compensation benefits established by an association comprised of cities and counties, or both, which have entered into an agreement under chapter 28E, is not insurance, and is not subject to regulation under chapters 505 through 523C. Membership in such an association together with payment of premiums due relieves the member from obtaining insurance as required in section 87.1. Such an association is not required to submit its plan or program to the commissioner of insurance for review and approval prior to its implementation and is not subject to rules or rates adopted by the commissioner relating to workers' compensation group self-

insurance programs. Such a program is deemed to be in compliance with this chapter.

Sec. 203. Section 508C.11, subsection 1, paragraph c, Code Supplement 1987, is amended to read as follows:

c. In a liquidation or rehabilitation proceeding involving a domestic insurer, be appointed as the liquidator or rehabilitator. ~~if a foreign or alien member insurer is subject to a liquidation proceeding in its domiciliary jurisdiction or state of entry, the commissioner shall be appointed conservator.~~

Sec. 204. Section 508C.12, subsection 1, paragraph b, Code Supplement 1987, is amended to read as follows:

b. Report to the board of directors when the commissioner has taken any of the actions set forth in paragraph "a" or has received a report from any other commissioner indicating that ~~any such action has been taken in another state~~ a member insurer is impaired or insolvent. Reports to the board of directors shall contain all significant details of the action taken or the report received from another commissioner.

Sec. 205. Section 511.8, subsection 10, paragraph a, Code Supplement 1987, is amended to read as follows:

a. Real estate in this state which is necessary for the accommodation of the company or association as a home office or in the transaction of its business. In the erection of buildings for such purposes, there may be added rooms for rent. Before the company or association invests any of its funds in accordance with this paragraph it shall first obtain the consent of the ~~executive council of this state~~ commissioner. The maximum amount which a company or association shall be permitted to invest in accordance with these provisions shall not exceed ten percent of the legal reserve. However, a stock company may invest such portion of its paid-up capital, in addition to ten percent of the legal reserve, as is not held to constitute a part of its legal reserve, under section 508.36, and the total legal reserve of the company shall be equal to or exceed the amount of its paid-up capital stock.

Sec. 206. Section 511.24, subsection 6, Code 1987, is amended by striking the subsection.

Sec. 207.

1. Chapter 510, Code 1987, is repealed.
2. Sections 507.5 and 515.43, Code 1987, are repealed.

DIVISION III

Sec. 301. Section 507.1, Code 1987, is amended to read as follows:

507.1 "COMPANY" DEFINED.

The word "company" as As used in this chapter, shall mean "company" means all companies or associations organized under the provisions of chapters 508, 511, 512, 512A, 514, 514B, 515, 515C, 518A, associations subject to the provisions of chapters 518 and 520, and all companies or associations admitted or seeking to be admitted to this state under the provisions of any of the chapters herein referred to.

Sec. 302. Section 507.8, Code 1987, is amended to read as follows:

507.8 PAYMENT BY COMPANY.

The commissioner shall upon the completion of an examination, or at such regular intervals prior to completion as the commissioner determines, prepare an account of the costs incurred in performing and preparing the report of such examinations which shall be charged to and paid by the companies examined, and upon failure or refusal of any company examined to pay such bill or bills, the same may be recovered in an action brought in the name of the state under the direction of the executive council, and the commissioner may also revoke the certificate of authority of such company to transact business within this state.

Sec. 303. Section 511.24, subsection 5, Code 1987, is amended to read as follows:

5. For every copy of any paper filed, fifty cents per folio, ~~and for certifying and affixing the official seal to any paper filed with the division, five ten dollars.~~

Sec. 304. Section 515.128, subsection 5, Code 1987, is amended to read as follows:

5. For every copy of any paper filed, fifty cents per folio, ~~and for certifying and affixing the official seal to any paper filed with the division, five ten dollars.~~

Sec. 305. Section 520.19, Code 1987, is amended to read as follows:

