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HOUSE FILE 2320

BY COMMITTEE ON SMALL BUSINESS
AND COMMERCE

(SUCCESSOR TO HSB 685)

Passed House, Date 2/23/90 (p.605) Passed Senate, Date 3/23/90 (P.1278)
Vote: Ayes 95 Nays 0 Vote: Ayes 43 Nays 0
Approved May 2, 1990

A BILL FOR

1 An Act relating to fire and casualty insurance, altering the
2 method of filing rates subject to the approval of the
3 commissioner of insurance, except for workers' compensation
4 liability insurance rates, and authorizing civil penalties.

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

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HF 2320

5246 amends section 1

1 Section 1. NEW SECTION. 87.23 RATE FILINGS BY WORKERS'
2 COMPENSATION INSURERS THROUGH A RATING ORGANIZATION.

3 1. A corporation, an unincorporated association, a
4 partnership or an individual, whether located within or
5 outside this state, may make application to the commissioner
6 for a license as a rating organization for workers'
7 compensation insurance and shall file with the application all
8 of the following:

9 a. A copy of its constitution, its articles of agreement
10 or association, or its certificate of incorporation, and a
11 copy of its bylaws, rules, and regulations governing the
12 conduct of its business.

13 b. A list of its members and subscribers.

14 c. The name and address of a resident of this state upon
15 whom notices or orders of the commissioner or process
16 affecting such rating organization may be served.

17 d. A statement of its qualifications as a rating
18 organization.

19 If the commissioner finds that the applicant is competent,
20 trustworthy and otherwise qualified to act as a rating
21 organization and that its constitution, articles of agreement
22 or association or certificate of incorporation, and its
23 bylaws, rules, and regulations governing the conduct of its
24 business conform to the requirements of law, the commissioner
25 shall issue a license limiting the rating organization's
26 activities to workers' compensation insurance and specifying
27 those persons or insurers for which the licensee is authorized
28 to act as a rating organization. Every such application shall
29 be granted or denied in whole or in part by the commissioner
30 within sixty days of the date of its filing with the
31 commissioner. Licenses issued pursuant to this section shall
32 remain in effect for three years unless sooner suspended or
33 revoked by the commissioner. The fee for the license shall be
34 established by rule of the commissioner. Licenses issued
35 pursuant to this section may be suspended or revoked by the

1 commissioner, after hearing upon notice, if the rating
2 organization ceases to meet the requirements of this
3 subsection.

4 A rating organization shall notify the commissioner
5 promptly of every change in those items filed pursuant to
6 paragraphs "a" through "c".

7 2. Subject to rules and regulations which have been
8 approved by the commissioner as reasonable, each rating
9 organization shall permit any insurer, not a member, to be a
10 subscriber to its rating services for workers' compensation
11 insurance or subdivision of workers' compensation insurance
12 for which it is authorized to act as a rating organization.
13 Notice of proposed changes in such rules and regulations shall
14 be given to subscribers. A rating organization shall furnish
15 its rating services without discrimination to its members and
16 subscribers. The reasonableness of any rule or regulation in
17 its application to subscribers, or the refusal of any rating
18 organization to admit an insurer as a subscriber, shall, at
19 the request of any subscriber or any such insurer, be reviewed
20 by the commissioner at a hearing held upon at least ten days'
21 written notice to the rating organization and to the
22 subscriber or insurer. If the commissioner finds that such
23 rule or regulation is unreasonable in its application to
24 subscribers, the commissioner shall order that the rule or
25 regulation shall not be applicable to subscribers. If the
26 rating organization fails to grant or reject an insurer's
27 application for subscribership within thirty days after it is
28 made, the insurer may request a review by the commissioner as
29 if the application had been rejected. If the commissioner
30 finds that the insurer has been refused admittance to the
31 rating organization as a subscriber without justification, the
32 commissioner shall order the rating organization to admit the
33 insurer as a subscriber. If the commissioner finds that the
34 action of the rating organization was justified the
35 commissioner shall make an order affirming its action.

1 3. A rating organization shall not adopt any rule the
2 effect of which would be to prohibit or regulate the payment
3 of dividends, savings, or unabsorbed premium deposits allowed
4 or returned by insurers to their policyholders, members, or
5 subscribers.

6 4. Cooperation among rating organizations or among rating
7 organizations and insurers in ratemaking or in other matters
8 within the scope of this section is authorized, provided the
9 filings resulting from such cooperation are subject to all the
10 provisions of this section which are applicable to filings
11 generally. The commissioner may review such cooperative
12 activities and practices and if, after a hearing, the
13 commissioner finds that an activity or practice is unfair or
14 unreasonable or otherwise inconsistent with the provisions of
15 this section, the commissioner may issue a written order
16 specifying in what respects the activity or practice is unfair
17 or unreasonable or otherwise inconsistent with the provisions
18 of this section, and requiring the discontinuance of the
19 activity or practice.

20 5. A rating organization may provide for the examination
21 of policies, daily reports, binders, renewal certificates,
22 endorsements or other evidences of insurance, or the
23 cancellation thereof, and may make reasonable rules governing
24 their submission. Such rules shall contain a provision that
25 in the event an insurer does not within sixty days furnish
26 satisfactory evidence to the rating organization of the
27 correction of any error or omission previously called to the
28 insurer's attention by the rating organization, the rating
29 organization shall notify the commissioner of the error or
30 omission of the insurer. All information so submitted for
31 examination shall be confidential.

32 6. A workers' compensation insurance rating organization
33 may subscribe for or purchase actuarial, technical, or other
34 services, and such services shall be available to all members
35 and subscribers without discrimination.

1 7. Notwithstanding any other provision of the Code, the
2 commissioner shall provide for a hearing in a proceeding
3 involving a workers' compensation insurance rate filing by a
4 licensed rating organization in accordance with the provisions
5 of this subsection and rules adopted by the commissioner
6 pursuant to chapter 17A. Except as otherwise provided in this
7 subsection, the provisions of this subsection shall not be
8 subject to the requirements of chapter 17A. The procedures
9 for such hearing shall be as follows:

10 a. The commissioner shall provide notice of the filing of
11 the proposed rates at least thirty days before the effective
12 date of the proposed rates by publishing a notice in the Iowa
13 administrative bulletin.

14 b. The commission shall hold a public hearing on the
15 proposed rates if within fifteen days of the date of
16 publication a workers' compensation policyholder or an
17 established organization with one or more workers'
18 compensation policyholders among its members files a written
19 demand with the commissioner for a hearing on the proposed
20 rates.

21 c. The commissioner shall hold the hearing within twenty
22 days after receipt of the written demand for a hearing and
23 shall give not less than ten days written notice of the time
24 and place of the hearing to the person or association filing
25 the demand, to the rating organization, and to any other
26 person requesting such notice.

27 d. At any such hearing, the rating organization shall bear
28 the burden of proof to support the proposed rates by a
29 preponderance of the evidence. The person or association
30 requesting the hearing, and any other person admitted as a
31 party to the proceeding, shall be given the opportunity to
32 respond and introduce evidence and arguments on all the issues
33 involved.

34 e. Within fifteen days after the start of the hearing, the
35 commissioner shall approve or disapprove the proposed rates

1 and specify the reasons for the approval or disapproval. The
2 commissioner may suspend or postpone the effective date of the
3 proposed rates pending the hearing and written decision.

4 f. Judicial review of the decision of the commissioner on
5 such rates may be sought in accordance with the provisions of
6 chapter 17A.

7 Sec. 2. NEW SECTION. 515F.1 PURPOSE OF CHAPTER.

8 1. The purpose of this chapter is to promote the public
9 welfare by regulating insurance rates so they are not
10 excessive, inadequate, or unfairly discriminatory, and to
11 authorize and regulate limited cooperative action among
12 insurers in ratemaking-related activities and in other matters
13 within the scope of this chapter. This chapter is not
14 intended to:

15 a. Prohibit or discourage reasonable competition.

16 b. Prohibit or encourage, except to the extent necessary
17 to accomplish its purpose, uniformity in rating systems,
18 rating plans, or practices.

19 2. This chapter shall be liberally interpreted to carry
20 into effect the provisions of this section.

21 Sec. 3. NEW SECTION. 515F.2 DEFINITIONS.

22 1. "Advisory organization" means an entity, including its
23 affiliates or subsidiaries, which either has two or more
24 member insurers or is controlled either directly or indirectly
25 by two or more insurers, and which assists insurers in
26 ratemaking-related activities such as enumerated in sections
27 515F.10 and 515F.11. Two or more insurers having a common
28 ownership or operating in this state under common management
29 or control constitute a single insurer for purposes of this
30 definition.

31 2. "Commercial risk" means any kind of risk which is not a
32 personal risk.

33 3. "Developed losses" means losses (including loss
34 adjustment expenses) adjusted, using standard actuarial
35 techniques, to eliminate the effect of differences between

1 current payment or reserve estimates and those needed to
2 provide actual ultimate loss (including loss adjustment
3 expense) payments.

4 4. "Expenses" means that portion of a rate attributable to
5 acquisition, field supervision, collection expenses, general
6 expenses, taxes, licenses, and fees.

7 5. "Joint underwriting" means a voluntary arrangement
8 established on an ad hoc basis to provide insurance coverage
9 for a commercial risk pursuant to which two or more insurers
10 jointly contract with the insured at a price and under policy
11 terms agreed upon between the insurers.

12 6. "Loss trending" means a procedure for projecting
13 developed losses to the average date of loss for the period
14 during which the policies are to be effective.

15 7. "Personal risk" means insurance covering homeowners,
16 tenants, private passenger nonfleet automobiles, and mobile
17 homes, and other property and casualty insurance for personal,
18 family, or household needs.

19 8. "Pool" means a voluntary arrangement, established on an
20 ongoing basis, pursuant to which two or more insurers
21 participate in the sharing of risks on a predetermined basis.
22 The pool may operate through an association, syndicate, or
23 other pooling agreement.

24 9. "Prospective loss costs" means that portion of a rate
25 that does not include provisions for expenses (other than loss
26 adjustment expenses) or profit, and is based on historical
27 aggregate losses and loss adjustment expenses adjusted through
28 development to their ultimate value and projected through
29 trending to a future point in time.

30 10. "Rate" means the cost of insurance per exposure unit
31 whether expressed as a single number or as a prospective loss
32 cost with an adjustment to account for the treatment of
33 expenses, profit, and individual insurer variation in loss
34 experience, prior to any application of individual risk
35 variations based on loss or expense considerations, and does

1 not include minimum premium.

2 11. "Residual market mechanism" means an arrangement,
3 either voluntary or mandated by law, involving participation
4 by insurers in the equitable apportionment among them of
5 insurance which may be offered to applicants who are unable to
6 obtain insurance through ordinary methods.

7 12. "Supplementary rating information" includes a manual
8 or plan of rates, classification, rating schedule, minimum
9 premium, policy fee, rating rule, underwriting rule,
10 statistical plan, and any other similar information needed to
11 determine the applicable rate in effect or to be in effect.

12 13. "Supporting information" means the experience and
13 judgment of the filer and the experience or data of other
14 insurers or advisory organizations relied upon by the filer,
15 the interpretation of any other data relied upon by the filer,
16 descriptions of methods used in making the rates, and any
17 other information required by the commissioner to be filed.

18 Sec. 4. NEW SECTION. 515F.3 SCOPE OF CHAPTER.

19 This chapter applies to all forms of casualty insurance,
20 including fidelity, surety, and guaranty bonds, including but
21 not limited to all forms of fire and inland marine insurance,
22 and to any combination of any of the foregoing, on risks or
23 operations located in this state.

24 This chapter does not apply to:

25 1. Reinsurance, other than statutorily authorized joint
26 reinsurance mechanisms to the extent stated in section
27 515F.13.

28 2. Accident and health insurance.

29 3. Insurance of vessels or craft, their cargoes, marine
30 builders' risks, marine protection and indemnity, or other
31 risks commonly insured under marine, excluding inland marine
32 insurance, as determined by the commissioner.

33 4. Workers' compensation insurance.

34 5. Surplus lines insurance.

35 6. Insurance written by a county mutual assessment

1 association as provided in chapter 518A.

2 Sec. 5. NEW SECTION. 515F.4 RATE STANDARDS.

3 Rates shall be made in accordance with the following:

4 1. Rates shall not be excessive, inadequate, or unfairly
5 discriminatory.

6 2. Due consideration may be given to past and prospective
7 loss experience within and outside this state; to the
8 conflagration and catastrophe hazards; to a reasonable margin
9 for profit and contingencies; to dividends, savings, or
10 unabsorbed premium deposits allowed or returned by insurers to
11 their policyholders, members, or subscribers; to past and
12 prospective expenses both within and outside this state; and
13 to all other relevant factors within and outside this state;
14 and in the case of fire insurance rates, consideration shall
15 be given to the experience of the fire insurance business
16 during a period of not less than the most recent five-year
17 period for which experience data is available.

18 3. Risks may be grouped by classifications for the
19 establishment of rates and minimum premiums. Classification
20 rates may be modified to produce rates for individual risks in
21 accordance with rating plans which establish standards for
22 measuring variations in hazards or expense provisions, or
23 both. Standards may measure any differences among risks that
24 can be demonstrated to have a probable effect upon losses or
25 expenses. A risk classification, however, shall not be based
26 upon race, creed, national origin, or the religion of the
27 insured.

28 4. The expense provisions included in the rates to be used
29 by an insurer shall reflect to the extent possible the
30 operating methods of the insurer and its anticipated expenses.

31 5. The rates may contain a provision for contingencies and
32 an allowance permitting a reasonable profit. In determining
33 the reasonableness of the profit, consideration shall be given
34 to investment income.

35 Sec. 6. NEW SECTION. 515F.5 RATE FILINGS.

1 1. An insurer shall file with the commissioner, except as
2 to inland marine risks which are not written according to
3 manual rates or rating plans, every manual, minimum premium,
4 class rate, rating schedule, rating plan, and every other
5 rating rule, and every modification of any of the foregoing
6 which it proposes to use. A filing shall state its proposed
7 effective date, and shall indicate the character and extent of
8 the coverage contemplated.

9 An insurer shall file or incorporate by reference to
10 material which has been approved by the commissioner, at the
11 same time as the filing of the rate, all supplementary rating
12 and supporting information to be used in support of or in
13 conjunction with a rate. The information furnished in support
14 of a filing may include or consist of a reference to any of
15 the following:

16 a. The experience or judgment of the insurer or rating
17 information filed by the advisory organization on behalf of
18 the insurer as permitted by section 515F.11.

19 b. An interpretation of any statistical data the insurer
20 relies upon.

21 c. The experience of other insurers or rating advisory
22 organizations.

23 d. Any other relevant factors. A filing and any
24 supporting information shall be open to public inspection
25 after the filing becomes effective.

26 When a filing is not accompanied by the information upon
27 which the insurer supports the filing, the commissioner may
28 require the insurer to furnish the supporting information and
29 the waiting period commences on the date the information is
30 furnished. Until the required information is furnished, the
31 filing shall not be deemed complete or filed or available for
32 use by the insurer. If the requested information is not
33 furnished within a reasonable time period, the filing may be
34 returned to the insurer as not filed and not available for
35 use.

1 After reviewing an insurer's filing, the commissioner may
2 require that the insurer's rates be based upon the insurer's
3 own loss and expense information. If an insurer's loss or
4 allocated loss adjustment expense information is not
5 actuarially credible, as determined by the commissioner, the
6 insurer may supplement its experience with information filed
7 with the commissioner by an advisory organization.

8 Insurers using the services of an advisory organization
9 shall, at the request of the commissioner, provide with a rate
10 filing, a description of the rationale for that use, including
11 its own information and method of using the advisory
12 organization's information.

13 2. The commissioner shall review filings as soon as
14 reasonably possible after they have been made in order to
15 determine whether they meet the requirements of this chapter.

16 3. Subject to the exception in subsection 4, a filing
17 shall be on file for a waiting period of fifteen days before
18 it becomes effective, which period may be extended by the
19 commissioner for an additional period not to exceed fifteen
20 days if written notice is given within the waiting period to
21 the insurer or advisory organization which made the filing
22 that additional time is needed for the consideration of the
23 filing. Upon written application by the insurer, the
24 commissioner may authorize a filing which has been reviewed to
25 become effective before the expiration of the waiting period
26 or an extension of the waiting period. A filing shall be
27 deemed to meet the requirements of this chapter unless
28 disapproved by the commissioner within the waiting period or
29 an extension of the waiting period.

30 4. Under rules adopted under chapter 17A, the commissioner
31 may, by written order, suspend or modify the requirement of
32 filing as to any kind of insurance, or subdivision or
33 combination of insurance, or as to classes of risks, the rates
34 for which cannot practicably be filed before they are used.
35 The commissioner may make an examination as the commissioner

1 deems advisable to ascertain whether rates affected by the
2 order meet the standards set forth in section 515F.4.

3 5. Upon the written application of the insured stating the
4 insured's reasons, filed with and approved by the
5 commissioner, a rate in excess of that provided by a filing
6 otherwise applicable may be used on a specific risk.

7 6. An insurer shall not make or issue a contract or policy
8 except in accordance with the filings which have been approved
9 and are in effect for the insurer as provided in this chapter.
10 This subsection does not apply to contracts or policies for
11 inland marine risks as to which filings are not required.

12 Sec. 7. NEW SECTION. 515F.6 DISAPPROVAL OF FILINGS.

13 1. If, within the waiting period or any extension of it as
14 provided in section 515F.5, subsection 3, the commissioner
15 finds that a filing does not meet the requirements of this
16 chapter, written notice of disapproval shall be sent to the
17 insurer or advisory organization which made the filing,
18 specifying in what respects the filing fails to meet the
19 requirements of this chapter and stating that the filing shall
20 not become effective. If a filing is disapproved by the
21 commissioner, the insurer or advisory organization, may
22 request a hearing on the disapproval within thirty days. The
23 insurer bears the burden of proving compliance with the
24 standards established by this chapter.

25 2. If, at any time after a rate has been approved, the
26 commissioner finds that the rate no longer meets the
27 requirements of this chapter, the commissioner may order the
28 discontinuance of use of the rate. The order of
29 discontinuance may be issued only after a hearing with at
30 least ten days' prior notice for all insurers affected by the
31 order. The order must be in writing and state the grounds for
32 the order. The order shall state when, within a reasonable
33 period after the order is issued, the order of discontinuance
34 shall be effective. The order shall not affect a contract or
35 policy made or issued prior to the expiration of the period

1 set forth in the order.

2 3. An insured which is aggrieved with respect to a filing
3 which is in effect may make written application to the
4 commissioner for a hearing on that filing. The application
5 shall specify the grounds to be relied upon by the applicant.
6 If the commissioner finds that the application is made in good
7 faith, that the applicant would be so aggrieved if the
8 applicant's grounds are established, and that the grounds
9 otherwise justify holding a hearing, a hearing shall be held
10 within thirty days after receipt of the application, upon not
11 less than ten days' written notice to the applicant and to
12 every insurer and advisory organization which made that
13 filing.