520.19 ANNUAL TAX -- FEES.

In lieu of all other taxes, licenses, charges, and fees whatsoever, such attorney shall pay annually to the director of the department of revenue and finance or a depository designated by the director of the department of revenue and finance, on account of the transaction of such business in this state, pay to the commissioner the same fees as are paid by mutual companies transacting the same kind of business, and an annual tax of two percent, if a domestic reciprocal organization, and two percent, if a foreign reciprocal organization, calculated upon the gross premiums or deposits collected from subscribers in this state during the preceding calendar year, after deducting therefrom returns, or cancellations, and all amounts returned to subscribers or credited to their accounts as savings, and the amount returned upon canceled policies and rejected applications covering property situated or on business done within this state.

DIVISION IV

Sec. 401. Section 515.11, Code 1987, is amended to read as follows:

515.11 PROHIBITED LOANS.

No part of the capital referred to shall be directly or indirectly loaned to any officer, or director, stockholder, or employee of the company or to a relative of any officer or director of the company.

Sec. 402. Section 515.35, subsection 4, paragraph n, subparagraph (1), Code 1987, is amended to read as follows:

(1) A company organized under this chapter may invest up to one two percent of its admitted assets in securities or property of any kind, without restrictions or limitations except those imposed on business corporations in general.

Sec. 403. Section 515.49, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

515.49 LIMITATION ON RISKS.

A company shall not expose itself to loss on any one risk or hazard to an amount exceeding ten percent of its surplus to policyholders unless one of the following applies:

1. The excess is reinsured in some other good and reliable company licensed to sell insurance in this state.

2. The excess is reinsured by a group of individual unincorporated insurers who are authorized to sell insurance in at least one state of the United States and who possess assets which are held in trust for the benefit of the American policyholders in the sum of not less than fifty million dollars, and a certificate of such reinsurance shall be furnished to the insured.

3. The excess is reinsured with a company which has, with respect to the ceding insurer, created a trust fund, made a deposit, or obtained letters of credit, on terms satisfactory to the commissioner.

Sec. 404. Section 515.80, Code Supplement 1987, is amended by striking the section and inserting in lieu thereof the following:

515.80 FORFEITURE OF POLICIES -- NOTICE.

No policy or contract of insurance, unless otherwise provided in section 515.81A or 515.81B, provided for in this chapter shall be forfeited, suspended, or canceled for nonpayment of any premium, assessment, or installment provided for in the policy, or in any note or contract for the payment thereof, unless within thirty days prior to, or on or after the maturity thereof, the company serves notice in writing upon the insured that the premium, assessment, or installment is due or to become due, stating the amount, and the amount necessary to pay the customary short rates, up to the time fixed in the notice when the insurance will be suspended, forfeited, or canceled, which shall not be less than thirty days after service of the notice, which may be made in person,

or by sending by certified mail a letter addressed to the insured at the insured's post office as given in or upon the policy, anything in the policy, application, or a separate agreement to the contrary notwithstanding. A post office department receipt of certified mailing shall be proof of receipt of the registered mailing. However, notice of cancellation of a workers' compensation policy due to nonpayment of the premium may be made in person, or by mail, as otherwise provided, but need not be served by certified mail.

Sec. 405. Section 515.81, Code Supplement 1987, is amended by striking the section and inserting in lieu thereof the following:

515.81 CANCELLATION OF POLICY -- NOTICE TO INSURED OR MORTGAGEE.

Unless otherwise provided in section 515.81A or 515.81B, at any time after the maturity of a premium, assessment, or installment provided for in the policy, or any note or contract for the payment thereof, or after the suspension, forfeiture, or cancellation of any policy or contract of insurance, the insured may pay to the company the customary short rates and costs of action, if one has been commenced or judgment rendered thereon, and may, if the insured so elects, have the policy and all contracts or obligations connected therewith, whether in judgment or otherwise, canceled, and all such policy and contracts shall be void; and in case of suspension, forfeiture, or cancellation of any policy or contract of insurance, the insured shall not be liable for any greater amount than the short rates earned at the date of such suspension, forfeiture, or cancellation and the costs of action provided for in this section. The policy may be canceled by the insurance company by service of notice in writing upon the insured which notice shall fix the date of cancellation which shall be not less than ten days after service of the notice. The service of notice may be made in person, or by mailing the notice to the insured at the insured's post office address as given in or upon the policy.

or to another address given to the company in writing by the insured. A post office department receipt of certified or registered mailing shall be deemed proof of receipt of the notice. If the policy is canceled by the insurance company, the insurer may retain only the pro rata premium, and if the initial cash premium, or any part thereof, has not been paid, the policy may be canceled by the insurance company by giving notice to the insured and ten days' notice to the mortgagee, or other person to whom the policy is made payable, if any, without tendering any part or portion of the premium, anything to the contrary in the policy notwithstanding.

Sec. 406. NEW SECTION. 515.81A CANCELLATION OF COMMERCIAL LINES POLICIES OR CONTRACTS.

1. A commercial line policy or contract of insurance, except a policy or contract for crop hail or multiperil insurance, which has not been previously renewed may be canceled by the insurer if it has been in effect for less than sixty days at the time notice of cancellation is mailed or delivered.

2. A commercial line policy or contract of insurance, except a policy or contract for crop hail or multiperil insurance, which has been renewed or which has been in effect for more than sixty days shall not be canceled unless at least one of the following conditions occurs:

- a. Nonpayment of premium.
- b. Misrepresentation or fraud made by or with the knowledge of the insured in obtaining the policy or contract, when renewing the policy or contract, or in presenting a claim under the policy or contract.
- c. Actions by the insured which substantially change or increase the risk insured.
- d. Determination by the commissioner that the continuation of the policy will jeopardize the insurer's solvency or will constitute a violation of the law of this or any other state.
- e. The insured has acted in a manner which the insured knew or should have known was in violation or breach of a policy or contract term or condition.

3. A commercial line policy or contract of insurance, except a policy or contract for crop hail or multiperil insurance, may be canceled at any time if the insurer loses reinsurance coverage which provides coverage to the insurer for a significant portion of the underlying risk insured and if the commissioner determines that cancellation because of loss of reinsurance coverage is justified. In determining whether a cancellation because of loss of reinsurance coverage is justified, the commissioner shall consider all of the following factors:

- a. The volatility of the premiums charged for reinsurance in the market.
- b. The number of reinsurers in the market.
- c. The variance in the premiums for reinsurance offered by the reinsurers in the market.
- d. The attempt by the insurer to obtain alternate reinsurance.
- e. Any other factors deemed necessary by the commissioner.

4. A commercial line policy or contract of insurance, except a policy or contract for crop hail or multiperil insurance, shall not be canceled except by notice to the insured as provided in this subsection. A notice of cancellation shall include the reason for cancellation of the policy or contract. A notice of cancellation is not effective unless mailed or delivered to the named insured and a loss payee at least ten days prior to the effective date of cancellation, or if the cancellation is because of loss of reinsurance, at least thirty days prior to the effective date of cancellation. A post office department certificate of mailing to the named insured at the address shown in the policy or contract is proof of receipt of the mailing; however, such a certificate of mailing is not required if cancellation is for nonpayment of premium.

Sec. 407. NEW SECTION. 515.81B NONRENEWAL OF COMMERCIAL LINES POLICIES OR CONTRACTS.

An insurer shall not fail to renew a commercial line policy or contract of insurance except by notice to the insured as



provided in this section. Nonrenewal of a commercial line policy or contract includes a decision by the insurer not to renew the policy or contract, an increase in the premium of twenty-five percent or more, an increase in the deductible of twenty-five percent or more, or a material reduction in the limits or coverage of the policy or contract. However, a premium charge which is assessed after the beginning date of the policy period for which the premium is due shall not be deemed a premium increase for the purpose of this section.