14 If, after hearing, the commissioner finds that the filing
15 does not meet the requirements of this chapter, the
16 commissioner shall issue an order specifying in what respects
17 the filing fails to meet the requirements of this chapter, and
18 stating when, within a reasonable period after the order is
19 issued, the filing shall no longer be in effect. Copies of
20 the order shall be sent to the applicant and to every insurer
21 and advisory organization which made that filing. The order
22 shall not affect a contract or policy made or issued prior to
23 the expiration of the period set forth in the order.

24 Sec. 8. NEW SECTION. 515F.7 INFORMATION TO BE FURNISHED
25 INSUREDS -- HEARINGS AND APPEALS OF INSUREDS.

26 An insurer shall, within a reasonable time after receiving
27 written request and upon payment of reasonable charges set by
28 the commissioner, furnish to an insured affected by a rate
29 made by the insurer, or to the authorized representative of
30 the insured, all pertinent information as to the rate. An
31 insurer shall provide within this state reasonable means for
32 the insured aggrieved by the application of its rating system
33 to be heard, in person or by the insured's authorized
34 representative, on written request to review the manner in
35 which the rating system has been applied in connection with

1 the insurance afforded the insured. If the insurer fails to
2 grant or reject a request for hearing and review within thirty
3 days after it is made, the applicant may proceed in the same
4 manner as if the application had been rejected. The insured
5 affected by the action of the insurer on a request may, within
6 thirty days after written notice of the action, appeal to the
7 commissioner, who, after a hearing held upon not less than ten
8 days' written notice to the appellant and to the insurer, may
9 affirm or reverse the action.

10 Sec. 9. NEW SECTION. 515F.8 LICENSING ADVISORY
11 ORGANIZATIONS.

12 1. LICENSE REQUIRED. An advisory organization shall not
13 provide a service relating to the rates of insurance subject
14 to this chapter, and an insurer shall not utilize the services
15 of an advisory organization for such purposes unless the
16 advisory organization has obtained a license under subsection
17 3.

18 2. AVAILABILITY OF SERVICES. An advisory organization
19 shall not refuse to supply any services for which it is
20 licensed in this state to an insurer authorized to do business
21 in this state and offering to pay the fair and usual
22 compensation for the services.

23 3. LICENSING.

24 a. APPLICATION. An advisory organization applying for a
25 license shall include with its application all of the
26 following:

27 (1) A copy of its constitution, charter, articles of
28 organization, agreement, association, or incorporation, and a
29 copy of its bylaws, plan of operation, and any other rules or
30 regulations governing the conduct of its business.

31 (2) A list of its members and subscribers.

32 (3) The name and address of one or more residents of this
33 state upon whom notices, process affecting it, or orders of
34 the commissioner may be served.

35 (4) A statement showing its technical qualifications for

1 acting in the capacity for which it seeks a license.

2 (5) A biography of the ownership and management of the
3 organization.

4 (6) Any other relevant information and documents that the
5 commissioner may require.

6 b. CHANGE OF CIRCUMSTANCES. An advisory organization
7 which has applied for a license shall notify the commissioner
8 of every material change in the facts or in the documents on
9 which its application was based. An amendment to a document
10 filed under this section shall be filed at least thirty days
11 before it becomes effective.

12 c. GRANTING OF LICENSE. If the commissioner finds that
13 the applicant and the natural persons through whom it acts are
14 competent, trustworthy, and technically qualified to provide
15 the services proposed, and that all requirements of the law
16 are met, the commissioner shall issue a license specifying the
17 authorized activity of the applicant. The commissioner shall
18 not issue a license if the proposed activity would tend to
19 create a monopoly or to substantially lessen the competition
20 in any market.

21 d. DURATION. A license issued under this section shall
22 remain in effect for one year unless the license is suspended
23 or revoked. The commissioner may, at any time after hearing,
24 revoke or suspend the license of an advisory organization
25 which does not comply with the requirements and standards of
26 this chapter.

27 Sec. 10. NEW SECTION. 515F.9 INSURERS AND ADVISORY
28 ORGANIZATIONS -- PROHIBITED ACTIVITY.

29 1. An insurer or advisory organization shall not:

30 a. Attempt to monopolize, or combine or conspire with any
31 other person to monopolize, an insurance market.

32 b. Engage in a boycott, on a concerted basis, of an
33 insurance market.

34 2. a. An insurer shall not agree with any other insurer
35 or with an advisory organization to mandate adherence to or to

1 mandate use of a rate, rating plan, rating schedule, rating
2 rule, policy or bond form, rate classification, rate
3 territory, underwriting rule, survey, inspection, or similar
4 material, except as needed to develop statistical plans
5 permitted by section 515F.11, subsection 1. The fact that two
6 or more insurers, whether or not members or subscribers of an
7 advisory organization, use consistently or intermittently, the
8 same rates, rating plans, rating schedules, rating rules,
9 policy or bond forms, rate classifications, rate territories,
10 underwriting rules, surveys or inspections or similar
11 materials is not sufficient in itself to support a finding
12 that an agreement exists.

13 b. Two or more insurers having a common ownership or
14 operating in this state under common management or control may
15 act in concert between or among themselves with respect to any
16 matters pertaining to those activities authorized in this
17 chapter as if they constituted a single insurer.

18 3. An insurer or advisory organization shall not make an
19 arrangement with any other insurer, advisory organization, or
20 other person which has the purpose or effect of restraining
21 trade unreasonably or of substantially lessening competition
22 in the business of insurance.

23 Sec. 11. NEW SECTION. 515F.10 ADVISORY ORGANIZATIONS --
24 PROHIBITED ACTIVITY.

25 In addition to the other prohibitions contained in this
26 chapter, except as specifically permitted under section
27 515F.11, an advisory organization shall not compile or
28 distribute recommendations relating to rates that include
29 profit or expenses, other than loss adjustment expenses.

30 Sec. 12. NEW SECTION. 515F.11 ADVISORY ORGANIZATIONS --
31 PERMITTED ACTIVITY.

32 An advisory organization, in addition to other activities
33 not prohibited, may, on behalf of its members and subscribers,
34 do any or all of the following:

35 1. Develop statistical plans including territorial and

- 1 class definitions.
- 2 2. Collect statistical data from members, subscribers, or
3 any other source.
- 4 3. Prepare and distribute prospective loss costs.
- 5 4. Prepare and distribute factors, calculations, or
6 formulas pertaining to classifications, territories, increased
7 limits, and other variables.
- 8 5. Prepare and distribute manuals of rating rules and
9 rating schedules that do not include final rates, expense
10 provisions, profit provisions, or minimum premiums.
- 11 6. Distribute information that is required or directed to
12 be filed with the commissioner.
- 13 7. Conduct research and on-site inspections in order to
14 prepare classifications of public fire defenses.
- 15 8. Consult with public officials regarding public fire
16 protection as it would affect members, subscribers, and
17 others.
- 18 9. Conduct research and collect statistics in order to
19 discover, identify, and classify information relating to
20 causes or prevention of losses.
- 21 10. Prepare policy forms and endorsements and consult with
22 members, subscribers, and others relative to their use and
23 application.
- 24 11. Conduct research and on-site inspections for the
25 purpose of providing risk information relating to individual
26 structures.
- 27 12. Collect, compile, and distribute past and current
28 prices of individual insurers and publish such information.
- 29 13. File final rates, at the direction of the
30 commissioner, for residual market mechanisms.
- 31 14. Collect, compile, and distribute historical expense
32 information.
- 33 15. Furnish any other services, as approved or directed by
34 the commissioner, related to those enumerated in this section.
- 35 Sec. 13. NEW SECTION. 515F.12 ADVISORY ORGANIZATIONS --

1 FILING REQUIREMENTS.

2 An advisory organization shall file with the commissioner
3 for approval all prospective loss costs and all supplementary
4 rating information and every change or amendment or
5 modification of any of the foregoing proposed for use in this
6 state. The filings are subject to sections 515F.5 and 515F.6
7 and other provisions of this chapter relating to filings made
8 by insurers.

9 Sec. 14. NEW SECTION. 515F.13 POOL AND RESIDUAL MARKET
10 ACTIVITIES.

11 1. AUTHORIZATION. Notwithstanding section 515F.9, rating
12 organizations, advisory organizations, and insurers
13 participating in joint underwriting, joint reinsurance pools,
14 or residual market mechanisms may in connection with such
15 activity act in cooperation with each other in the making of
16 rates, rating systems, policy forms, underwriting rules,
17 surveys, inspections, and investigations, the furnishing of
18 loss and expense statistics or other information, or carrying
19 on research. Joint underwriting, joint reinsurance pools, and
20 residual market mechanisms shall not be deemed advisory
21 organizations.

22 2. REGULATION.

23 a. Except to the extent modified by this section,
24 insurers, and joint underwriting, joint reinsurance pool, and
25 residual market mechanism activities are subject to the other
26 provisions of this chapter.

27 b. If, after hearing, the commissioner finds that an
28 activity or practice of an insurer participating in joint
29 underwriting or a pool is unfair, is unreasonable, will tend
30 to lessen competition in a market, or is otherwise
31 inconsistent with the provisions or purposes of this chapter,
32 the commissioner may issue a written order and require the
33 discontinuance of that activity or practice.

34 c. A pool shall file with the commissioner a copy of its
35 constitution; its articles of incorporation, agreement, or

1 association; its bylaws, rules, and regulations governing its
2 activities; its members; the name and address of a resident of
3 this state upon whom notices or orders of the commissioner or
4 process may be served; and any changes in amendments or
5 changes in the foregoing.

6 d. A residual market mechanism, or plan or agreement to
7 implement such a mechanism, and any changes or amendments
8 thereto, shall be submitted in writing to the commissioner for
9 consideration and approval, together with information as
10 reasonably required by the commissioner. The commissioner
11 shall only approve agreements found to contemplate both of the
12 following:

13 (1) The use of rates which meet the standards prescribed
14 by this chapter.

15 (2) Activities and practices that are not unfair,
16 unreasonable, or otherwise inconsistent with this chapter.

17 At any time after the agreements are in effect, the
18 commissioner may review the practices and activities of the
19 adherents to the agreements and if, after a hearing, the
20 commissioner finds that any such practice or activity is
21 unfair or unreasonable, or is otherwise inconsistent with this
22 chapter, the commissioner may issue a written order to the
23 parties and either require the discontinuance of the acts or
24 revoke approval of the agreement.

25 Sec. 15. NEW SECTION. 515F.14 EXAMINATIONS.

26 The commissioner may, as often as deemed expedient, make or
27 cause to be made an examination of each advisory organization
28 referred to in section 515F.8 and of each group, association,
29 or other organization referred to in section 515F.13. The
30 reasonable costs of an examination shall be paid by the
31 advisory organization or group, association, or other
32 organization examined. The officers, manager, agents, and
33 employees of the advisory organization, or group, association,
34 or other organization may be examined at any time under oath
35 and shall exhibit all books, records, accounts, documents, or

1 agreements governing its method of operation. In lieu of an
2 examination, the commissioner may accept the report of an
3 examination made by the insurance supervisory official of
4 another state, pursuant to the laws of that state.

5 Sec. 16. NEW SECTION. 515F.15 RATE ADMINISTRATION.

6 1. RECORDING AND REPORTING OF LOSS AND EXPENSE EXPERIENCE.

7 The commissioner may adopt reasonable rules for use by
8 companies to record and report to the commissioner their rates
9 and other information determined by the commissioner to be
10 necessary or appropriate for the administration of this
11 chapter and the effectuation of its purposes.

12 The commissioner may adopt reasonable rules and statistical
13 plans, which shall then be used by each insurer in the
14 recording and reporting of its loss and expense experience, in
15 order that the experience of all insurers may be made
16 available at least annually in the form and detail necessary
17 to aid the commissioner in determining whether rating systems
18 comply with the standards set forth in section 515F.4. The
19 commissioner may designate one or more advisory organizations
20 or other agencies to assist in gathering the experience and
21 making compilations, and the compilations shall be public
22 documents.

23 2. INTERCHANGE OF RATING PLAN DATA.

24 Reasonable rules and plans may be adopted by the
25 commissioner for the interchange of data necessary for the
26 application of rating plans.

27 3. CONSULTATION WITH OTHER STATES.

28 In order to further uniform administration of rate
29 regulatory laws, the commissioner and every insurer and
30 advisory organization may exchange information and experience
31 data with insurance supervisory officials, insurers, and
32 advisory organizations in other states and may consult with
33 them with respect to the application of rating systems.

34 4. RULES.

35 The commissioner may make reasonable rules necessary,

1 including definitions of the rate standards contained in
2 section 515F.4, to effect the purposes of this chapter.

3 Sec. 17. NEW SECTION. 515F.16 FALSE OR MISLEADING
4 INFORMATION.

5 A person, including an insurer, or advisory organization,
6 shall not willfully withhold information which will affect the
7 rates or premiums chargeable under this chapter from, or
8 knowingly give false or misleading information to, the
9 commissioner, a statistical agency designated by the
10 commissioner, an advisory organization, or an insurer. A
11 violation of this section subjects the one guilty of the
12 violation to the penalties provided in section 515F.19.

13 Sec. 18. NEW SECTION. 515F.17 ASSIGNED RISKS.

14 Agreements may be made among insurers with respect to the
15 equitable apportionment among them of insurance which may be
16 afforded applicants who are in good faith entitled to, but who
17 are unable to procure, the insurance through ordinary methods,
18 and the insurers may agree among themselves on the use of
19 reasonable rate modifications for such insurance, the
20 agreements and rate modifications to be subject to the
21 approval of the commissioner.

22 Sec. 19. NEW SECTION. 515F.18 EXEMPTIONS.

23 The commissioner may, upon the commissioner's own
24 initiative or upon request of any person, by rule, exempt a
25 market from any or all of the provisions of this chapter, if
26 and to the extent that the exemption is necessary to achieve
27 the purposes of this chapter.

28 Sec. 20. NEW SECTION. 515F.19 PENALTIES.

29 The commissioner may, upon a finding that a person or
30 organization has violated a provision of this chapter, impose
31 a civil penalty of not more than ten thousand dollars for each
32 violation, but if the violation is found to be willful, a
33 penalty of not more than twenty-five thousand dollars may be
34 imposed for each violation. The civil penalties may be in
35 addition to any other penalty provided by law.

1 For purposes of this section, an insurer using a rate for
2 which the insurer has failed to file the rate, supplementary
3 rate information, underwriting rules or guides, or supporting
4 information as required by this chapter, has committed a
5 separate violation for each day the failure continues.

6 The commissioner may suspend or revoke the license of an
7 advisory organization or insurer which fails to comply with an
8 order of the commissioner within the time limit set by the
9 order, or an extension of the order.

10 The commissioner may determine when a suspension of license
11 becomes effective and it shall remain in effect for the period
12 fixed by the commissioner, unless the commissioner modifies or
13 rescinds the suspension, or until the order upon which the
14 suspension is based is modified, rescinded, or reversed.

15 A penalty shall not be imposed and a license shall not be
16 suspended or revoked except upon a written order of the
17 commissioner stating the commissioner's findings, made after
18 hearing.

19 Sec. 21. Section 507B.4, subsection 11, Code Supplement
20 1989, is amended to read as follows:

21 11. Rating organizations. Any violation of section
22 ~~515A.16~~ 515F.16.

23 Sec. 22. Section 515A.21, Code 1989, is amended to read as
24 follows:

25 515A.21 SCOPE OF APPLICATION.

26 Section 515A.20 and sections 515A.22 through 515A.25 apply
27 to all forms of casualty insurance except ~~those described in~~
28 ~~sections 515A.11 and 515A.15~~ joint underwriting and joint
29 reinsurance, assigned risks, and those excluded by section
30 515A.2.

31 Sec. 23. Section 515A.23, Code 1989, is amended to read as
32 follows:

33 515A.23 NONCOMPETITIVE MARKET.

34 Unless the commissioner has determined a market to be
35 competitive, the provisions of sections ~~515A.1~~ 515F.1 through

1 ~~515A.19~~ 515F.19 apply.

2 Sec. 24. Section 515A.24, Code 1989, is amended to read as
3 follows:

4 515A.24 FILING OF RATES IN A COMPETITIVE MARKET.

5 1. Subject to the inland marine exception specified in
6 section ~~515A.47-subsection-5~~ 515F.5, subsection 1, a
7 competitive filing shall become effective when filed and shall
8 be deemed to meet the requirements of section ~~515A.3~~ 515F.4 as
9 long as the filing remains in effect unless it is disapproved
10 upon review by the commissioner.

11 2. In a competitive market, every insurer shall file with
12 the commissioner all rates and supplementary rate information
13 which are used in this state. The rates and supplementary
14 rate information shall be filed not later than fifteen days
15 after the effective date of the rates.

16 3. In a competitive market, if the commissioner finds that
17 an insurer's rates require closer supervision because of the
18 insurer's financial condition or unfairly discriminatory
19 rating practices, the insurer shall file with the commissioner
20 at least thirty days prior to the effective date of the rates
21 all the rates and supplementary rate information and
22 supporting information as prescribed by the commissioner.
23 Upon application by the filer, the commissioner may authorize
24 an earlier effective date.

25 Sec. 25. Section 515A.25, Code 1989, is amended to read as
26 follows:

27 515A.25 DISAPPROVAL OF A RATE FILING IN A COMPETITIVE
28 MARKET.

29 1. If the commissioner believes that an insurer's rate
30 filing in a competitive market violates the requirements of
31 section ~~515A.3~~ 515F.4 through 515F.5, the commissioner may
32 require the insurer to file supporting information. If after
33 reviewing the supporting information the commissioner
34 continues to believe that the filing violates section ~~515A.3~~
35 515F.4 through 515F.5, 490 the commissioner shall notify the

1 insurer of the insurer's right to petition for a hearing on
2 any subsequent order relating to the filing.

3 2. The commissioner may disapprove prefiled rates that
4 have not become effective. However, the commissioner shall
5 notify the insurer whose rates have been disapproved of the
6 insurer's right to petition for a hearing on the disapproval
7 within thirty days after the disapproval.

8 3. If the commissioner disapproves a filing in a
9 competitive market, the commissioner shall issue an order
10 specifying the reasons the filing fails to meet the
11 requirements of section ~~515A.3~~ 515F.4 through 515F.5. For
12 rates in effect at the time of disapproval, the commissioner
13 shall inform the insurer within a reasonable period of time
14 the date when further use of the rates for policies or
15 contracts of insurance is prohibited. The order shall be
16 issued within thirty days of disapproval, or within thirty
17 days of a hearing on the disapproval if a hearing is held.
18 The order may include a provision for premium adjustment for
19 the period after the effective date of the order for policies
20 or contracts in effect on the date of the order.

21 4. Whenever an insurer has filed no legally effective
22 rates as a result of the commissioner's disapproval of a
23 filing, the commissioner shall on request of the insurer work
24 with the insurer to develop interim rates for the insurer that
25 are sufficient to protect the interest of all parties and the
26 commissioner may order that a specified portion of the premium
27 be placed in an escrow account approved by the commissioner.
28 When new rates become legally effective, the commissioner
29 shall order the escrowed funds or any overcharge in the
30 interim rates to be distributed appropriately. The
31 commissioner may waive distribution if the commissioner
32 determines that the amount involved would not warrant such
33 action.

34 Sec. 26. Sections 515A.1 through 515A.19, Code 1989, are
524035 repealed.

1 Sec. 27.

2 The Code editor shall transfer sections 515A.20 through
3 515A.25 to be a division of new chapter 515F.

4 EXPLANATION

5 This bill substitutes revisions recommended by the national
6 association of insurance commissioners (NAIC) for the current
7 insurance rate-filing procedures in fire and casualty lines.
8 The revisions reflect the insurance service organization's
9 (ISO) change in policy, discontinuing the practice of filing
10 final rates on behalf of member insurers. The ISO is an
11 advisory organization through which insurers share statistical
12 information for ratemaking purposes. This bill requires
13 individual insurers to file rates for prior approval by the
14 commissioner and to document the source of those rates. The
15 bill retains rating organizations for workers' compensation
16 insurance by transferring the substance of section 515A.6 to
17 chapter 87.

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HOUSE FILE 2320

H-5150

- 1 Amend House File 2320 as follows:
- 2 1. Page 8, line 34, by inserting after the word
- 3 "income" the following: "attributable to unearned
- 4 premium and loss reserves. Income from other sources
- 5 shall not be considered".

By BRAMMER of Linn

H-5150 FILED FEBRUARY 14, 1990

Adopted 2/23 (p. 605)

HOUSE FILE 2320

H-5240

- 1 Amend House File 2320 as follows:
- 2 1. By striking page 1, line 1, through page 5,
- 3 line 6, and inserting the following:
- 4 "Sec. 100. Section 515A.2, Code 1989, is amended
- 5 by striking the section and inserting in lieu thereof
- 6 the following:
- 7 515A.2 DEFINITIONS -- SCOPE OF CHAPTER.
- 8 1. As used in this chapter:
- 9 a. "Insurance" means workers' compensation
- 10 liability insurance.
- 11 b. "Insurer" means an insurer which issues a
- 12 policy of workers' compensation liability insurance.
- 13 c. "Policy" means a policy of workers'
- 14 compensation liability insurance.
- 15 d. "Rate" means a rate for workers' compensation
- 16 liability insurance.
- 17 e. "Rating organization" means a workers'
- 18 compensation rating organization licensed pursuant to
- 19 this chapter.
- 20 f. "Rate filing" means a rate filing by a rating
- 21 organization or an insurer.
- 22 2. This chapter applies only to workers'
- 23 compensation liability insurance."
- 24 2. Page 23, line 35, by inserting after the word
- 25 "repealed" the following: "effective July 1, 1992".
- 26 3. Title page, line 4, by inserting after the
- 27 word "rates," the following: "providing a special
- 28 effective date,".
- 29 4. By renumbering as necessary.

By BRAMMER of Linn

H-5240 FILED FEBRUARY 20, 1990

Adopted 2/23 (p. 605)

Sen. Commerce 2/26 No Pass 3/12 (p. 984)

HOUSE FILE 2320
BY COMMITTEE ON SMALL BUSINESS
AND COMMERCE

(SUCCESSOR TO HSB 685)

(As Amended and Passed by the House February 23, 1990)

Re Passed House, Date 3/29/90 (p. 1574) *Repassed as amended* Passed Senate, Date 3/23/90 (p. 1278) *4/5/90 p. 1555 43-0*
Vote: Ayes 99 Nays 0 Vote: Ayes 43 Nays 0
Approved May 2, 1990
motion to reconsider (p. 1290)
"Withdrawn" (p. 1308)

A BILL FOR

1 An Act relating to fire and casualty insurance, altering the
2 method of filing rates subject to the approval of the
3 commissioner of insurance, except for workers' compensation
4 liability insurance rates, providing a special effective date,
5 and authorizing civil penalties.

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

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House Amendments _____

1 Section 1. Section 515A.2, Code 1989, is amended by
2 striking the section and inserting in lieu thereof the
3 following:

4 515A.2 DEFINITIONS -- SCOPE OF CHAPTER.

5 1. As used in this chapter:

6 a. "Insurance" means workers' compensation liability
7 insurance.

8 b. "Insurer" means an insurer which issues a policy of
9 workers' compensation liability insurance.

10 c. "Policy" means a policy of workers' compensation
11 liability insurance.

12 d. "Rate" means a rate for workers' compensation liability
13 insurance.

14 e. "Rating organization" means a workers' compensation
15 rating organization licensed pursuant to this chapter.

16 f. "Rate filing" means a rate filing by a rating
17 organization or an insurer.

18 2. This chapter applies only to workers' compensation
19 liability insurance.

20 Sec. 2. NEW SECTION. 515F.1 PURPOSE OF CHAPTER.

21 1. The purpose of this chapter is to promote the public
22 welfare by regulating insurance rates so they are not
23 excessive, inadequate, or unfairly discriminatory, and to
24 authorize and regulate limited cooperative action among
25 insurers in ratemaking-related activities and in other matters
26 within the scope of this chapter. This chapter is not
27 intended to:

28 a. Prohibit or discourage reasonable competition.

29 b. Prohibit or encourage, except to the extent necessary
30 to accomplish its purpose, uniformity in rating systems,
31 rating plans, or practices.

32 2. This chapter shall be liberally interpreted to carry
33 into effect the provisions of this section.

34 Sec. 3. NEW SECTION. 515F.2 DEFINITIONS.

35 1. "Advisory organization" means an entity, including its

1 affiliates or subsidiaries, which either has two or more
2 member insurers or is controlled either directly or indirectly
3 by two or more insurers, and which assists insurers in
4 ratemaking-related activities such as enumerated in sections
5 515F.10 and 515F.11. Two or more insurers having a common
6 ownership or operating in this state under common management
7 or control constitute a single insurer for purposes of this
8 definition.

9 2. "Commercial risk" means any kind of risk which is not a
10 personal risk.

11 3. "Developed losses" means losses (including loss
12 adjustment expenses) adjusted, using standard actuarial
13 techniques, to eliminate the effect of differences between
14 current payment or reserve estimates and those needed to
15 provide actual ultimate loss (including loss adjustment
16 expense) payments.

17 4. "Expenses" means that portion of a rate attributable to
18 acquisition, field supervision, collection expenses, general
19 expenses, taxes, licenses, and fees.

20 5. "Joint underwriting" means a voluntary arrangement
21 established on an ad hoc basis to provide insurance coverage
22 for a commercial risk pursuant to which two or more insurers
23 jointly contract with the insured at a price and under policy
24 terms agreed upon between the insurers.

25 6. "Loss trending" means a procedure for projecting
26 developed losses to the average date of loss for the period
27 during which the policies are to be effective.

28 7. "Personal risk" means insurance covering homeowners,
29 tenants, private passenger nonfleet automobiles, and mobile
30 homes, and other property and casualty insurance for personal,
31 family, or household needs.

32 8. "Pool" means a voluntary arrangement, established on an
33 ongoing basis, pursuant to which two or more insurers
34 participate in the sharing of risks on a predetermined basis.
35 The pool may operate through an association, syndicate, or

1 other pooling agreement.

2 | 9. "Prospective loss costs" means that portion of a rate
3 that does not include provisions for expenses (other than loss
4 adjustment expenses) or profit, and is based on historical
5 aggregate losses and loss adjustment expenses adjusted through
6 development to their ultimate value and projected through
7 trending to a future point in time.

8 | 10. "Rate" means the cost of insurance per exposure unit
9 whether expressed as a single number or as a prospective loss
10 cost with an adjustment to account for the treatment of
11 expenses, profit, and individual insurer variation in loss
12 experience, prior to any application of individual risk
13 variations based on loss or expense considerations, and does
14 not include minimum premium.

15 | 11. "Residual market mechanism" means an arrangement,
16 either voluntary or mandated by law, involving participation
17 by insurers in the equitable apportionment among them of
18 insurance which may be offered to applicants who are unable to
19 obtain insurance through ordinary methods.

20 | 12. "Supplementary rating information" includes a manual
21 or plan of rates, classification, rating schedule, minimum
22 premium, policy fee, rating rule, underwriting rule,
23 statistical plan, and any other similar information needed to
24 determine the applicable rate in effect or to be in effect.

25 | 13. "Supporting information" means the experience and
26 judgment of the filer and the experience or data of other
27 insurers or advisory organizations relied upon by the filer,
28 the interpretation of any other data relied upon by the filer,
29 descriptions of methods used in making the rates, and any
30 other information required by the commissioner to be filed.

31 | Sec. 4. NEW SECTION. 515F.3 SCOPE OF CHAPTER.

32 | This chapter applies to all forms of casualty insurance,
33 including fidelity, surety, and guaranty bonds, including but
34 not limited to all forms of fire and inland marine insurance,
35 and to any combination of any of the foregoing, on risks or

1 operations located in this state.

2 This chapter does not apply to:

3 1. Reinsurance, other than statutorily authorized joint
4 reinsurance mechanisms to the extent stated in section
5 515F.13.

6 2. Accident and health insurance.

7 3. Insurance of vessels or craft, their cargoes, marine
8 builders' risks, marine protection and indemnity, or other
9 risks commonly insured under marine, excluding inland marine
10 insurance, as determined by the commissioner.

11 4. Workers' compensation insurance.

12 5. Surplus lines insurance.

13 6. Insurance written by a county mutual assessment
14 association as provided in chapter 518A.

15 Sec. 5. NEW SECTION. 515F.4 RATE STANDARDS.

16 Rates shall be made in accordance with the following:

17 1. Rates shall not be excessive, inadequate, or unfairly
18 discriminatory.

19 2. Due consideration may be given to past and prospective
20 loss experience within and outside this state; to the
21 conflagration and catastrophe hazards; to a reasonable margin
22 for profit and contingencies; to dividends, savings, or
23 unabsorbed premium deposits allowed or returned by insurers to
24 their policyholders, members, or subscribers; to past and
25 prospective expenses both within and outside this state; and
26 to all other relevant factors within and outside this state;
27 and in the case of fire insurance rates, consideration shall
28 be given to the experience of the fire insurance business
29 during a period of not less than the most recent five-year
30 period for which experience data is available.

31 3. Risks may be grouped by classifications for the
32 establishment of rates and minimum premiums. Classification
33 rates may be modified to produce rates for individual risks in
34 accordance with rating plans which establish standards for
35 measuring variations in hazards or expense provisions, or

1 both. Standards may measure any differences among risks that
2 can be demonstrated to have a probable effect upon losses or
3 expenses. A risk classification, however, shall not be based
4 upon race, creed, national origin, or the religion of the
5 insured.

6 4. The expense provisions included in the rates to be used
7 by an insurer shall reflect to the extent possible the
8 operating methods of the insurer and its anticipated expenses.

9 5. The rates may contain a provision for contingencies and
10 an allowance permitting a reasonable profit. In determining
11 the reasonableness of the profit, consideration shall be given
12 to investment income attributable to unearned premium and loss
13 reserves. Income from other sources shall not be considered.

14 Sec. 6. NEW SECTION. 515F.5 RATE FILINGS.

15 1. An insurer shall file with the commissioner, except as
16 to inland marine risks which are not written according to
17 manual rates or rating plans, every manual, minimum premium,
18 class rate, rating schedule, rating plan, and every other
19 rating rule, and every modification of any of the foregoing
20 which it proposes to use. A filing shall state its proposed
21 effective date, and shall indicate the character and extent of
22 the coverage contemplated.

23 An insurer shall file or incorporate by reference to
24 material which has been approved by the commissioner, at the
25 same time as the filing of the rate, all supplementary rating
26 and supporting information to be used in support of or in
27 conjunction with a rate. The information furnished in support
28 of a filing may include or consist of a reference to any of
29 the following:

30 a. The experience or judgment of the insurer or rating
31 information filed by the advisory organization on behalf of
32 the insurer as permitted by section 515F.11.

33 b. An interpretation of any statistical data the insurer
34 relies upon.

35 c. The experience of other insurers or rating advisory

1 organizations.

2 d. Any other relevant factors. A filing and any
3 supporting information shall be open to public inspection
4 after the filing becomes effective.

5 When a filing is not accompanied by the information upon
6 which the insurer supports the filing, the commissioner may
7 require the insurer to furnish the supporting information and
8 the waiting period commences on the date the information is
9 furnished. Until the required information is furnished, the
10 filing shall not be deemed complete or filed or available for
11 use by the insurer. If the requested information is not
12 furnished within a reasonable time period, the filing may be
13 returned to the insurer as not filed and not available for
14 use.

15 After reviewing an insurer's filing, the commissioner may
16 require that the insurer's rates be based upon the insurer's
17 own loss and expense information. If an insurer's loss or
18 allocated loss adjustment expense information is not
19 actuarially credible, as determined by the commissioner, the
20 insurer may supplement its experience with information filed
21 with the commissioner by an advisory organization.

22 Insurers using the services of an advisory organization
23 shall, at the request of the commissioner, provide with a rate
24 filing, a description of the rationale for that use, including
25 its own information and method of using the advisory
26 organization's information.

27 2. The commissioner shall review filings as soon as
28 reasonably possible after they have been made in order to
29 determine whether they meet the requirements of this chapter.

30 3. Subject to the exception in subsection 4, a filing
31 shall be on file for a waiting period of fifteen days before
32 it becomes effective, which period may be extended by the
33 commissioner for an additional period not to exceed fifteen
34 days if written notice is given within the waiting period to
35 the insurer or advisory organization which made the filing

1 that additional time is needed for the consideration of the
2 filing. Upon written application by the insurer, the
3 commissioner may authorize a filing which has been reviewed to
4 become effective before the expiration of the waiting period
5 or an extension of the waiting period. A filing shall be
6 deemed to meet the requirements of this chapter unless
7 disapproved by the commissioner within the waiting period or
8 an extension of the waiting period.

9 4. Under rules adopted under chapter 17A, the commissioner
10 may, by written order, suspend or modify the requirement of
11 filing as to any kind of insurance, or subdivision or
12 combination of insurance, or as to classes of risks, the rates
13 for which cannot practicably be filed before they are used.
14 The commissioner may make an examination as the commissioner
15 deems advisable to ascertain whether rates affected by the
16 order meet the standards set forth in section 515F.4.

17 5. Upon the written application of the insured stating the
18 insured's reasons, filed with and approved by the
19 commissioner, a rate in excess of that provided by a filing
20 otherwise applicable may be used on a specific risk.

21 6. An insurer shall not make or issue a contract or policy
22 except in accordance with the filings which have been approved
23 and are in effect for the insurer as provided in this chapter.
24 This subsection does not apply to contracts or policies for
25 inland marine risks as to which filings are not required.

26 Sec. 7. NEW SECTION. 515F.6 DISAPPROVAL OF FILINGS.

27 1. If, within the waiting period or any extension of it as
28 provided in section 515F.5, subsection 3, the commissioner
29 finds that a filing does not meet the requirements of this
30 chapter, written notice of disapproval shall be sent to the
31 insurer or advisory organization which made the filing,
32 specifying in what respects the filing fails to meet the
33 requirements of this chapter and stating that the filing shall
34 not become effective. If a filing is disapproved by the
35 commissioner, the insurer or advisory organization, may

1 request a hearing on the disapproval within thirty days. The
2 insurer bears the burden of proving compliance with the
3 standards established by this chapter.

4 2. If, at any time after a rate has been approved, the
5 commissioner finds that the rate no longer meets the
6 requirements of this chapter, the commissioner may order the
7 discontinuance of use of the rate. The order of
8 discontinuance may be issued only after a hearing with at
9 least ten days' prior notice for all insurers affected by the
10 order. The order must be in writing and state the grounds for
11 the order. The order shall state when, within a reasonable
12 period after the order is issued, the order of discontinuance
13 shall be effective. The order shall not affect a contract or
14 policy made or issued prior to the expiration of the period
15 set forth in the order.

16 3. An insured which is aggrieved with respect to a filing
17 which is in effect may make written application to the
18 commissioner for a hearing on that filing. The application
19 shall specify the grounds to be relied upon by the applicant.
20 If the commissioner finds that the application is made in good
21 faith, that the applicant would be so aggrieved if the
22 applicant's grounds are established, and that the grounds
23 otherwise justify holding a hearing, a hearing shall be held
24 within thirty days after receipt of the application, upon not
25 less than ten days' written notice to the applicant and to
26 every insurer and advisory organization which made that
27 filing.

28 If, after hearing, the commissioner finds that the filing
29 does not meet the requirements of this chapter, the
30 commissioner shall issue an order specifying in what respects
31 the filing fails to meet the requirements of this chapter, and
32 stating when, within a reasonable period after the order is
33 issued, the filing shall no longer be in effect. Copies of
34 the order shall be sent to the applicant and to every insurer
35 and advisory organization which made that filing. The order

1 shall not affect a contract or policy made or issued prior to
2 the expiration of the period set forth in the order.

3 Sec. 8. NEW SECTION. 515F.7 INFORMATION TO BE FURNISHED
4 INSUREDS -- HEARINGS AND APPEALS OF INSUREDS.

5 An insurer shall, within a reasonable time after receiving
6 written request and upon payment of reasonable charges set by
7 the commissioner, furnish to an insured affected by a rate
8 made by the insurer, or to the authorized representative of
9 the insured, all pertinent information as to the rate. An
10 insurer shall provide within this state reasonable means for
11 the insured aggrieved by the application of its rating system
12 to be heard, in person or by the insured's authorized
13 representative, on written request to review the manner in
14 which the rating system has been applied in connection with
15 the insurance afforded the insured. If the insurer fails to
16 grant or reject a request for hearing and review within thirty
17 days after it is made, the applicant may proceed in the same
18 manner as if the application had been rejected. The insured
19 affected by the action of the insurer on a request may, within
20 thirty days after written notice of the action, appeal to the
21 commissioner, who, after a hearing held upon not less than ten
22 days' written notice to the appellant and to the insurer, may
23 affirm or reverse the action.

24 Sec. 9. NEW SECTION. 515F.8 LICENSING ADVISORY
25 ORGANIZATIONS.

26 1. LICENSE REQUIRED. An advisory organization shall not
27 provide a service relating to the rates of insurance subject
28 to this chapter, and an insurer shall not utilize the services
29 of an advisory organization for such purposes unless the
30 advisory organization has obtained a license under subsection
31 3.

32 2. AVAILABILITY OF SERVICES. An advisory organization
33 shall not refuse to supply any services for which it is
34 licensed in this state to an insurer authorized to do business
35 in this state and offering to pay the fair and usual

1 compensation for the services.

2 3. LICENSING.

3 a. APPLICATION. An advisory organization applying for a
4 license shall include with its application all of the
5 following:

6 (1) A copy of its constitution, charter, articles of
7 organization, agreement, association, or incorporation, and a
8 copy of its bylaws, plan of operation, and any other rules or
9 regulations governing the conduct of its business.

10 (2) A list of its members and subscribers.