A notice of nonrenewal is not effective unless mailed or delivered by the insurer to the named insured and any loss payee at least forty-five days prior to the expiration date of the policy. If the insurer fails to meet the notice requirements of this section, the insured has the option of continuing the policy for the remainder of the notice period plus an additional thirty days at the premium rate of the existing policy or contract. A post office department certificate of mailing to the named insured at the address shown in the policy or contract is proof of receipt of the mailing.

This section applies to all forms of commercial property and casualty insurance written pursuant to this chapter. It does not apply if the insurer has offered to renew or if the insured fails to pay a premium due or any advance premium required by the insurer for renewal.

#### DIVISION V

Sec. 501. Section 506.2, Code 1987, is amended to read as follows:

#### 506.2 SALE OF SECURITIES RESTRICTED.

Neither the securities in an a domestic insurance company, nor securities in a holding company, one of the purposes of which is to organize, purchase, or otherwise acquire control of an a domestic insurance company, nor membership in an association in process of organization shall be sold or solicited until such company or association, and the promoters thereof, shall have first complied with all of the statutory provisions regulating the organization of such companies and

associations, and also have secured from the commissioner of insurance a certificate indicating full compliance with the provisions of this chapter.

Sec. 502. Section 507C.20, Code Supplement 1987, is amended to read as follows:

#### 507C.20 DISSOLUTION OR SALE OF INSURER.

The commissioner may petition for an order dissolving the corporate existence of a domestic insurer or the United States branch of an alien insurer domiciled in this state at the time the commissioner applies for a liquidation order. The court shall order dissolution of the corporation upon petition by the commissioner upon or after the granting of a liquidation order. If the dissolution has not previously been ordered, it shall be effected by operation of law upon the discharge of the liquidator if the insurer is insolvent. However, dissolution may be ordered by the court upon the discharge of the liquidator if the insurer is under a liquidation order for some other reason. Notwithstanding the above, upon application by the commissioner and following notice as prescribed by the court and a hearing, the court may sell the corporation as an entity, together with any of its licenses to do business, despite the entry of an order of liquidation. The sale may be made on terms and conditions the court deems appropriate including, ~~but not limited to, the placing of the proceeds of the sale of the corporate entity and licenses into a trust for the benefit of policyholders and creditors with proceeds to be distributed in the manner set forth in section 507E.42.~~ However, the order approving the sale shall provide that the proceeds of the sale shall become part of the assets of the liquidation estate, to be distributed in the manner set forth in section 507C.42, and that the corporate entity and its licenses shall thereafter be free and clear from the claims or interests of all claimants, creditors, policyholders, and stockholders of the corporation under liquidation.

Sec. 503. Section 508.12, Code 1987, is amended to read as follows:

508.12 FOREIGN COMPANIES MAY BECOME DOMESTIC  
 REDOMESTICATION OF INSURERS.

Any company an insurer which is organized under the laws of any other state or country, and which has been admitted to do business in this state for the purpose of writing insurance authorized by this chapter, upon may become a domestic insurer by complying with section 491.23 and with all of the requirements of law relative to the organization and licensing of a domestic insurance companies and to the execution of filing, recording and publishing of notice of incorporation and payment of corporation fees by like domestic corporations, insurer of the same type and by designating its principal place of business at a place in this state, and; upon payment to the commissioner of insurance of a transfer tax in a sum equal to twenty-five percent of the premium tax paid pursuant to the provisions of chapter 432 for the last calendar year immediately preceding its becoming a domestic corporation or the sum of ten thousand dollars, whichever is the lesser but not less than one thousand dollars; may become a domestic corporation and be entitled to like certificates of its corporate existence and license to transact business in this state, and be subject in all respects to the authority and jurisdiction thereof.

The certificates of authority, agent's appointments and licenses, rates, and other items which are in existence at the time any insurer transfers its corporate domicile to this state, pursuant to this section, shall continue in full force and effect upon such transfer. For purposes of existing authorizations and all other corporate purposes, the insurer is deemed the same entity as it was prior to the transfer of its domicile. All outstanding policies of any transferring insurer shall remain in full force and effect and need not be endorsed as to any new name of the company or its new location unless so ordered by the commissioner of insurance.

Sec. 504. Section 515B.1, Code 1983, is amended to read as follows:

515B.1 SCOPE.

This chapter shall apply to all kinds of direct insurance authorized to be written by an insurer licensed to operate in this state under chapter 515 or chapter 520, except life, title, surety, fidelity, disability including accident and health, credit, mortgage guaranty, ocean marine insurance, financial guaranty or other forms of insurance offering protection against investment risk, automobile warranty coverage, or insurance written pursuant to 15 U.S.C. § 3901 et seq., or any transaction which, although denominated as insurance, does not result in the transfer of an insurance risk.

Sec. 505. Section 515B.2, subsection 3, paragraph b, Code 1987, is amended by striking the paragraph and inserting in lieu thereof the following:

b. The claim is one by an insured for damage to property permanently located in this state.

Sec. 506. Section 515B.2, subsection 3, unnumbered paragraph 2, Code 1987, is amended by striking the paragraph and inserting in lieu thereof the following:

"Covered claim" does not include an amount due any reinsurer, insurer, insurance pool, underwriting association, or other group assuming insurance risks, as subrogation, contribution, or indemnity recoveries or otherwise; a portion of a claim that is within an insured's deductible or self-insured retention; a claim for unearned premium calculated on a retrospective basis, experience-rated plan, or premium subject to adjustment after termination of the policy; an amount due an attorney, adjuster, or witness as fees for services rendered to the insolvent insurer; a fine, penalty, interest, or punitive or exemplary damages; or a claim under a policy issued by an insolvent insurer with a deductible or self-insured retention of two hundred thousand dollars or more. A claim under a liability policy shall be considered to be a covered claim if as of the deadline set for the filing of claims against the insolvent insurer or its liquidator, the insured is a debtor in a liquidation bankruptcy under 11 U.S.C. § 101 et seq. This paragraph does not prevent a person

from presenting a noncovered claim to the insolvent insurer or its liquidator, but the noncovered claim shall not be asserted against any other person, including the person to whom benefits were paid or the insured of the insolvent insurer, except to the extent that it is outside the coverage of the policy issued by the insolvent insurer.

Sec. 507. Section 515B.5, subsection 1, paragraph a, Code 1987, is amended to read as follows:

a. Be obligated to the extent of the covered claims existing prior to the determination of insolvency and arising within thirty days after the determination of insolvency, or before the policy expiration date if less than thirty days after the determination, or before the insured replaces the policy or on request effects cancellation if the insured does so within thirty days of the determination. This obligation includes only the amount of a covered claim which is in excess of one hundred dollars and less than three hundred thousand dollars for all damages arising out of any one accident, occurrence, or incident regardless of the number of persons making claims. If the policy of the insolvent insurer contained an aggregate limit, the association shall not be obligated for more than three hundred thousand dollars on an aggregate basis. However, the association shall pay the full amount of a covered claim arising out of a workers' compensation policy. In addition, the association is not liable for an amount in excess of the specified limits of a policy lesser of three hundred thousand dollars or the policy limits, regardless of the theory under which or the type of damages for which the association is alleged to be liable.

Sec. 508. Section 515B.9, subsection 2, Code 1987, is amended to read as follows:

2. A person having a claim which may be recovered under more than one insurance guaranty association or its equivalent shall seek recovery first from the association of the place of residence of the insured. However, if the claim is a first party claim for damage to property with a permanent location, recovery shall be first sought from the association of the

location of the property. If the claim is a workers' compensation claim, recovery shall be first sought from the association of the residence of the claimant. ~~A person shall not recover any amount of the person's claim against the insured in excess of the amount recovered or recoverable from the association except to the extent the claim exceeds the policy limits of the insolvent insurer.~~ Any sums recovered from any other guaranty association or equivalent organization shall be subtracted from the maximum liability of the association under section 515B.5, subsection 1, paragraph "a".

Sec. 509. NEW SECTION. 515B.18 PROHIBITED ADVERTISING.