11 (3) The name and address of one or more residents of this
12 state upon whom notices, process affecting it, or orders of
13 the commissioner may be served.

14 (4) A statement showing its technical qualifications for
15 acting in the capacity for which it seeks a license.

16 (5) A biography of the ownership and management of the
17 organization.

18 (6) Any other relevant information and documents that the
19 commissioner may require.

20 b. CHANGE OF CIRCUMSTANCES. An advisory organization
21 which has applied for a license shall notify the commissioner
22 of every material change in the facts or in the documents on
23 which its application was based. An amendment to a document
24 filed under this section shall be filed at least thirty days
25 before it becomes effective.

26 c. GRANTING OF LICENSE. If the commissioner finds that
27 the applicant and the natural persons through whom it acts are
28 competent, trustworthy, and technically qualified to provide
29 the services proposed, and that all requirements of the law
30 are met, the commissioner shall issue a license specifying the
31 authorized activity of the applicant. The commissioner shall
32 not issue a license if the proposed activity would tend to
33 create a monopoly or to substantially lessen the competition
34 in any market.

35 d. DURATION. A license issued under this section shall

1 remain in effect for one year unless the license is suspended
2 or revoked. The commissioner may, at any time after hearing,
3 revoke or suspend the license of an advisory organization
4 which does not comply with the requirements and standards of
5 this chapter.

6 Sec. 10. NEW SECTION. 515F.9 INSURERS AND ADVISORY
7 ORGANIZATIONS -- PROHIBITED ACTIVITY.

8 1. An insurer or advisory organization shall not:

9 a. Attempt to monopolize, or combine or conspire with any
10 other person to monopolize, an insurance market.

11 b. Engage in a boycott, on a concerted basis, of an
12 insurance market.

13 2. a. An insurer shall not agree with any other insurer
14 or with an advisory organization to mandate adherence to or to
15 mandate use of a rate, rating plan, rating schedule, rating
16 rule, policy or bond form, rate classification, rate
17 territory, underwriting rule, survey, inspection, or similar
18 material, except as needed to develop statistical plans
19 permitted by section 515F.11, subsection 1. The fact that two
20 or more insurers, whether or not members or subscribers of an
21 advisory organization, use consistently or intermittently, the
22 same rates, rating plans, rating schedules, rating rules,
23 policy or bond forms, rate classifications, rate territories,
24 underwriting rules, surveys or inspections or similar
25 materials is not sufficient in itself to support a finding
26 that an agreement exists.

27 b. Two or more insurers having a common ownership or
28 operating in this state under common management or control may
29 act in concert between or among themselves with respect to any
30 matters pertaining to those activities authorized in this
31 chapter as if they constituted a single insurer.

32 3. An insurer or advisory organization shall not make an
33 arrangement with any other insurer, advisory organization, or
34 other person which has the purpose or effect of restraining
35 trade unreasonably or of substantially lessening competition

1 in the business of insurance.

2 Sec. 11. NEW SECTION. 515F.10 ADVISORY ORGANIZATIONS --
3 PROHIBITED ACTIVITY.

4 In addition to the other prohibitions contained in this
5 chapter, except as specifically permitted under section
6 515F.11, an advisory organization shall not compile or
7 distribute recommendations relating to rates that include
8 profit or expenses, other than loss adjustment expenses.

9 Sec. 12. NEW SECTION. 515F.11 ADVISORY ORGANIZATIONS --
10 PERMITTED ACTIVITY.

11 An advisory organization, in addition to other activities
12 not prohibited, may, on behalf of its members and subscribers,
13 do any or all of the following:

14 1. Develop statistical plans including territorial and
15 class definitions.

16 2. Collect statistical data from members, subscribers, or
17 any other source.

18 3. Prepare and distribute prospective loss costs.

19 4. Prepare and distribute factors, calculations, or
20 formulas pertaining to classifications, territories, increased
21 limits, and other variables.

22 5. Prepare and distribute manuals of rating rules and
23 rating schedules that do not include final rates, expense
24 provisions, profit provisions, or minimum premiums.

25 6. Distribute information that is required or directed to
26 be filed with the commissioner.

27 7. Conduct research and on-site inspections in order to
28 prepare classifications of public fire defenses.

29 8. Consult with public officials regarding public fire
30 protection as it would affect members, subscribers, and
31 others.

32 9. Conduct research and collect statistics in order to
33 discover, identify, and classify information relating to
34 causes or prevention of losses.

35 10. Prepare policy forms and endorsements and consult with

1 members, subscribers, and others relative to their use and
2 application.

3 11. Conduct research and on-site inspections for the
4 purpose of providing risk information relating to individual
5 structures.

6 12. Collect, compile, and distribute past and current
7 prices of individual insurers and publish such information.

8 13. File final rates, at the direction of the
9 commissioner, for residual market mechanisms.

10 14. Collect, compile, and distribute historical expense
11 information.

12 15. Furnish any other services, as approved or directed by
13 the commissioner, related to those enumerated in this section.

14 Sec. 13. NEW SECTION. 515F.12 ADVISORY ORGANIZATIONS --
15 FILING REQUIREMENTS.

16 An advisory organization shall file with the commissioner
17 for approval all prospective loss costs and all supplementary
18 rating information and every change or amendment or
19 modification of any of the foregoing proposed for use in this
20 state. The filings are subject to sections 515F.5 and 515F.6
21 and other provisions of this chapter relating to filings made
22 by insurers.

23 Sec. 14. NEW SECTION. 515F.13 POOL AND RESIDUAL MARKET
24 ACTIVITIES.

25 1. AUTHORIZATION. Notwithstanding section 515F.9, rating
26 organizations, advisory organizations, and insurers
27 participating in joint underwriting, joint reinsurance pools,
28 or residual market mechanisms may in connection with such
29 activity act in cooperation with each other in the making of
30 rates, rating systems, policy forms, underwriting rules,
31 surveys, inspections, and investigations, the furnishing of
32 loss and expense statistics or other information, or carrying
33 on research. Joint underwriting, joint reinsurance pools, and
34 residual market mechanisms shall not be deemed advisory
35 organizations.

1 2. REGULATION.

2 a. Except to the extent modified by this section,
3 insurers, and joint underwriting, joint reinsurance pool, and
4 residual market mechanism activities are subject to the other
5 provisions of this chapter.

6 b. If, after hearing, the commissioner finds that an
7 activity or practice of an insurer participating in joint
8 underwriting or a pool is unfair, is unreasonable, will tend
9 to lessen competition in a market, or is otherwise
10 inconsistent with the provisions or purposes of this chapter,
11 the commissioner may issue a written order and require the
12 discontinuance of that activity or practice.

13 c. A pool shall file with the commissioner a copy of its
14 constitution; its articles of incorporation, agreement, or
15 association; its bylaws, rules, and regulations governing its
16 activities; its members; the name and address of a resident of
17 this state upon whom notices or orders of the commissioner or
18 process may be served; and any changes in amendments or
19 changes in the foregoing.

20 d. A residual market mechanism, or plan or agreement to
21 implement such a mechanism, and any changes or amendments
22 thereto, shall be submitted in writing to the commissioner for
23 consideration and approval, together with information as
24 reasonably required by the commissioner. The commissioner
25 shall only approve agreements found to contemplate both of the
26 following:

27 (1) The use of rates which meet the standards prescribed
28 by this chapter.

29 (2) Activities and practices that are not unfair,
30 unreasonable, or otherwise inconsistent with this chapter.

31 At any time after the agreements are in effect, the
32 commissioner may review the practices and activities of the
33 adherents to the agreements and if, after a hearing, the
34 commissioner finds that any such practice or activity is
35 unfair or unreasonable, or is otherwise inconsistent with this

1 chapter, the commissioner may issue a written order to the
2 parties and either require the discontinuance of the acts or
3 revoke approval of the agreement.

4 Sec. 15. NEW SECTION. 515F.14 EXAMINATIONS.

5 The commissioner may, as often as deemed expedient, make or
6 cause to be made an examination of each advisory organization
7 referred to in section 515F.8 and of each group, association,
8 or other organization referred to in section 515F.13. The
9 reasonable costs of an examination shall be paid by the
10 advisory organization or group, association, or other
11 organization examined. The officers, manager, agents, and
12 employees of the advisory organization, or group, association,
13 or other organization may be examined at any time under oath
14 and shall exhibit all books, records, accounts, documents, or
15 agreements governing its method of operation. In lieu of an
16 examination, the commissioner may accept the report of an
17 examination made by the insurance supervisory official of
18 another state, pursuant to the laws of that state.

19 Sec. 16. NEW SECTION. 515F.15 RATE ADMINISTRATION.

20 1. RECORDING AND REPORTING OF LOSS AND EXPENSE EXPERIENCE.

21 The commissioner may adopt reasonable rules for use by
22 companies to record and report to the commissioner their rates
23 and other information determined by the commissioner to be
24 necessary or appropriate for the administration of this
25 chapter and the effectuation of its purposes.

26 The commissioner may adopt reasonable rules and statistical
27 plans, which shall then be used by each insurer in the
28 recording and reporting of its loss and expense experience, in
29 order that the experience of all insurers may be made
30 available at least annually in the form and detail necessary
31 to aid the commissioner in determining whether rating systems
32 comply with the standards set forth in section 515F.4. The
33 commissioner may designate one or more advisory organizations
34 or other agencies to assist in gathering the experience and
35 making compilations, and the compilations shall be public

1 documents.

2 2. INTERCHANGE OF RATING PLAN DATA.

3 Reasonable rules and plans may be adopted by the
4 commissioner for the interchange of data necessary for the
5 application of rating plans.

6 3. CONSULTATION WITH OTHER STATES.

7 In order to further uniform administration of rate
8 regulatory laws, the commissioner and every insurer and
9 advisory organization may exchange information and experience
10 data with insurance supervisory officials, insurers, and
11 advisory organizations in other states and may consult with
12 them with respect to the application of rating systems.

13 4. RULES.

14 The commissioner may make reasonable rules necessary,
15 including definitions of the rate standards contained in
16 section 515F.4, to effect the purposes of this chapter.

17 Sec. 17. NEW SECTION. 515F.16 FALSE OR MISLEADING
18 INFORMATION.

19 A person, including an insurer, or advisory organization,
20 shall not willfully withhold information which will affect the
21 rates or premiums chargeable under this chapter from, or
22 knowingly give false or misleading information to, the
23 commissioner, a statistical agency designated by the
24 commissioner, an advisory organization, or an insurer. A
25 violation of this section subjects the one guilty of the
26 violation to the penalties provided in section 515F.19.

27 Sec. 18. NEW SECTION. 515F.17 ASSIGNED RISKS.

28 Agreements may be made among insurers with respect to the
29 equitable apportionment among them of insurance which may be
30 afforded applicants who are in good faith entitled to, but who
31 are unable to procure, the insurance through ordinary methods,
32 and the insurers may agree among themselves on the use of
33 reasonable rate modifications for such insurance, the
34 agreements and rate modifications to be subject to the
35 approval of the commissioner.

1 Sec. 19. NEW SECTION. 515F.18 EXEMPTIONS.

2 The commissioner may, upon the commissioner's own
3 initiative or upon request of any person, by rule, exempt a
4 market from any or all of the provisions of this chapter, if
5 and to the extent that the exemption is necessary to achieve
6 the purposes of this chapter.

7 Sec. 20. NEW SECTION. 515F.19 PENALTIES.

8 The commissioner may, upon a finding that a person or
9 organization has violated a provision of this chapter, impose
10 a civil penalty of not more than ten thousand dollars for each
11 violation, but if the violation is found to be willful, a
12 penalty of not more than twenty-five thousand dollars may be
13 imposed for each violation. The civil penalties may be in
14 addition to any other penalty provided by law.

15 For purposes of this section, an insurer using a rate for
16 which the insurer has failed to file the rate, supplementary
17 rate information, underwriting rules or guides, or supporting
18 information as required by this chapter, has committed a
19 separate violation for each day the failure continues.

20 The commissioner may suspend or revoke the license of an
21 advisory organization or insurer which fails to comply with an
22 order of the commissioner within the time limit set by the
23 order, or an extension of the order.

24 The commissioner may determine when a suspension of license
25 becomes effective and it shall remain in effect for the period
26 fixed by the commissioner, unless the commissioner modifies or
27 rescinds the suspension, or until the order upon which the
28 suspension is based is modified, rescinded, or reversed.

29 A penalty shall not be imposed and a license shall not be
30 suspended or revoked except upon a written order of the
31 commissioner stating the commissioner's findings, made after
32 hearing.

33 Sec. 21. Section 507B.4, subsection 11, Code Supplement
34 1989, is amended to read as follows:

35 11. Rating organizations. Any violation of section

1 ~~515A-16~~ 515F.16.

2 Sec. 22. Section 515A.21, Code 1989, is amended to read as
3 follows:

4 515A.21 SCOPE OF APPLICATION.

5 Section 515A.20 and sections 515A.22 through 515A.25 apply
6 to all forms of casualty insurance except ~~those described in~~
7 sections-515A-11-and-515A-15 joint underwriting and joint
8 reinsurance, assigned risks, and those excluded by section
9 515A.2.

10 Sec. 23. Section 515A.23, Code 1989, is amended to read as
11 follows:

12 515A.23 NONCOMPETITIVE MARKET.

13 Unless the commissioner has determined a market to be
14 competitive, the provisions of sections ~~515A-1~~ 515F.1 through
15 ~~515A-19~~ 515F.19 apply.

16 Sec. 24. Section 515A.24, Code 1989, is amended to read as
17 follows:

18 515A.24 FILING OF RATES IN A COMPETITIVE MARKET.

19 1. Subject to the inland marine exception specified in
20 section ~~515A-4, subsection-5~~ 515F.5, subsection 1, a
21 competitive filing shall become effective when filed and shall
22 be deemed to meet the requirements of section ~~515A-3~~ 515F.4 as
23 long as the filing remains in effect unless it is disapproved
24 upon review by the commissioner.

25 2. In a competitive market, every insurer shall file with
26 the commissioner all rates and supplementary rate information
27 which are used in this state. The rates and supplementary
28 rate information shall be filed not later than fifteen days
29 after the effective date of the rates.

30 3. In a competitive market, if the commissioner finds that
31 an insurer's rates require closer supervision because of the
32 insurer's financial condition or unfairly discriminatory
33 rating practices, the insurer shall file with the commissioner
34 at least thirty days prior to the effective date of the rates
35 all the rates and supplementary rate information and

1 supporting information as prescribed by the commissioner.
2 Upon application by the filer, the commissioner may authorize
3 an earlier effective date.

4 Sec. 25. Section 515A.25, Code 1989, is amended to read as
5 follows:

6 515A.25 DISAPPROVAL OF A RATE FILING IN A COMPETITIVE
7 MARKET.

8 1. If the commissioner believes that an insurer's rate
9 filing in a competitive market violates the requirements of
10 section ~~515A-3~~ 515F.4 through 515F.5, the commissioner may
11 require the insurer to file supporting information. If after
12 reviewing the supporting information the commissioner
13 continues to believe that the filing violates section ~~515A-3~~
14 515F.4 through 515F.5, 490 the commissioner shall notify the
15 insurer of the insurer's right to petition for a hearing on
16 any subsequent order relating to the filing.

17 2. The commissioner may disapprove prefiled rates that
18 have not become effective. However, the commissioner shall
19 notify the insurer whose rates have been disapproved of the
20 insurer's right to petition for a hearing on the disapproval
21 within thirty days after the disapproval.

22 3. If the commissioner disapproves a filing in a
23 competitive market, the commissioner shall issue an order
24 specifying the reasons the filing fails to meet the
25 requirements of section ~~515A-3~~ 515F.4 through 515F.5. For
26 rates in effect at the time of disapproval, the commissioner
27 shall inform the insurer within a reasonable period of time
28 the date when further use of the rates for policies or
29 contracts of insurance is prohibited. The order shall be
30 issued within thirty days of disapproval, or within thirty
31 days of a hearing on the disapproval if a hearing is held.
32 The order may include a provision for premium adjustment for
33 the period after the effective date of the order for policies
34 or contracts in effect on the date of the order.

35 4. Whenever an insurer has filed no legally effective

1 rates as a result of the commissioner's disapproval of a
2 filing, the commissioner shall on request of the insurer work
3 with the insurer to develop interim rates for the insurer that
4 are sufficient to protect the interest of all parties and the
5 commissioner may order that a specified portion of the premium
6 be placed in an escrow account approved by the commissioner.
7 When new rates become legally effective, the commissioner
8 shall order the escrowed funds or any overcharge in the
9 interim rates to be distributed appropriately. The
10 commissioner may waive distribution if the commissioner
11 determines that the amount involved would not warrant such
12 action.

13 Sec. 26. Sections 515A.1 through 515A.19, Code 1989, are
14 repealed effective July 1, 1992.

15 Sec. 27.

16 The Code editor shall transfer sections 515A.20 through
17 515A.25 to be a division of new chapter 515F.

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*Crommer
Doderer
Metcalf*

HSB 685

MWB

SMALL BUSINESS AND COMMERCE

No to

HOUSE FILE 3327

BY (PROPOSED DEPARTMENT OF
COMMERCE/INSURANCE
DIVISION BILL)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to fire and casualty insurance, altering the
2 method of filing rates subject to the approval of the
3 commissioner of insurance, and authorizing civil penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 515F.1 PURPOSE OF CHAPTER.

2 1. The purpose of this chapter is to promote the public
3 welfare by regulating insurance rates so they are not
4 excessive, inadequate, or unfairly discriminatory, and to
5 authorize and regulate limited cooperative action among
6 insurers in ratemaking-related activities and in other matters
7 within the scope of this chapter. This chapter is not
8 intended to:

9 a. Prohibit or discourage reasonable competition.

10 b. Prohibit or encourage, except to the extent necessary
11 to accomplish its purpose, uniformity in rating systems,
12 rating plans, or practices.

13 2. This chapter shall be liberally interpreted to carry
14 into effect the provisions of this section.

15 Sec. 2. NEW SECTION. 515F.2 DEFINITIONS.

16 1. "Advisory organization" means an entity, including its
17 affiliates or subsidiaries, which either has two or more
18 member insurers or is controlled either directly or indirectly
19 by two or more insurers, and which assists insurers in
20 ratemaking-related activities such as enumerated in sections
21 515F.10 and 515F.11. Two or more insurers having a common
22 ownership or operating in this state under common management
23 or control constitute a single insurer for purposes of this
24 definition.

25 2. "Commercial risk" means any kind of risk which is not a
26 personal risk.

27 3. "Developed losses" means losses (including loss
28 adjustment expenses) adjusted, using standard actuarial
29 techniques, to eliminate the effect of differences between
30 current payment or reserve estimates and those needed to
31 provide actual ultimate loss (including loss adjustment
32 expense) payments.

33 4. "Expenses" means that portion of a rate attributable to
34 acquisition, field supervision, collection expenses, general
35 expenses, taxes, licenses, and fees.

1 5. "Joint underwriting" means a voluntary arrangement
2 established on an ad hoc basis to provide insurance coverage
3 for a commercial risk pursuant to which two or more insurers
4 jointly contract with the insured at a price and under policy
5 terms agreed upon between the insurers.