A person shall not advertise or publish, in connection with the sale of an insurance policy, that claims under the insurance policy are subject to this chapter or will be paid by the Iowa insurance guaranty association.

Sec. 510. Section 518A.1, subsection 1, paragraph d, Code 1987, is amended to read as follows:

d. Any automobile or aircraft or other vehicle, including loss, expense, or liability resulting from the ownership, maintenance, or use thereof, but shall not include ~~by-county~~ mutuals insurance against bodily injury to the person.

#### DIVISION VI

Sec. 601. Section 515D.5, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Notwithstanding the provisions of ~~section 515.81~~ sections 515.80 through 515.81A, a notice of cancellation of a policy shall not be effective unless mailed or delivered by the insurer to the named insured at least twenty days prior to the effective date of cancellation, or, where the cancellation is for nonpayment of premium notwithstanding the provisions of ~~section sections~~ sections 515.80 and 515.81A at least ten days prior to the date of cancellation. A post-office department certificate of mailing to the named insured at the address shown in the policy shall be proof of receipt of such mailing. Unless the reason accompanies the notice of cancellation, the notice shall state that, upon written request of the named insured, mailed or delivered to the insurer not less than

fifteen days prior to the date of cancellation, the insurer will state the reason for cancellation, together with notification of the right to a hearing before the commissioner within fifteen days as provided herein in this chapter.

Sec. 602. Section 515D.7, unnumbered paragraph 1, Code 1987, is amended to read as follows:

No Notwithstanding the provisions of sections 515.80 through 515.81B, an insurer shall not fail to renew a policy except by notice to the insured as provided in this chapter. A notice of intention not to renew shall not be effective unless mailed or delivered by the insurer to the named insured at least thirty days prior to the expiration date of the policy. A post-office department certificate of mailing to the named insured at the address shown in the policy shall be proof of receipt of such mailing. Unless the reason accompanies the notice of intent not to renew, the notice shall state that, upon written request of the named insured, mailed or delivered to the insurer not less than twenty days prior to the expiration date of the policy, the insurer will state the reason for nonrenewal.

Sec. 603. NEW SECTION. 508.39 DIVIDENDS.

The directors or managers of a stock company, incorporated under the laws of this state, shall make no dividends except from the earned profits arising from their business, which shall not include contributed capital or contributed surplus.

Sec. 604. NEW SECTION. 514F.3 PREFERRED PROVIDERS.

The commissioner of insurance shall adopt rules for preferred provider contracts and organizations, both those that limit choice of specific provider and those that do not. The rules adopted shall include, but not be limited to, the following subjects: preferred provider arrangements and participation requirements, health benefit plans, and civil penalties.

#### DIVISION VII

Sec. 601. Section 294.16, Code 1987, is amended to read as follows:

294.16 ANNUITY CONTRACTS.

At the request of an employee through contractual agreement a school district may purchase group or individual annuity contracts for employees, from an insurance organization or mutual fund the employee chooses that is authorized to do business in this state and through an Iowa-licensed insurance agent or from a securities dealer, salesperson, or mutual fund registered in this state that the employee selects, for retirement or other purposes, and may make payroll deductions in accordance with the arrangements for the purpose of paying the entire premium due and to become due under the contract. The deductions shall be made in the manner which will qualify the annuity premiums for the benefits under section 403(b) of the Internal Revenue Code of 1954, as defined in section 422.3. The employee's rights under the annuity contract are nonforfeitable except for the failure to pay premiums. ~~If an existing tax-sheltered annuity contract is to be replaced by a new contract the agent or representative of the company shall submit a letter of intent by registered mail to the company being replaced, to the insurance commissioner of the state of Iowa, and to the agent's or representative's own company at least thirty days prior to any action. This letter of intent shall contain the policy number and description of the contract being replaced and a description of the replacement contract.~~

Sec. 702. Section 521.5, Code 1987, is amended to read as follows:

521.5 COMMISSION TO HEAR PETITION.

For the purpose of hearing and determining such petition, a commission consisting of the governor, commissioner of insurance, and attorney general is hereby created. ~~In the inability of the governor to act, the secretary of state may act in the governor's stead.~~

Sec. 703. Section 523C.1, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 5. "Reserve account agreement" means an agreement entered into between a licensed insurance company and a depository under section 523C.11.