6 6. "Loss trending" means a procedure for projecting
7 developed losses to the average date of loss for the period
8 during which the policies are to be effective.

9 7. "Personal risk" means insurance covering homeowners,
10 tenants, private passenger nonfleet automobiles, and mobile
11 homes, and other property and casualty insurance for personal,
12 family, or household needs.

13 8. "Pool" means a voluntary arrangement, established on an
14 ongoing basis, pursuant to which two or more insurers
15 participate in the sharing of risks on a predetermined basis.
16 The pool may operate through an association, syndicate, or
17 other pooling agreement.

18 9. "Prospective loss costs" means that portion of a rate
19 that does not include provisions for expenses (other than loss
20 adjustment expenses) or profit, and is based on historical
21 aggregate losses and loss adjustment expenses adjusted through
22 development to their ultimate value and projected through
23 trending to a future point in time.

24 10. "Rate" means the cost of insurance per exposure unit
25 whether expressed as a single number or as a prospective loss
26 cost with an adjustment to account for the treatment of
27 expenses, profit, and individual insurer variation in loss
28 experience, prior to any application of individual risk
29 variations based on loss or expense considerations, and does
30 not include minimum premium.

31 11. "Residual market mechanism" means an arrangement,
32 either voluntary or mandated by law, involving participation
33 by insurers in the equitable apportionment among them of
34 insurance which may be offered to applicants who are unable to
35 obtain insurance through ordinary methods.

1 12. "Supplementary rating information" includes a manual
2 or plan of rates, classification, rating schedule, minimum
3 premium, policy fee, rating rule, underwriting rule,
4 statistical plan, and any other similar information needed to
5 determine the applicable rate in effect or to be in effect.

6 13. "Supporting information" means the experience and
7 judgment of the filer and the experience or data of other
8 insurers or advisory organizations relied upon by the filer,
9 the interpretation of any other data relied upon by the filer,
10 descriptions of methods used in making the rates, and any
11 other information required by the commissioner to be filed.

12 Sec. 3. NEW SECTION. 515F.3 SCOPE OF CHAPTER.

13 This chapter applies to all forms of casualty insurance,
14 including fidelity, surety, and guaranty bonds, including but
15 not limited to all forms of fire and inland marine insurance,
16 and to any combination of any of the foregoing, on risks or
17 operations located in this state.

18 This chapter does not apply to:

19 1. Reinsurance, other than statutorily authorized joint
20 reinsurance mechanisms to the extent stated in section
21 515F.13.

22 2. Accident and health insurance.

23 3. Insurance of vessels or craft, their cargoes, marine
24 builders' risks, marine protection and indemnity, or other
25 risks commonly insured under marine, excluding inland marine
26 insurance, as determined by the commissioner.

27 4. Workers' compensation insurance.

28 5. Surplus lines insurance.

29 6. Insurance written by a county mutual assessment
30 association as provided in chapter 518A.

31 Sec. 4. NEW SECTION. 515F.4 RATE STANDARDS.

32 Rates shall be made in accordance with the following:

33 1. Rates shall not be excessive, inadequate, or unfairly
34 discriminatory.

35 2. Due consideration may be given to past and prospective

1 loss experience within and outside this state; to the
2 conflagration and catastrophe hazards; to a reasonable margin
3 for profit and contingencies; to dividends, savings, or
4 unabsorbed premium deposits allowed or returned by insurers to
5 their policyholders, members, or subscribers; to past and
6 prospective expenses both within and outside this state; and
7 to all other relevant factors within and outside this state;
8 and in the case of fire insurance rates, consideration shall
9 be given to the experience of the fire insurance business
10 during a period of not less than the most recent five-year
11 period for which experience data is available.

12 3. Risks may be grouped by classifications for the
13 establishment of rates and minimum premiums. Classification
14 rates may be modified to produce rates for individual risks in
15 accordance with rating plans which establish standards for
16 measuring variations in hazards or expense provisions, or
17 both. Standards may measure any differences among risks that
18 can be demonstrated to have a probable effect upon losses or
19 expenses. A risk classification, however, shall not be based
20 upon race, creed, national origin, or the religion of the
21 insured.

22 4. The expense provisions included in the rates to be used
23 by an insurer shall reflect to the extent possible the
24 operating methods of the insurer and its anticipated expenses.

25 5. The rates may contain a provision for contingencies and
26 an allowance permitting a reasonable profit. In determining
27 the reasonableness of the profit, consideration shall be given
28 to investment income.

29 Sec. 5. NEW SECTION. 515F.5 RATE FILINGS.

30 1. An insurer shall file with the commissioner, except as
31 to inland marine risks which are not written according to
32 manual rates or rating plans, every manual, minimum premium,
33 class rate, rating schedule, rating plan, and every other
34 rating rule, and every modification of any of the foregoing
35 which it proposes to use. A filing shall state its proposed

1 effective date, and shall indicate the character and extent of
2 the coverage contemplated.

3 An insurer shall file or incorporate by reference to
4 material which has been approved by the commissioner, at the
5 same time as the filing of the rate, all supplementary rating
6 and supporting information to be used in support of or in
7 conjunction with a rate. The information furnished in support
8 of a filing may include or consist of a reference to any of
9 the following:

10 a. The experience or judgment of the insurer or rating
11 information filed by the advisory organization on behalf of
12 the insurer as permitted by section 515F.11.

13 b. An interpretation of any statistical data the insurer
14 relies upon.

15 c. The experience of other insurers or rating advisory
16 organizations.

17 d. Any other relevant factors. A filing and any
18 supporting information shall be open to public inspection
19 after the filing becomes effective.

20 When a filing is not accompanied by the information upon
21 which the insurer supports the filing, the commissioner may
22 require the insurer to furnish the supporting information and
23 the waiting period commences on the date the information is
24 furnished. Until the required information is furnished, the
25 filing shall not be deemed complete or filed or available for
26 use by the insurer. If the requested information is not
27 furnished within a reasonable time period, the filing may be
28 returned to the insurer as not filed and not available for
29 use.

30 After reviewing an insurer's filing, the commissioner may
31 require that the insurer's rates be based upon the insurer's
32 own loss and expense information. If an insurer's loss or
33 allocated loss adjustment expense information is not
34 actuarially credible, as determined by the commissioner, the
35 insurer may supplement its experience with information filed

1 with the commissioner by an advisory organization.

2 Insurers using the services of an advisory organization
3 shall, at the request of the commissioner, provide with a rate
4 filing, a description of the rationale for that use, including
5 its own information and method of using the advisory
6 organization's information.

7 2. The commissioner shall review filings as soon as
8 reasonably possible after they have been made in order to
9 determine whether they meet the requirements of this chapter.

10 3. Subject to the exception in subsection 4, a filing
11 shall be on file for a waiting period of fifteen days before
12 it becomes effective, which period may be extended by the
13 commissioner for an additional period not to exceed fifteen
14 days if written notice is given within the waiting period to
15 the insurer or advisory organization which made the filing
16 that additional time is needed for the consideration of the
17 filing. Upon written application by the insurer, the
18 commissioner may authorize a filing which has been reviewed to
19 become effective before the expiration of the waiting period
20 or an extension of the waiting period. A filing shall be
21 deemed to meet the requirements of this chapter unless
22 disapproved by the commissioner within the waiting period or
23 an extension of the waiting period.

24 4. Under rules adopted under chapter 17A, the commissioner
25 may, by written order, suspend or modify the requirement of
26 filing as to any kind of insurance, or subdivision or
27 combination of insurance, or as to classes of risks, the rates
28 for which cannot practicably be filed before they are used.
29 The commissioner may make an examination as the commissioner
30 deems advisable to ascertain whether rates affected by the
31 order meet the standards set forth in section 515F.4.

32 5. Upon the written application of the insured stating the
33 insured's reasons, filed with and approved by the
34 commissioner, a rate in excess of that provided by a filing
35 otherwise applicable may be used on a specific risk.

1 6. An insurer shall not make or issue a contract or policy
2 except in accordance with the filings which have been approved
3 and are in effect for the insurer as provided in this chapter.
4 This subsection does not apply to contracts or policies for
5 inland marine risks as to which filings are not required.

6 Sec. 6. NEW SECTION. 515F.6 DISAPPROVAL OF FILINGS.

7 1. If, within the waiting period or any extension of it as
8 provided in section 515F.5, subsection 3, the commissioner
9 finds that a filing does not meet the requirements of this
10 chapter, written notice of disapproval shall be sent to the
11 insurer or advisory organization which made the filing,
12 specifying in what respects the filing fails to meet the
13 requirements of this chapter and stating that the filing shall
14 not become effective. If a filing is disapproved by the
15 commissioner, the insurer or advisory organization, may
16 request a hearing on the disapproval within thirty days. The
17 insurer bears the burden of proving compliance with the
18 standards established by this chapter.

19 2. If, at any time after a rate has been approved, the
20 commissioner finds that the rate no longer meets the
21 requirements of this chapter, the commissioner may order the
22 discontinuance of use of the rate. The order of
23 discontinuance may be issued only after a hearing with at
24 least ten days' prior notice for all insurers affected by the
25 order. The order must be in writing and state the grounds for
26 the order. The order shall state when, within a reasonable
27 period after the order is issued, the order of discontinuance
28 shall be effective. The order shall not affect a contract or
29 policy made or issued prior to the expiration of the period
30 set forth in the order.

31 3. An insured which is aggrieved with respect to a filing
32 which is in effect may make written application to the
33 commissioner for a hearing on that filing. The application
34 shall specify the grounds to be relied upon by the applicant.
35 If the commissioner finds that the application is made in good

1 faith, that the applicant would be so aggrieved if the
2 applicant's grounds are established, and that the grounds
3 otherwise justify holding a hearing, a hearing shall be held
4 within thirty days after receipt of the application, upon not
5 less than ten days' written notice to the applicant and to
6 every insurer and advisory organization which made that
7 filing.

8 If, after hearing, the commissioner finds that the filing
9 does not meet the requirements of this chapter, the
10 commissioner shall issue an order specifying in what respects
11 the filing fails to meet the requirements of this chapter, and
12 stating when, within a reasonable period after the order is
13 issued, the filing shall no longer be in effect. Copies of
14 the order shall be sent to the applicant and to every insurer
15 and advisory organization which made that filing. The order
16 shall not affect a contract or policy made or issued prior to
17 the expiration of the period set forth in the order.

18 Sec. 7. NEW SECTION. 515F.7 INFORMATION TO BE FURNISHED
19 INSUREDS -- HEARINGS AND APPEALS OF INSUREDS.

20 An insurer shall, within a reasonable time after receiving
21 written request and upon payment of reasonable charges set by
22 the commissioner, furnish to an insured affected by a rate
23 made by the insurer, or to the authorized representative of
24 the insured, all pertinent information as to the rate. An
25 insurer shall provide within this state reasonable means for
26 the insured aggrieved by the application of its rating system
27 to be heard, in person or by the insured's authorized
28 representative, on written request to review the manner in
29 which the rating system has been applied in connection with
30 the insurance afforded the insured. If the insurer fails to
31 grant or reject a request for hearing and review within thirty
32 days after it is made, the applicant may proceed in the same
33 manner as if the application had been rejected. The insured
34 affected by the action of the insurer on a request may, within
35 thirty days after written notice of the action, appeal to the

1 commissioner, who, after a hearing held upon not less than ten
2 days' written notice to the appellant and to the insurer, may
3 affirm or reverse the action.

4 Sec. 8. NEW SECTION. 515F.8 LICENSING ADVISORY
5 ORGANIZATIONS.

6 1. LICENSE REQUIRED. An advisory organization shall not
7 provide a service relating to the rates of insurance subject
8 to this chapter, and an insurer shall not utilize the services
9 of an advisory organization for such purposes unless the
10 advisory organization has obtained a license under subsection
11 3.

12 2. AVAILABILITY OF SERVICES. An advisory organization
13 shall not refuse to supply any services for which it is
14 licensed in this state to an insurer authorized to do business
15 in this state and offering to pay the fair and usual
16 compensation for the services.

17 3. LICENSING.

18 a. APPLICATION. An advisory organization applying for a
19 license shall include with its application all of the
20 following:

21 (1) A copy of its constitution, charter, articles of
22 organization, agreement, association, or incorporation, and a
23 copy of its bylaws, plan of operation, and any other rules or
24 regulations governing the conduct of its business.

25 (2) A list of its members and subscribers.

26 (3) The name and address of one or more residents of this
27 state upon whom notices, process affecting it, or orders of
28 the commissioner may be served.

29 (4) A statement showing its technical qualifications for
30 acting in the capacity for which it seeks a license.

31 (5) A biography of the ownership and management of the
32 organization.

33 (6) Any other relevant information and documents that the
34 commissioner may require.

35 b. CHANGE OF CIRCUMSTANCES. An advisory organization

1 which has applied for a license shall notify the commissioner
2 of every material change in the facts or in the documents on
3 which its application was based. An amendment to a document
4 filed under this section shall be filed at least thirty days
5 before it becomes effective.

6 c. GRANTING OF LICENSE. If the commissioner finds that
7 the applicant and the natural persons through whom it acts are
8 competent, trustworthy, and technically qualified to provide
9 the services proposed, and that all requirements of the law
10 are met, the commissioner shall issue a license specifying the
11 authorized activity of the applicant. The commissioner shall
12 not issue a license if the proposed activity would tend to
13 create a monopoly or to substantially lessen the competition
14 in any market.

15 d. DURATION. A license issued under this section shall
16 remain in effect for one year unless the license is suspended
17 or revoked. The commissioner may, at any time after hearing,
18 revoke or suspend the license of an advisory organization
19 which does not comply with the requirements and standards of
20 this chapter.

21 Sec. 9. NEW SECTION. 515F.9 INSURERS AND ADVISORY
22 ORGANIZATIONS -- PROHIBITED ACTIVITY.

23 1. An insurer or advisory organization shall not:

24 a. Attempt to monopolize, or combine or conspire with any
25 other person to monopolize, an insurance market.

26 b. Engage in a boycott, on a concerted basis, of an
27 insurance market.

28 2. a. An insurer shall not agree with any other insurer
29 or with an advisory organization to mandate adherence to or to
30 mandate use of a rate, rating plan, rating schedule, rating
31 rule, policy or bond form, rate classification, rate
32 territory, underwriting rule, survey, inspection, or similar
33 material, except as needed to develop statistical plans
34 permitted by section 515F.11, subsection 1. The fact that two
35 or more insurers, whether or not members or subscribers of an

1 advisory organization, use consistently or intermittently, the
2 same rates, rating plans, rating schedules, rating rules,
3 policy or bond forms, rate classifications, rate territories,
4 underwriting rules, surveys or inspections or similar
5 materials is not sufficient in itself to support a finding
6 that an agreement exists.

7 b. Two or more insurers having a common ownership or
8 operating in this state under common management or control may
9 act in concert between or among themselves with respect to any
10 matters pertaining to those activities authorized in this
11 chapter as if they constituted a single insurer.

12 3. An insurer or advisory organization shall not make an
13 arrangement with any other insurer, advisory organization, or
14 other person which has the purpose or effect of restraining
15 trade unreasonably or of substantially lessening competition
16 in the business of insurance.

17 Sec. 10. NEW SECTION. 515F.10 ADVISORY ORGANIZATIONS --
18 PROHIBITED ACTIVITY.

19 In addition to the other prohibitions contained in this
20 chapter, except as specifically permitted under section
21 515F.11, an advisory organization shall not compile or
22 distribute recommendations relating to rates that include
23 profit or expenses, other than loss adjustment expenses.

24 Sec. 11. NEW SECTION. 515F.11 ADVISORY ORGANIZATIONS --
25 PERMITTED ACTIVITY.

26 An advisory organization, in addition to other activities
27 not prohibited, may, on behalf of its members and subscribers,
28 do any or all of the following:

29 1. Develop statistical plans including territorial and
30 class definitions.

31 2. Collect statistical data from members, subscribers, or
32 any other source.

33 3. Prepare and distribute prospective loss costs.

34 4. Prepare and distribute factors, calculations, or
35 formulas pertaining to classifications, territories, increased

1 limits, and other variables.

2 5. Prepare and distribute manuals of rating rules and
3 rating schedules that do not include final rates, expense
4 provisions, profit provisions, or minimum premiums.

5 6. Distribute information that is required or directed to
6 be filed with the commissioner.

7 7. Conduct research and on-site inspections in order to
8 prepare classifications of public fire defenses.

9 8. Consult with public officials regarding public fire
10 protection as it would affect members, subscribers, and
11 others.

12 9. Conduct research and collect statistics in order to
13 discover, identify, and classify information relating to
14 causes or prevention of losses.

15 10. Prepare policy forms and endorsements and consult with
16 members, subscribers, and others relative to their use and
17 application.

18 11. Conduct research and on-site inspections for the
19 purpose of providing risk information relating to individual
20 structures.

21 12. Collect, compile, and distribute past and current
22 prices of individual insurers and publish such information.

23 13. File final rates, at the direction of the
24 commissioner, for residual market mechanisms.

25 14. Collect, compile, and distribute historical expense
26 information.

27 15. Furnish any other services, as approved or directed by
28 the commissioner, related to those enumerated in this section.

29 Sec. 12. NEW SECTION. 515F.12 ADVISORY ORGANIZATIONS --
30 FILING REQUIREMENTS.

31 An advisory organization shall file with the commissioner
32 for approval all prospective loss costs and all supplementary
33 rating information and every change or amendment or
34 modification of any of the foregoing proposed for use in this
35 state. The filings are subject to sections 515F.5 and 515F.6

1 and other provisions of this chapter relating to filings made
2 by insurers.

3 Sec. 13. NEW SECTION. 515F.13 POOL AND RESIDUAL MARKET
4 ACTIVITIES.

5 1. AUTHORIZATION. Notwithstanding section 515F.9, rating
6 organizations, advisory organizations, and insurers
7 participating in joint underwriting, joint reinsurance pools,
8 or residual market mechanisms may in connection with such
9 activity act in cooperation with each other in the making of
10 rates, rating systems, policy forms, underwriting rules,
11 surveys, inspections, and investigations, the furnishing of
12 loss and expense statistics or other information, or carrying
13 on research. Joint underwriting, joint reinsurance pools, and
14 residual market mechanisms shall not be deemed advisory
15 organizations.

16 2. REGULATION.

17 a. Except to the extent modified by this section,
18 insurers, and joint underwriting, joint reinsurance pool, and
19 residual market mechanism activities are subject to the other
20 provisions of this chapter.

21 b. If, after hearing, the commissioner finds that an
22 activity or practice of an insurer participating in joint
23 underwriting or a pool is unfair, is unreasonable, will tend
24 to lessen competition in a market, or is otherwise
25 inconsistent with the provisions or purposes of this chapter,
26 the commissioner may issue a written order and require the
27 discontinuance of that activity or practice.