NEW SUBSECTION. 6. "Depository" means an institution designated by the commissioner as an authorized custodian for purposes of sections 523C.5 and 523C.11.

NEW SUBSECTION. 7. "Custodian" means an institution meeting the requirements established by the commissioner which institution has entered into a custodial agreement or reserve account agreement with a licensed service company.

NEW SUBSECTION. 8. "Custodial agreement" means an agreement entered into between a licensed service company and a custodian under section 523C.5.

NEW SUBSECTION. 9. "Custodial account" means an account established by agreement between a licensed service company and a custodian under section 523C.5.

Sec. 704. Section 523C.3, subsection 2, paragraph b, Code 1987, is amended to read as follows:

b. A surety bond or a copy of custodial agreement as provided in section 523C.5.

Sec. 705. Section 523C.5, Code 1987, is amended to read as follows:

#### 523C.5 REQUIRED BOND.

To assure the faithful performance of obligations under residential service contracts issued and outstanding in this state, a service company shall, prior to the issuance or renewal of a license, file with the commissioner a surety bond in the amount of one hundred thousand dollars, which has been issued by an authorized surety company and approved by the commissioner as to issuer, form, and contents or establish a custodial account in the amount of one hundred thousand dollars at an authorized depository. The bond or custodial account shall not be canceled or be subject to cancellation unless thirty days' advance notice in writing is filed with the commissioner. Notwithstanding the provisions of chapter 17A, if a bond or custodial account is canceled for any reason and a new bond or notice that a new custodial account has been established in the required amount is not received by the commissioner on or before the effective date of cancellation, the license of the service company is automatically revoked as

of the date the bond or custodial account ceases to be in effect. A service company whose license is revoked under this section may file an application for a new license pursuant to section 523C.3.

The bond or custodial account posted by a service company pursuant to this section shall be for the benefit of, and subject to recovery thereon by any residential service contract holder sustaining actionable injury due to the failure of the service company to faithfully perform its obligations under a residential service contract because of insolvency of the service company.

If a service company ceases to do business in this state and furnishes to the commissioner satisfactory proof that it has discharged all obligations to contract holders, the surety bond or custodial account shall be released.

The commissioner may by rule designate institutions authorized to act as a depository under this section and establish requirements for custodians, custodial agreements, custodial accounts, or the method of valuing noncash assets held in a custodial account which the commissioner believes necessary to protect the holders of residential service contracts issued and outstanding in this state.

Sec. 705. Section 523C.6, unnumbered paragraph 2, Code 1987, is amended to read as follows:

For purposes of this chapter, "net worth" means the excess of all assets over all liabilities including required reserves, but excluding assets held in a custodial account under section 523C.5, computed in accordance with generally accepted accounting principles. At least twenty thousand dollars of net worth shall consist of paid-in capital.

Sec. 707. Section 523C.11, subsection 1, Code 1987, is amended to read as follows:

1. A service company shall maintain in an independent depository a reserve account containing cash or marketable securities in an amount equal to fifty percent of aggregate annual fees collected on residential service contracts issued in this state, or any, and the 1988 actual expenditures for services rendered under those contracts.

Sec. 708. Section 523C.11, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The commissioner may by rule designate institutions authorized to act as a depository under this section and may establish requirements for reserve accounts, reserve account agreements, or the method of valuing marketable securities which the commissioner believes necessary to protect the holders of residential service contracts issued and outstanding in this state.

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DONALD D. AVENSON  
Speaker of the House

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JO ANN ZIMMERMAN  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2307, Seventy-second General Assembly.

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JOSEPH O'HERN  
Chief Clerk of the House

Approved April 26, 1988

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TERRY E. BRANSTAD  
Governor