28 c. A pool shall file with the commissioner a copy of its
29 constitution; its articles of incorporation, agreement, or
30 association; its bylaws, rules, and regulations governing its
31 activities; its members; the name and address of a resident of
32 this state upon whom notices or orders of the commissioner or
33 process may be served; and any changes in amendments or
34 changes in the foregoing.

35 d. A residual market mechanism, or plan or agreement to

1 implement such a mechanism, and any changes or amendments
2 thereto, shall be submitted in writing to the commissioner for
3 consideration and approval, together with information as
4 reasonably required by the commissioner. The commissioner
5 shall only approve agreements found to contemplate both of the
6 following:

7 (1) The use of rates which meet the standards prescribed
8 by this chapter.

9 (2) Activities and practices that are not unfair,
10 unreasonable, or otherwise inconsistent with this chapter.

11 At any time after the agreements are in effect, the
12 commissioner may review the practices and activities of the
13 adherents to the agreements and if, after a hearing, the
14 commissioner finds that any such practice or activity is
15 unfair or unreasonable, or is otherwise inconsistent with this
16 chapter, the commissioner may issue a written order to the
17 parties and either require the discontinuance of the acts or
18 revoke approval of the agreement.

19 Sec. 14. NEW SECTION. 515F.14 EXAMINATIONS.

20 The commissioner may, as often as deemed expedient, make or
21 cause to be made an examination of each advisory organization
22 referred to in section 515F.8 and of each group, association,
23 or other organization referred to in section 515F.13. The
24 reasonable costs of an examination shall be paid by the
25 advisory organization or group, association, or other
26 organization examined. The officers, manager, agents, and
27 employees of the advisory organization, or group, association,
28 or other organization may be examined at any time under oath
29 and shall exhibit all books, records, accounts, documents, or
30 agreements governing its method of operation. In lieu of an
31 examination, the commissioner may accept the report of an
32 examination made by the insurance supervisory official of
33 another state, pursuant to the laws of that state.

34 Sec. 15. NEW SECTION. 515F.15 RATE ADMINISTRATION.

35 1. RECORDING AND REPORTING OF LOSS AND EXPENSE EXPERIENCE.

1 The commissioner may adopt reasonable rules for use by
2 companies to record and report to the commissioner their rates
3 and other information determined by the commissioner to be
4 necessary or appropriate for the administration of this
5 chapter and the effectuation of its purposes.

6 The commissioner may adopt reasonable rules and statistical
7 plans, which shall then be used by each insurer in the
8 recording and reporting of its loss and expense experience, in
9 order that the experience of all insurers may be made
10 available at least annually in the form and detail necessary
11 to aid the commissioner in determining whether rating systems
12 comply with the standards set forth in section 515F.4. The
13 commissioner may designate one or more advisory organizations
14 or other agencies to assist in gathering the experience and
15 making compilations, and the compilations shall be public
16 documents.

17 2. INTERCHANGE OF RATING PLAN DATA.

18 Reasonable rules and plans may be adopted by the
19 commissioner for the interchange of data necessary for the
20 application of rating plans.

21 3. CONSULTATION WITH OTHER STATES.

22 In order to further uniform administration of rate
23 regulatory laws, the commissioner and every insurer and
24 advisory organization may exchange information and experience
25 data with insurance supervisory officials, insurers, and
26 advisory organizations in other states and may consult with
27 them with respect to the application of rating systems.

28 4. RULES.

29 The commissioner may make reasonable rules necessary,
30 including definitions of the rate standards contained in
31 section 515F.4, to effect the purposes of this chapter.

32 Sec. 16. NEW SECTION. 515F.16 FALSE OR MISLEADING
33 INFORMATION.

34 A person, including an insurer, or advisory organization,
35 shall not willfully withhold information which will affect the

1 rates or premiums chargeable under this chapter from, or
2 knowingly give false or misleading information to, the
3 commissioner, a statistical agency designated by the
4 commissioner, an advisory organization, or an insurer. A
5 violation of this section subjects the one guilty of the
6 violation to the penalties provided in section 515F.19.

7 Sec. 17. NEW SECTION. 515F.17 ASSIGNED RISKS.

8 Agreements may be made among insurers with respect to the
9 equitable apportionment among them of insurance which may be
10 afforded applicants who are in good faith entitled to, but who
11 are unable to procure, the insurance through ordinary methods,
12 and the insurers may agree among themselves on the use of
13 reasonable rate modifications for such insurance, the
14 agreements and rate modifications to be subject to the
15 approval of the commissioner.

16 Sec. 18. NEW SECTION. 515F.18 EXEMPTIONS.

17 The commissioner may, upon the commissioner's own
18 initiative or upon request of any person, by rule, exempt a
19 market from any or all of the provisions of this chapter, if
20 and to the extent that the exemption is necessary to achieve
21 the purposes of this chapter.

22 Sec. 19. NEW SECTION. 515F.19 PENALTIES.

23 The commissioner may, upon a finding that a person or
24 organization has violated a provision of this chapter, impose
25 a civil penalty of not more than ten thousand dollars for each
26 violation, but if the violation is found to be willful, a
27 penalty of not more than twenty-five thousand dollars may be
28 imposed for each violation. The civil penalties may be in
29 addition to any other penalty provided by law.

30 For purposes of this section, an insurer using a rate for
31 which the insurer has failed to file the rate, supplementary
32 rate information, underwriting rules or guides, or supporting
33 information as required by this chapter, has committed a
34 separate violation for each day the failure continues.

35 The commissioner may suspend or revoke the license of an

1 advisory organization or insurer which fails to comply with an
2 order of the commissioner within the time limit set by the
3 order, or an extension of the order.

4 The commissioner may determine when a suspension of license
5 becomes effective and it shall remain in effect for the period
6 fixed by the commissioner, unless the commissioner modifies or
7 rescinds the suspension, or until the order upon which the
8 suspension is based is modified, rescinded, or reversed.

9 A penalty shall not be imposed and a license shall not be
10 suspended or revoked except upon a written order of the
11 commissioner stating the commissioner's findings, made after
12 hearing.

13 Sec. 20. Section 507B.4, subsection 11, Code Supplement
14 1989, is amended to read as follows:

15 11. Rating organizations. Any violation of section
16 ~~515A.16~~ 515F.16.

17 Sec. 21. Section 515A.21, Code 1989, is amended to read as
18 follows:

19 515A.21 SCOPE OF APPLICATION.

20 Section 515A.20 and sections 515A.22 through 515A.25 apply
21 to all forms of casualty insurance except ~~those described in~~
22 ~~sections 515A.11 and 515A.15~~ joint underwriting and joint
23 reinsurance, assigned risks, and those excluded by section
24 515A.2.

25 Sec. 22. Section 515A.23, Code 1989, is amended to read as
26 follows:

27 515A.23 NONCOMPETITIVE MARKET.

28 Unless the commissioner has determined a market to be
29 competitive, the provisions of sections ~~515A.1~~ 515F.1 through
30 ~~515A.19~~ 515F.19 apply.

31 Sec. 23. Section 515A.24, Code 1989, is amended to read as
32 follows:

33 515A.24 FILING OF RATES IN A COMPETITIVE MARKET.

34 1. Subject to the inland marine exception specified in
35 section ~~515A.47-subsection-5~~ 515F.5, subsection 1, a

1 competitive filing shall become effective when filed and shall
2 be deemed to meet the requirements of section ~~515A.3~~ 515F.4 as
3 long as the filing remains in effect unless it is disapproved
4 upon review by the commissioner.

5 2. In a competitive market, every insurer shall file with
6 the commissioner all rates and supplementary rate information
7 which are used in this state. The rates and supplementary
8 rate information shall be filed not later than fifteen days
9 after the effective date of the rates.

10 3. In a competitive market, if the commissioner finds that
11 an insurer's rates require closer supervision because of the
12 insurer's financial condition or unfairly discriminatory
13 rating practices, the insurer shall file with the commissioner
14 at least thirty days prior to the effective date of the rates
15 all the rates and supplementary rate information and
16 supporting information as prescribed by the commissioner.
17 Upon application by the filer, the commissioner may authorize
18 an earlier effective date.

19 Sec. 24. Section 515A.25, Code 1989, is amended to read as
20 follows:

21 515A.25 DISAPPROVAL OF A RATE FILING IN A COMPETITIVE
22 MARKET.

23 1. If the commissioner believes that an insurer's rate
24 filing in a competitive market violates the requirements of
25 section ~~515A.3~~ 515F.4 through 515F.5, the commissioner may
26 require the insurer to file supporting information. If after
27 reviewing the supporting information the commissioner
28 continues to believe that the filing violates section ~~515A.3~~
29 515F.4 through 515F.5, 490 the commissioner shall notify the
30 insurer of the insurer's right to petition for a hearing on
31 any subsequent order relating to the filing.

32 2. The commissioner may disapprove prefiled rates that
33 have not become effective. However, the commissioner shall
34 notify the insurer whose rates have been disapproved of the
35 insurer's right to petition for a hearing on the disapproval

1 within thirty days after the disapproval.

2 3. If the commissioner disapproves a filing in a
3 competitive market, the commissioner shall issue an order
4 specifying the reasons the filing fails to meet the
5 requirements of section ~~515A.3~~ 515F.4 through 515F.5. For
6 rates in effect at the time of disapproval, the commissioner
7 shall inform the insurer within a reasonable period of time
8 the date when further use of the rates for policies or
9 contracts of insurance is prohibited. The order shall be
10 issued within thirty days of disapproval, or within thirty
11 days of a hearing on the disapproval if a hearing is held.
12 The order may include a provision for premium adjustment for
13 the period after the effective date of the order for policies
14 or contracts in effect on the date of the order.

15 4. Whenever an insurer has filed no legally effective
16 rates as a result of the commissioner's disapproval of a
17 filing, the commissioner shall on request of the insurer work
18 with the insurer to develop interim rates for the insurer that
19 are sufficient to protect the interest of all parties and the
20 commissioner may order that a specified portion of the premium
21 be placed in an escrow account approved by the commissioner.
22 When new rates become legally effective, the commissioner
23 shall order the escrowed funds or any overcharge in the
24 interim rates to be distributed appropriately. The
25 commissioner may waive distribution if the commissioner
26 determines that the amount involved would not warrant such
27 action.

28 Sec. 25. Sections 515A.1 through 515A.19, Code 1989, are
29 repealed.

30 Sec. 26.

31 The Code editor shall transfer sections 515A.20 through
32 515A.25 to be a division of new chapter 515F.

33 EXPLANATION

34 This bill substitutes revisions recommended by the national
35 association of insurance commissioners (NAIC) for the current

1 insurance rate-filing procedures in fire and casualty lines.
2 The revisions reflect the insurance service organization's
3 (ISO) change in policy, discontinuing the practice of filing
4 final rates on behalf of member insurers. The ISO is an
5 advisory organization through which insurers share statistical
6 information for ratemaking purposes. This bill requires
7 individual insurers to file rates for prior approval by the
8 commissioner and to document the source of those rates.

9 BACKGROUND STATEMENT

10 SUBMITTED BY THE AGENCY

11 This revision implements model language adopted by the
12 national association of insurance commissioners (NAIC). It is
13 necessary to reflect the fact that the insurance service
14 office (ISO) no longer files rates on behalf of member
15 insurers. ISO compiles pure loss and loss adjustment expense
16 data and provides it to member insurers who must then load
17 their own expenses into the data and file their own rates.
18 The chapter as it is currently written is outdated now that
19 ISO no longer performs the rate-filing function. Since the
20 effect is nationwide, this model language was promulgated by
21 the NAIC. It will allow the Iowa law to properly reflect the
22 current state of the casualty insurance industry.

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SENATE AMENDMENT TO HOUSE FILE 2320

H-5882

1 Amend House File 2320, as amended, passed, and
2 reprinted by the House, as follows:

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

5 "Sec. 102. Section 296.7, Code Supplement 1989, is
6 amended by striking the section and inserting in lieu
7 thereof the following:

8 296.7 INDEBTEDNESS FOR INSURANCE AUTHORIZED -- TAX
9 LEVY.

10 1. A school district or merged area school
11 corporation may contract indebtedness and issue
12 general obligation bonds or enter into insurance
13 agreements obligating the school district or
14 corporation to make payments beyond its current budget
15 year for one or more of the following mechanisms to
16 protect the school district or corporation from tort
17 liability, loss of property, environmental hazards, or
18 any other risk associated with the operation of the
19 school district or corporation:

20 a. To procure or provide for a policy of
21 insurance.

22 b. To provide a self-insurance program.

23 c. To establish and maintain a local government
24 risk pool.

25 However, this subsection does not apply to an
26 insurance program described in subsection 3.

27 2. For purposes of subsection 1, an employee
28 benefit plan which includes a specific or aggregate
29 excess loss coverage or a program that self-insures
30 only a per-employee or per-family deductible for each
31 year and which transfers the risk remaining beyond
32 this deductible is not a self-insurance program, but
33 is instead an insurance program. As used in this
34 section, an "employee benefit plan" includes, but is
35 not limited to benefits for hospital and surgical,
36 medical expense, major medical, dental, prescription
37 drug, disability, or life insurance costs or benefits.

38 3. A school district, providing an insurance
39 program as described in subsection 2, shall not
40 contract indebtedness and issue general obligation
41 bonds or enter into insurance agreements obligating
42 the school district or corporation to make payments
43 beyond its current budget year for that employee
44 benefit plan. A school district may, however, apply
45 to the school budget review committee for relief if
46 necessitated by the expenses in the school district's
47 insurance program as described in subsection 2.

48 4. Taxes may be levied in excess of any limitation
49 imposed by statute for payment of one or more of the
50 following authorized by subsection 1:

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1 a. Principal, premium, or interest on bonds.
2 b. Premium on an insurance policy, including a
3 stop loss or reinsurance policy, except as limited by
4 subsection 3.

5 c. Costs of a self-insurance program.
6 d. Costs of a local government risk pool.
7 e. Amounts payable under an insurance agreement.
8 However, for a school district, a tax levied under
9 this section shall be included in the district
10 management levy under section 298.4.

11 5. A self-insurance program or local government
12 risk pool authorized by subsection 1 is not insurance
13 and is not subject to regulation under chapters 505
14 through 523C. However, those self-insurance plans
15 regulated pursuant to section 509A.14 shall remain
16 subject to the requirements of section 509A.14 and
17 rules adopted pursuant to that section.

18 6. Notwithstanding the other provisions of this
19 section or any other statute, the tax levy authorized
20 by this section shall not be used to pay the costs of
21 employee benefits, including, but not limited to costs
22 for hospital and surgical, medical expense, major
23 medical, dental, prescription drug, disability, or
24 life insurance benefits.

25 7. If the board by resolution restricts the use of
26 money in a fund as a reserve for uninsured liability
27 or a self-insurance program, the use shall be
28 restricted and unavailable for any other purpose until
29 the board removes the restriction. The removal is not
30 effective until all obligations of the restricted fund
31 have been satisfied, or the next fiscal year,
32 whichever occurs later.

33 Sec. 103. Section 505.8, subsection 2, Code 1989,
34 is amended to read as follows:

35 2. The commissioner shall, subject to the
36 ~~provisions of~~ chapter 17A, establish, publish, and
37 enforce rules not inconsistent with the law for the
38 enforcement of ~~the provisions of~~ this title and for
39 the enforcement of the laws, the administration and
40 supervision of which are imposed on the division,
41 including rules to establish fees sufficient to
42 administer the laws, where appropriate fees are not
43 otherwise provided for in rule or statute, and as
44 necessary to obtain from persons authorized to do
45 business in the state or regulated by the division
46 that data required pursuant to section 145.3 by the
47 state health data commission.

48 Sec. 104. Section 507.14, Code 1989, is amended by
49 striking the section and inserting in lieu thereof the
50 following:

1 507.14 CONFIDENTIAL DOCUMENTS -- EXCEPTIONS.
2 A report, preliminary or final, of an examination
3 of a domestic or foreign insurer, and all notes, work
4 papers, or other documents related to an examination
5 of an insurer are not public records under chapter 22
6 except when sought by the insurer to whom they relate
7 or an insurance regulator of another state, and shall
8 be privileged and confidential in any judicial or
9 administrative proceeding except any of the following:

10 1. An action commenced by the commissioner under
11 chapter 507C.

12 2. An administrative proceeding brought by the
13 insurance division under chapter 17A.

14 3. A judicial review proceeding under chapter 17A
15 brought by an insurer to whom the records relate.

16 4. An action or proceeding which arises out of the
17 criminal provisions of the laws of this state or the
18 United States.

19 5. An action brought in a shareholders' derivative
20 suit against an insurer.

21 6. An action brought to recover moneys or to
22 recover upon an indemnity bond for embezzlement,
23 misappropriation, or misuse of insurer funds.

24 Sec. 106. Section 507C.6, subsection 1, paragraph
25 b, Code 1989, is amended to read as follows:

26 b. To make available to the commissioner any
27 books, accounts, documents, or other records, or
28 information, or property of or pertaining to the
29 insurer and in the commissioner's person's possession,
30 custody, or control.

31 Sec. 107. Section 508.5, Code 1989, is amended to
32 read as follows:

33 508.5 CAPITAL AND SURPLUS REQUIRED.

34 A stock life insurance company shall not be
35 authorized to transact business under the provisions
36 of this chapter with less than one two million five
37 hundred thousand dollars capital stock fully paid for
38 in cash and one two million five hundred thousand
39 dollars of surplus paid in in cash or invested as
40 provided by law. A stock life insurance company shall
41 not increase its capital stock unless the amount of
42 the increase is fully paid in cash. The stock shall
43 be divided into shares of not less than one dollar par
44 value each.

45 Sec. 108. Section 508.9, Code 1989, is amended to
46 read as follows:

47 508.9 MUTUAL COMPANIES -- CONDITIONS.

48 Level premium and natural premium life insurance
49 companies organized under the laws of this state upon
50 the mutual plan shall, before issuing policies, have

1 actual applications on at least two hundred and fifty
2 lives for an average amount of one thousand dollars
3 each. A list of the applications giving the name,
4 age, residence, amount of insurance, and annual
5 premium of each applicant shall be filed with the
6 commissioner of insurance, and a deposit made with the
7 commissioner of an amount equal to three-fifths of the
8 whole annual premium on the applications, in cash or
9 the securities required by section 508.5. In
10 addition, a deposit of cash or securities of the
11 character provided by law for the investment of funds
12 for life insurance companies in the sum of two five
13 million dollars shall be made with the commissioner,
14 which shall constitute a guaranty fund for the
15 protection of policyholders. ~~In no event shall the~~
16 The contribution to the guaranty fund shall not give
17 to contributors to the fund or to other persons any
18 voting or other power in the management of the affairs
19 of the company. The guaranty fund may be repaid to
20 the contributors thereto to the guarantee fund with
21 interest at six percent from the date of contribution,
22 at any time, in whole or in part, provided if the
23 repayment does not reduce the surplus of the company
24 below the amount of two million dollars and then only
25 provided if consent in writing for the repayment is
26 obtained from the commissioner of insurance. Upon
27 compliance with ~~the provisions of~~ this section, the
28 commissioner shall issue to the mutual company the
29 certificate prescribed in this chapter.

30 Sec. 109. Section 508B.1, subsection 4, paragraph
31 a, Code 1989, is amended to read as follows:

32 a. "Plan of conversion" or "conversion plan" means
33 a plan authorized by section 508B.3 and, in the case
34 of plans authorized by section 508B.3, subsections 1
35 and 3, includes a procedure by which the mutual
36 company's participating policies and contracts in
37 force on the effective date of the conversion plan are
38 operated by the reorganized company as a closed block
39 of participating business for the exclusive benefit of
40 the policies and contracts included, for dividend
41 purposes only; to which are allocated assets of the
42 mutual company in an amount which together with
43 anticipated revenue from the business is reasonably
44 expected to be sufficient to support the business;
45 and which includes, but is not limited to, provisions
46 for payment of claims and reasonable expenses, and
47 provisions for continuation of current payable
48 dividend scales if the experience underlying the
49 scales continues, and a procedure for appropriate
50 adjustments in the scales if the experience changes.

1 However, at the option of the mutual company, some or
2 all classes of group policies and contracts shall not
3 be placed in the closed block but shall continue to be
4 eligible to receive dividends based on the experience
5 of such the class or classes.

6 Sec. 110. Section 508B.2, unnumbered paragraph 3,
7 Code 1989, is amended to read as follows:

8 In lieu of selecting a plan of conversion provided
9 for in this chapter, a mutual company may convert to a
10 stock company pursuant to a plan approved by the
11 commissioner. The commissioner or the mutual company
12 may use any provisions or combination of provisions
13 provided for a plan in this chapter and may adopt any
14 other provisions which are not unfair or inequitable
15 to the policyholders of the mutual company. If a
16 mutual company selects this procedure for conversion
17 purposes, the mutual company shall reimburse the state
18 for expenses incurred by the division in connection
19 with the conversion plan except for expenses that are
20 normal operating expenses of the division.

21 Sec. 111. Section 508B.3, subsection 2, paragraph
22 a, Code 1989, is amended to read as follows:

23 a. The mutual company's participating business,
24 comprised of its participating policies and contracts
25 in force on the effective date of the conversion,
26 shall be operated by the reorganized insurer as a
27 closed block of participating business. However, at
28 the option of the mutual company, group policies and
29 group contracts may be omitted from the closed block.

30 Sec. 112. Section 508B.3, subsection 2, paragraph
31 e, Code 1989, is amended to read as follows:

32 e. The reorganized company or its parent
33 corporation shall issue and sell shares of one or more
34 classes having a total price equal to the estimated
35 value in the market on the initial offering date of
36 such the shares.

37 Sec. 113. Section 508B.3, subsection 2, paragraph
38 g, Code 1989, is amended to read as follows:

39 g. If a purchaser or a group of purchasers acting
40 in concert is to attain such control in the initial
41 offering, the mutual company shall not, directly or
42 indirectly, pay for any of the costs or expenses of
43 the-proposed conversion of the mutual company, whether
44 or not the conversion is effected.

45 Sec. 114. Section 508B.3, subsection 3, paragraph
46 b, Code 1989, is amended to read as follows:

47 b. The participating policyholders' consideration
48 shall be based on the latest annual statement, updated
49 to the effective date of the conversion plan, and
50 filed prior to the effective date of the adoption by

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1 the board of directors of the plan of conversion and.
2 The policyholders' consideration shall be equal to the
3 excess of both of the following:
4 ~~---(1)---The total amount of the mutual company's~~
5 ~~assets accumulated from the operations of~~
6 ~~participating policies and contracts in force on the~~
7 ~~date of the statement over the sum of the total amount~~
8 ~~of assets allocated to the participating business.~~
9 ~~---(2)---An amount equal to reserves and other~~
10 ~~liabilities attributable to any group participating~~
11 ~~policies and contracts not included in the closed~~
12 ~~block of participating business~~ sum of the total
13 amount of assets allocated to the participating
14 business and an amount equal to reserves and other
15 liabilities attributable to any group participating
16 policies and contracts not included in the closed
17 block of participating business.

18 Sec. 115. Section 508B.3, subsection 3, paragraph
19 j, Code 1989, is amended to read as follows:

20 j. The liquidation account referred to in
21 paragraph "c" must be equal to the excess of the total
22 amount of the assets of the mutual company as of the
23 effective date of the conversion over the sum of the
24 total amount of assets allocated to the closed block
25 of participating business and the policyholders'
26 consideration and other reserves and liabilities
27 attributed to policies and contracts not included in
28 the amount attributable to policies and contracts in
29 force on that effective date. The determinations
30 shall be based on the latest annual statement of the
31 mutual company, updated to the effective date, and
32 filed before the effective date of the conversion
33 plan. The function of the liquidation account shall
34 be is solely to establish a priority on liquidation
35 and its existence shall does not operate to restrict
36 the use or application of the surplus of the
37 reorganized company except as specified in paragraph
38 "i". The liquidation account shall be allocated
39 equally as of the effective date of conversion among
40 the then participating policyholders. The amount
41 allocated to any a policy or contract shall not
42 increase and shall be reduced to zero when the policy
43 or contract terminates. In the event of a complete
44 liquidation of the reorganized company, the
45 policyholders among which the liquidation account is
46 allocated shall be are entitled to receive a
47 liquidation distribution in the then amount of the
48 liquidation account before any liquidation
49 distribution is made with respect to shares.

50 Sec. 116. Section 508B.3, subsection 3, paragraph

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1 k, Code 1989, is amended to read as follows:

2' k. At the option of the mutual company, the
3 consideration to be given in exchange for the
4 policyholders' membership ~~interest-or-into-which-the~~
5 ~~membership-is-to-be-converted~~ interests may consist of
6 cash, securities of the reorganized company,
7 securities of another institution, a certificate of
8 contribution, additional life insurance, annuity
9 benefits, increased dividends, or other consideration
10 or any combination of forms of consideration. The
11 consideration, if any, given to any a class or
12 category of ~~policyholder~~ policyholders may differ from
13 the consideration given to another class or category
14 of policyholders. The certificate of contribution
15 shall be repayable in ten years, equal to one hundred
16 percent of the value of the policyholders' membership
17 interest, and bear interest at the highest rate
18 charged by the reorganized company for policy loans on
19 the effective date of the conversion.

20 Sec. 117. Section 508B.5, unnumbered paragraph 2,
21 Code 1989, is amended to read as follows:

22 The consultant may assist in determining the equity
23 ~~or-value~~ of the policyholders and or value of the
24 mutual company. The consultant may consider the value
25 of the consideration to be given to the participating
26 policyholders in exchange for their membership
27 ~~interests or-into-which-the-membership-interest-is-to~~
28 ~~be-converted~~ and may consider the valuations necessary
29 to carry out the plans provided for in section 508B.3.
30 Valuations shall be made taking into account the
31 latest filed annual statement of the mutual company,
32 updated to the effective date of the conversion plan,
33 and any significant developments occurring subsequent
34 to the date of the statement.

35 Sec. 118. Section 508B.7, Code 1989, is amended to
36 read as follows:

37 508B.7 REVIEW OF PLAN BY COMMISSIONER -- HEARING
38 AUTHORIZED -- APPROVAL.

39 The commissioner of insurance shall review the
40 plan. The commissioner shall approve the plan if the
41 commissioner finds the plan complies with all
42 provisions of law, is not unfair or inequitable to the
43 mutual company and its policyholders, and that the
44 reorganized company will have the amount of capital
45 and surplus deemed by the commissioner to be
46 reasonably necessary for its future solvency. The
47 commissioner may order a hearing on the fairness and
48 equity of the terms of the plan after giving written
49 notice of the hearing to the mutual company, its
50 policyholders, and other interested persons, all of

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1 whom have the right to appear at the hearing. Costs
2 incurred in connection with the notice shall be paid
3 by the company.

4 Sec. 119. Section 508B.13, Code 1989, is amended
5 to read as follows:

6 508B.13 PROHIBITIONS ON CERTAIN OFFERS TO ACQUIRE
7 SHARES.

8 Prior to and for a period of five years following
9 the effective date of the conversion, and in the case
10 of the plans of conversion specified in subsections 1
11 and 3 of section 508B.3, five years following the date
12 of distribution of consideration to the policyholders
13 in exchange for their membership interests, ~~an officer~~
14 ~~or director, including family members and their~~
15 ~~spouses, of the mutual company or the reorganized~~
16 ~~company~~ a person, shall not directly or indirectly
17 ~~acquire or offer to acquire or acquire~~ the beneficial
18 ownership of the reorganized company unless the
19 acquisition is made pursuant to a ~~stock option~~ plan
20 approved by the commissioner, made pursuant to the
21 plan of conversion, or made after the initial public
22 offering from a broker or dealer of registered
23 securities with the securities and exchange commission
24 at the quoted price on the date of purchase. An
25 approved plan may include a stock option plan. As
26 used in this section, "beneficial ownership" means,
27 with respect to any a security, the sole or shared
28 power to vote or direct the voting of the security or
29 the sole power to dispose or direct the disposition of
30 the security, ~~and "family member" includes a brother,~~
31 ~~sister, spouse, parent, grandparent, ancestor, or~~
32 ~~descendant of the officer or director.~~

33 Sec. 120. Section 508B.14, unnumbered paragraph 2,
34 Code 1989, is amended to read as follows:

35 The reorganized company or any a defendant may
36 ~~require the plaintiff~~ petition the court in such an
37 action to give security for the reasonable attorney
38 fees which may be incurred by any party to the action.
39 The amount of the security may be increased or
40 decreased in the discretion of the court having
41 jurisdiction if a showing is made that the security
42 provided is or may become inadequate or excessive.

43 Sec. 121. Section 508C.5, subsection 6, unnumbered
44 paragraph 1, Code 1989, is amended to read as follows:

45 "Impaired insurer" means a member insurer ~~domiciled~~
46 ~~in this state~~ which, after July 1, 1987, is either of
47 the following:

48 Sec. 122. Section 508C.5, subsection 7, Code 1989,
49 is amended to read as follows:

50 7. "Insolvent insurer" means a member insurer

1 which, after July 1, 1987, becomes insolvent and is
2 placed under a final order of liquidation;
3 rehabilitation, or conservation by a court of
4 competent jurisdiction.

5 Sec. 123. Section 508C.8, subsection 1, unnumbered
6 paragraph 1, Code 1989, is amended to read as follows:
7 If a domestic, foreign, or alien insurer is an
8 impaired insurer, the association, subject to
9 conditions imposed by the association and approved by
10 the impaired insurer and the commissioner, may:

11 Sec. 124. Section 508C.8, subsection 2, Code 1989,
12 is amended by striking the subsection and inserting in
13 lieu thereof the following:

14 2. a. If a domestic, foreign, or alien insurer is
15 an impaired insurer and the insurer is not paying
16 claims timely, then, subject to the approval of the
17 commissioner and to the preconditions specified in
18 this subsection, the association may do either or both
19 of the following:

20 (1) Take any of the actions specified in
21 subsection 1, subject to the conditions in that
22 subsection.

23 (2) Provide substitute benefits in lieu of the
24 contractual obligations of the impaired insurer solely
25 for health claims, periodic annuity benefits, death
26 benefits, supplemental benefits, and cash withdrawals
27 for policy or contract owners who petition for the
28 benefits under claims of emergency or hardship in
29 accordance with standards proposed by the association
30 and approved by the commissioner.

31 b. The association is subject to this subsection
32 only if all of the following conditions are met:

33 (1) The laws of the state of domicile provide that
34 until all payments of or on account of the impaired
35 insurer's contractual obligations by all guaranty
36 associations, along with all interest on the payments
37 and expenses have been repaid to the guaranty
38 associations or a plan of repayment by the impaired
39 insurer has been approved by the guaranty associations
40 all of the following apply:

41 (a) The delinquency proceeding shall not be
42 dismissed.

43 (b) Neither the impaired insurer nor its assets
44 shall be returned to the control of its shareholders
45 or private management.

46 (c) The impaired insurer shall not be permitted to
47 solicit or accept new business or have any suspended
48 or revoked license restored.

49 (2) If the impaired insurer is a domestic insurer
50 it has been placed under an order of rehabilitation by

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1 a court of competent jurisdiction in this state; or,
2 if the impaired insurer is a foreign or alien insurer
3 it has been prohibited from soliciting or accepting
4 new business in this state, its certificate of
5 authority has been suspended or revoked in this state,
6 and a petition for rehabilitation or liquidation has
7 been filed in a court of competent jurisdiction in its
8 state or nation of domicile by the commissioner of
9 that state or similar authority in an alien nation.

10 Sec. 125. Section 508C.9, subsection 3, paragraph
11 a, Code 1989, is amended to read as follows:

12 a. The amount of a class A assessment shall be
13 determined by the board and to the extent that class A
14 assessments do not exceed one hundred dollars per
15 company in any one calendar year may be made on a per
16 capita basis. ~~The assessment shall be credited~~
17 ~~against future insolvency assessments.~~ The amount of
18 a class B assessment shall be allocated for assessment
19 purposes among the accounts as the liabilities and
20 expenses of the association, either experienced or
21 reasonably expected, are attributable to those
22 accounts, all as determined by the association and on
23 as equitable a basis as is reasonably practical.

24 Sec. 126. Section 508C.9, subsection 3, paragraph
25 b, Code 1989, is amended to read as follows:

26 b. Class A assessments in excess of one hundred
27 dollars per company per calendar year and class B
28 assessments against member insurers for each account
29 shall be in the proportion that the aggregate premiums
30 received on business in this state by each assessed
31 member insurer on policies or contracts related to
32 that account for the three most recent calendar years
33 for which information is available, preceding the year
34 of impairment or insolvency in which the insurer
35 became impaired or insolvent, bear to is to the
36 aggregate premiums received on business in this state
37 by all assessed member insurers on policies related to
38 that account for the three most recent calendar years
39 for which information is available preceding the
40 assessment.

41 Sec. 127. Section 508C.9, subsection 5, paragraph
42 a, Code 1989, is amended to read as follows:

43 a. The total of all assessments upon a member
44 insurer for each account shall not in any one calendar
45 year exceed two percent of the insurer's premiums
46 received in this state during the ~~calendar year~~
47 ~~preceding the assessment~~ three most recent calendar
48 years for which information is available, preceding
49 the year in which the insurer becomes impaired or
50 insolvent, on the policies related to that account.

1 If the maximum assessment for any an account, together
2, with the other assets of the association in the
3 account, does not provide in any one year in the
4 account an amount sufficient to carry out the
5 responsibilities of the association, the necessary
6 additional funds shall be assessed for the account as
7 ~~soon-thereafter~~ in succeeding years as soon as
8 permitted by this chapter.

9 Sec. 128. Section 508C.13, subsection 5, paragraph
10 b, Code 1989, is amended to read as follows:

11 b. ~~Stock-dividends~~ Distributions are not
12 recoverable if the insurer shows that when paid the
13 ~~distribution-was~~ distributions were lawful and
14 reasonable and that the insurer did not know and could
15 not reasonably have known that the ~~distribution~~
16 distributions might adversely affect the ability of
17 the insurer to fulfill its contractual obligations.

18 Sec. 129. Section 509.16, Code 1989, is amended to
19 read as follows:

20 509.16 PREMIUM RATES APPROVED.

21 No An individual policy of credit life or credit
22 accident and health insurance or certificate under a
23 policy of group credit life or credit accident and
24 health insurance shall not be issued for delivery or
25 delivered in this state unless the premium rates
26 charged for the insurance are approved by the
27 commissioner of insurance.

28 The commissioner of insurance, after notice and
29 hearing, may adopt rules as are necessary to identify
30 specific methods of competition or acts or practices
31 within the business of credit life and credit accident
32 and health insurance which are unfair or deceptive.

33 Sec. 130. Section 509.17, subsection 2, Code 1989,
34 is amended to read as follows:

35 2. Due consideration shall be given to past and
36 prospective loss experience within and outside this
37 state, to a reasonable margin for underwriting profit
38 and contingencies, to past and prospective expenses
39 both countrywide and those especially applicable to
40 this state, and to all other relevant factors within
41 and outside this state, ~~but-rates-shall-be-deemed~~
42 ~~reasonable-under-this-section-and-section-509-16-if~~
43 ~~they-reasonably-may-be-expected-to-produce-a-ratio-of~~
44 ~~fifty-percent-by-dividing-claims-incurred-by-premiums~~
45 earned.

46 Sec. 131. Section 509.17, subsection 3, Code 1989,
47 is amended to read as follows:

48 3. The commissioner shall, after a public hearing,
49 approve a reasonable charge or premium for credit
50 accident and health insurance and for credit life

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1 insurance as the commissioner deems appropriate and
2 necessary for the implementation of this section. A
3 charge-or-premium-of-not-more-than-sixty-five-cents
4 per-annum-per-one-hundred-dollars-of-the-initial
5 amount-of-decreasing-term-credit-life-insurance,-or
6 its-actuarial-equivalent-for-credit-life-insurance
7 written-on-other-than-the-decreasing-term-basis,-shall
8 be-conclusively-presumed-to-meet-the-requirements-of
9 this-section.

10 Sec. 132. NEW SECTION. 509.17A SMALL GROUP
11 RATING.

12 1. The commissioner shall with all due diligence
13 adopt by rule the recommendations of the national
14 association of insurance commissioners concerning life
15 and accident or health insurance rating practices for
16 small employer groups, provided that the final
17 recommendations are generally consistent with the
18 following principles:

19 a. Better disclosure to the group of the insurer's
20 group rating practices.

21 b. Limits on the amount of rate increase that can
22 be based upon the group's own claim experience in the
23 small group market.

24 c. Actuarial certification that the insurer's
25 rating practices meet the requirements of the national
26 association of insurance commissioners and meet
27 generally accepted actuarial practice.

28 2. Specific limitations which may be contained in
29 the rules adopted pursuant to subsection 1 include,
30 but are not limited to, the following:

31 a. The annual rate increase for a group cannot
32 exceed the change in the block's new business rate
33 level plus a fixed percentage of the average rate
34 level for the block.

35 b. The maximum renewal rate within a block of
36 business cannot exceed the average rate for that block
37 of business by more than a fixed percentage.

38 c. The maximum renewal rate in any block of
39 business of an insurer cannot exceed the lowest new
40 business rate for any block of business for that
41 insurer by more than a fixed percentage.

42 d. Other limits on tier and duration rating
43 practices.

44 3. Within six months of adopting any rule pursuant
45 to subsection 1, the commissioner shall prepare a
46 report to the general assembly regarding the success,
47 if any, of the rules, and make such recommendations as
48 necessary, including offering proposed legislation, to
49 effectuate the general assembly's goals of reducing
50 the potential for abuse in charging higher than

1 actuarially justified rates for some small groups and
2 in underpricing for new small group business.

3 Sec. 133. Section 514A.3, subsection 1, paragraph
4 m, unnumbered paragraph 3, Code 1989, is amended to
5 read as follows:

6 ~~{In addition to incorporating the~~ The foregoing
7 ~~provision into the policy, the insurer shall deliver~~
8 ~~to the insured at the time of delivery of the policy a~~
9 ~~duplicate statement of the foregoing provision which~~
10 ~~shall be contained in conspicuous print on a separate~~
11 ~~and otherwise blank sheet of paper.}~~ shall be
12 prominently printed on the first page of the policy or
13 attached to the policy.

14 Sec. 134. NEW SECTION. 514D.9 REGULATIONS
15 REGARDING LIMITATION ON COMPENSATION.

16 The commissioner shall issue rules to establish
17 minimum standards to assure fair and reasonable
18 benefits, claim payment, marketing practices, and
19 compensation arrangements and reporting practices for
20 the following classes of policies:

- 21 1. Medicare supplement insurance.
- 22 2. Nursing home insurance.
- 23 3. Long-term care insurance.

24 Sec. 135. Section 515.8, Code 1989, is amended to
25 read as follows:

26 515.8 PAID-UP CAPITAL REQUIRED.

27 An insurance company other than a life insurance
28 company shall not be incorporated to transact business
29 upon the stock plan with less than one two million
30 five hundred thousand dollars capital, the entire
31 amount of which shall be fully paid up in cash and
32 invested as provided by law. An insurance company
33 other than a life insurance company shall not increase
34 its capital stock unless the amount of the increase is
35 fully paid up in cash. The stock shall be divided
36 into shares of not less than one dollar each.

37 Sec. 136. Section 515.10, Code 1989, is amended to
38 read as follows:

39 515.10 SURPLUS REQUIRED.

40 An insurance company other than a life insurance
41 company shall have, in addition to the required paid-
42 up capital, a surplus in cash or invested in
43 securities authorized by law of not less than one two
44 million five hundred thousand dollars. ~~If the~~
45 ~~commissioner of insurance finds that a company offers~~
46 ~~or plans to offer only one kind of insurance the~~
47 ~~commissioner may reduce the amount of surplus~~
48 ~~required, but in no event shall it be reduced to less~~
49 ~~than three hundred thousand dollars.~~

50 Sec. 137. Section 515.11, Code 1989, is amended to

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1 read as follows:

2 515.11 PROHIBITED LOANS.

3 ~~No part of the capital referred to Capital,~~
4 ~~surplus, funds, or other assets, or any part of any or~~
5 ~~all of the foregoing,~~ shall not be directly or
6 indirectly loaned to any an officer, director,
7 stockholder, or employee of the a company or to a
8 relative of any an officer or director of the a
9 company.

10 Sec. 138. Section 515.12, subsection 5, Code 1989,
11 is amended to read as follows:

12 5. The mutual company shall have in cash or in
13 securities in which insurance companies are authorized
14 to invest, surplus in an amount not less than two five
15 million dollars. The surplus so required may be
16 advanced in accordance with ~~the provisions of~~ section
17 515.19.

18 ~~Provided, however, that such~~ However, the surplus
19 requirements ~~shall do~~ not apply to a company which
20 establishes and maintains a guaranty fund as provided
21 by section 515.20.

22 Sec. 139. Section 515.70, Code 1989, is amended by
23 adding the following new unnumbered paragraph:

24 NEW UNNUMBERED PARAGRAPH. An alien insurer, with
25 the approval of the commissioner, may be treated as a
26 domestic insurer of this state in whole or in part.
27 The approval of the commissioner may be based upon
28 such factors as:

29 1. Maintenance of an appropriate trust account,
30 surplus account, or other financial mechanism in this
31 state.

32 2. Maintenance of all books and records of United
33 States operations in this state.

34 3. Maintenance of a separate financial reporting
35 system for its United States operations.

36 4. Any other provisions deemed necessary by the
37 commissioner.

38 Sec. 140. Section 515.80, Code 1989, is amended by
39 striking the section and inserting in lieu thereof the
40 following:

41 515.80 FORFEITURE OF POLICIES -- NOTICE.

42 A policy or contract of insurance, unless otherwise
43 provided in section 515.81A or 515.81B, provided for
44 in this chapter shall not be forfeited, suspended, or
45 canceled except by notice to the insured as provided
46 in this chapter. A notice of cancellation is not
47 effective unless mailed or delivered by the insurer to
48 the named insured at least twenty days before the
49 effective date of cancellation, or, where cancellation
50 is for nonpayment of a premium, assessment, or

1 installment provided for in the policy, or in a note
2 or contract for the payment thereof, at least ten days
3 prior to the date of cancellation. The notice may be
4 made in person, or by sending by mail a letter
5 addressed to the insured at the insured's address as
6 given in or upon the policy, anything in the policy,
7 application, or a separate agreement to the contrary
8 notwithstanding.

9 An insurer shall not fail to renew a policy except
10 by notice to the insured as provided in this chapter.
11 A notice of intention not to renew is not effective
12 unless mailed or delivered by the insurer to the named
13 insured at least thirty days prior to the expiration
14 date of the policy.

15 If the reason does not accompany the notice of
16 cancellation or nonrenewal, the insurer shall, upon
17 receipt of a timely request by the named insured,
18 state in writing the reason for cancellation or
19 nonrenewal.

20 Sec. 141. Section 515.81, Code 1989, is amended to
21 read as follows:

22 515.81 CANCELLATION OF POLICY -- NOTICE TO INSURED
23 OR MORTGAGEE.

24 Unless otherwise provided in section 515.81A or
25 515.81B, at any time after the maturity of a premium,
26 assessment, or installment provided for in the policy,
27 or any a note or contract for the payment thereof, or
28 after the suspension, forfeiture, or cancellation of
29 any a policy or contract of insurance, the insured may
30 pay to the company the customary short rates and costs
31 of action, if one has been commenced or judgment
32 rendered thereon, and may, if the insured so elects,
33 have the policy and all contracts or obligations
34 connected therewith with the policy, whether in
35 judgment or otherwise, canceled, and all such policy
36 and contracts shall be void; and in case of
37 suspension, forfeiture, or cancellation of any a
38 policy or contract of insurance, the insured shall is
39 not be liable for any a greater amount than the short
40 rates earned at the date of such the suspension,
41 forfeiture, or cancellation and the costs of action
42 provided for in this section. ~~The policy may be~~
43 ~~canceled by the insurance company by service of notice~~
44 ~~in writing upon the insured which notice shall fix the~~
45 ~~date of cancellation which shall be not less than ten~~
46 ~~days after service of the notice. -- The service of~~
47 ~~notice may be made in person, or by mailing the notice~~
48 ~~to the insured at the insured's post office address as~~
49 ~~given in or upon the policy, or to another address~~
50 ~~given to the company in writing by the insured. -- A~~

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1 ~~post-office-department-receipt-of-certified-or~~
2 ~~registered-mailing-shall-be-deemed-proof-of-receipt-of~~
3 ~~the-notice.~~ If the policy is canceled by the
4 insurance company, the insurer may retain only the pro
5 rata premium, and if the initial cash premium, or any
6 part thereof of the premium, has not been paid, the
7 policy may be canceled by the insurance company by
8 giving notice to the insured as provided in section
9 515.80 and ten days' notice to the mortgagee, or other
10 person to whom the policy is made payable, if any,
11 without tendering any part or portion of the premium,
12 anything to the contrary in the policy
13 notwithstanding.

14 Sec. 142. NEW SECTION. 515.81C CANCELLATION OR
15 NONRENEWAL OF COMMERCIAL UMBRELLA OR EXCESS POLICIES
16 OR CONTRACTS.

17 1. As used in this section, "umbrella or excess
18 insurance policy" means a commercial line policy or
19 contract of insurance providing liability or property
20 coverage over one or more underlying policies or over
21 a specified amount of self-insured retention.
22 Umbrella or excess insurance policy includes policies
23 or contracts written over an umbrella or excess
24 insurance policy or policies.

25 2. An umbrella or excess insurance policy which
26 has not previously been renewed may be canceled by the
27 insurer if it has been in effect for less than sixty
28 days at the time notice of cancellation is mailed or
29 delivered.

30 3. An umbrella or excess insurance policy which
31 has been renewed or which has been in effect for sixty
32 or more days shall not be canceled by the insurer,
33 except as provided in section 515.81A, subsections 2
34 and 3, except by notice to the insured as required by
35 this section or unless at least one of the following
36 conditions occurs:

37 a. A material change in the limits, scope of
38 coverage, or exclusions in one or more of the
39 underlying policies.

40 b. Cancellation or nonrenewal of one or more of
41 the underlying policies where the policies are not
42 replaced without lapse.

43 c. A reduction in the financial rating or grade of
44 one or more of the insurers insuring one or more of
45 the underlying policies based on an evaluation by a
46 recognized financial rating organization.

47 4. A notice of cancellation is not effective
48 unless mailed by certified mail or delivered to the
49 named insured and any loss payee at least ten days
50 prior to the effective date of cancellation. A notice

1 of cancellation shall include the reason for
2 cancellation of the umbrella or excess insurance
3 policy. A post office department certificate of
4 mailing to the named insured at the address shown in
5 the umbrella or excess policy is proof of receipt of
6 the mailing; however, such a certificate of mailing is
7 not required if cancellation is for nonpayment of
8 premium.

9 5. An insurer shall not fail to renew an umbrella
10 or excess insurance policy except by notice to the
11 insured as provided in this section; however, an
12 insurer may condition renewal of an umbrella or excess
13 insurance policy upon requirements relating to the
14 underlying policy or policies. If the requirements
15 are not satisfied as of the expiration date of the
16 umbrella or excess insurance policy, or thirty days
17 after mailing or delivery of the notice, whichever is
18 later, the conditional renewal notice shall be deemed
19 to be an effective notice of nonrenewal. This
20 subsection does not apply if the insurer has offered
21 to renew or if the insured fails to pay a premium due
22 or any advance premium required by the insurer for
23 renewal.

24 6. A notice of nonrenewal is not effective unless
25 mailed by certified mail or delivered to the named
26 insured and any loss payee at least forty-five days
27 prior to the expiration date of the umbrella or excess
28 insurance policy. If the insurer fails to meet the
29 notice requirements of this subsection the insured has
30 the option of continuing the policy for the remainder
31 of the notice period plus an additional thirty days at
32 the premium rate of the existing umbrella or excess
33 policy.

34 7. Section 515.81A and 515.81B are not applicable
35 to umbrella or excess insurance policies except as
36 provided in subsection 3.

37 Sec. 143. Section 515.147, Code 1989, is amended
38 to read as follows:

39 515.147 BUSINESS WITH UNAUTHORIZED INSURERS.

40 ~~Nothing-contained-in-this~~ This chapter shall be
41 ~~construed-to~~ does not prevent a licensed resident
42 agent of this state from procuring insurance in
43 certain ~~unauthorized nonadmitted~~ insurers providing
44 that if such insurance is restricted to the type and
45 kind of insurance authorized by this chapter and the
46 agent makes oath to the commissioner of insurance in
47 such the form ~~as-is~~ prescribed by the commissioner
48 that the agent has made diligent effort to place said
49 the insurance in authorized insurers and has either
50 exhausted the capacity of all authorized insurers or

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1 has been unable to obtain the desired insurance in
2 insurers licensed to transact business in this state.
3 The procuring of ~~any-such-contracts~~ a contract of
4 insurance in ~~unauthorized-insurers~~ a nonadmitted
5 insurer makes ~~such-insurers~~ the insurer liable for,
6 and the agent shall pay, the taxes on ~~such the~~
7 premiums as if ~~such the~~ insurer were duly authorized
8 to transact business in the state. A sworn report of
9 all business transacted by agents of this state in
10 ~~such-unauthorized nonadmitted~~ insurers shall be made
11 to the commissioner of insurance on or before March 1
12 of each year for the preceding calendar year, on ~~such~~
13 ~~the form as required by~~ the commissioner of insurance
14 ~~may-require; such.~~ The report shall be accompanied by
15 a remittance to cover the taxes ~~thereon on the~~
16 ~~premiums.~~ Any An agent who makes the oath ~~as-above~~
17 ~~provided,~~ pays the taxes on the premiums, and files
18 the report ~~above-provided; shall~~ has not be deemed to
19 have written such contracts of insurance unlawfully,
20 and ~~such-agent shall~~ is not be personally liable for
21 ~~such the~~ contracts.

22 Sec. 144. Section 515.148, Code 1989, is amended
23 to read as follows:

24 515.148 BANNED COMPANIES.

25 No An agent shall not knowingly place insurance,
26 either directly or through an intermediary broker, in
27 insurers who are insolvent or unsound financially; and
28 ~~in-no-event shall an-agent not place or renew any~~
29 insurance with ~~unauthorized nonadmitted~~ insurers found
30 by the commissioner of insurance to have failed or
31 refused to furnish, in ~~such the~~ manner ~~as-is~~ provided
32 in section 515.149, information reasonably showing the
33 ability or willingness of ~~such the~~ insurers to satisfy
34 obligations undertaken with respect to insurance
35 issued by them."

36 2. Page 1, after line 19, by inserting the
37 following:

38 "Sec. 145. Section 515E.9, Code 1989, is amended
39 by striking the section and inserting in lieu thereof
40 the following:

41 515E.9 PURCHASING GROUP RESTRICTIONS.

42 A purchasing group shall not purchase insurance
43 from an insurer not admitted in this state unless the
44 purchase is effected through a duly licensed agent or
45 broker acting pursuant to sections 515.147 through
46 515.149."

47 3. Page 20, by inserting after line 12, the
48 following:

49 "Sec. 146. Section 518.10, Code 1989, is amended
50 by adding the following new unnumbered paragraph:

1 NEW UNNUMBERED PARAGRAPH. An alien insurer, with
2 the approval of the commissioner, may be treated as a
3 domestic insurer of this state in whole or in part.
4 The approval of the commissioner may be based upon
5 such factors as:

6 1. Maintenance of an appropriate trust account,
7 surplus account, or other financial mechanism in this
8 state.

9 2. Maintenance of all books and records of United
10 States operations in this state.

11 3. Maintenance of a separate financial reporting
12 system for its United States operations.

13 4. Any other provisions deemed necessary by the
14 commissioner.

15 Sec. 147. NEW SECTION. 518.25 SURPLUS.

16 An association organized under this chapter shall
17 at all times maintain a surplus of not less than fifty
18 thousand dollars or one-tenth of one percent of the
19 gross property risk in force, whichever is greater.
20 Reinsurance sufficient to protect the financial
21 stability of the company is also required. The
22 insurance commissioner may require additional
23 reinsurance if necessary to protect the policyholders
24 of the company. An association authorized to transact
25 business in this state before July 1, 1990, shall meet
26 this requirement not later than July 1, 1993.

27 Sec. 148. NEW SECTION. 518A.37 SURPLUS.

28 An association organized under this chapter shall
29 at all times maintain a surplus of not less than one
30 hundred thousand dollars. Reinsurance sufficient to
31 protect the financial stability of the company is also
32 required. The insurance commissioner may require
33 additional reinsurance if necessary to protect the
34 policyholders of the company. An association
35 authorized to transact business in this state before
36 July 1, 1990, shall meet this requirement not later
37 than July 1, 1992.

38 Sec. 149. Section 521A.1, subsection 6, unnumbered
39 paragraph 1, Code 1989, is amended to read as follows:

40 Insurer ~~shall mean~~ means a company qualified and
41 licensed by the insurance division to transact the
42 business of insurance in this state by certificate
43 issued pursuant to chapters 508, 514B, 515, 518A, and
44 520, except that it shall not include:

45 Sec. 150.

46 Sections 107, 108, 135, 136, and 138 of this Act do
47 not affect insurance companies which, on or before the
48 effective date of this Act, were authorized to
49 transact business in this state."

50 4. Title page, line 1, by inserting after the

1 word "to" the following: "the regulation of insurers,
2 insurance, and annuity contracts, including".

3 5. By renumbering as necessary.

RECEIVED FROM THE SENATE

HOUSE FILE 2320

H-5935

1 Amend the amendment, H-5882, to House File 2320, as
2 amended, passed, and reprinted by the House, as
3 follows:

4 1. Page 1, line 42, by striking the words "or
5 corporation".

6 2. Page 19, by inserting after line 49, the
7 following:

8 "Sec. 103.

9 Section 102 of this Act, applies to all
10 indebtedness contracted for, general obligation bonds
11 issued, or insurance agreements entered into or
12 renewed pursuant to section 296.7 on or after the
13 effective date of section 102, but shall not apply to
14 an act permitted by section 296.7 at any time prior to
15 January 1, 1990.

16 Sec. ____.

17 Sections 102 and 103 of this Act, being deemed of
18 immediate importance, take effect upon enactment."

19 3. Page 20, by inserting after line 2, the
20 following:

21 "____. Title page, line 4, by striking the words
22 "a special effective date" and inserting the
23 following: "special effective dates"."

24 4. By renumbering as necessary.

By GRONINGA of Cerro Gordo

H-5935 FILED MARCH 28, 1990

Adopted 3/29 (p. 1574)

HOUSE FILE 2320

H-5922

1 Amend the amendment, H-5882, to House File 2320, as
 2 amended, passed, and reprinted by the House, as
 3 follows:

4 1. Page 1, line 42, by striking the words "or
 5 corporation".

6 2. Page 19, by inserting after line 49, the
 7 following:

8 "Sec. ____.

9 Sec. 102 of this Act, being deemed of immediate
 10 importance, takes effect upon enactment.""

11 3. Page 20, by inserting after line 2, the
 12 following:

13 "____. Title page, line 4, by striking the words
 14 "a special effective date" and inserting the
 15 following: "special effective dates"."

16 4. By renumbering as necessary.

By GRONINGA of Cerro Gordo

H-5922 FILED MARCH 28, 1990

Adopted, reconsidered w/d 3/29 (p. 1573)

HOUSE FILE 2320

H-5932

1 Amend the amendment, H-5882, to House File 2320, as
 2 amended, passed, and reprinted by the House, as
 3 follows:

4 1. Page 1, line 42, by striking the words "or
 5 corporation".

6 2. Page 19, by inserting after line 49, the
 7 following:

8 "Sec. 103.

9 Section 102 of this Act, applies to all
 10 indebtedness contracted for, general obligation bonds
 11 issued, or insurance agreements entered into or
 12 renewed pursuant to section 296.7 on or after the
 13 effective date of section 102, but shall not apply to
 14 an act permitted by section 296.7 at any time prior to
 15 the effective date of section 102.

16 Sec. ____.

17 Sections 102 and 103 of this Act, being deemed of
 18 immediate importance, take effect upon enactment.""

19 3. Page 20, by inserting after line 2, the
 20 following:

21 "____. Title page, line 4, by striking the words
 22 "a special effective date" and inserting the
 23 following: "special effective dates"."

24 4. By renumbering as necessary.

By OLLIE of Clinton

H-5932 FILED MARCH 28, 1990

w/d 3/29 (p. 1573)

HOUSE FILE 2320

S-5505

1 Amend House File 2320, as amended, passed, and
2 reprinted by the House, as follows:

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

5 "Sec. 102. Section 296.7, Code Supplement 1989, is
6 amended by striking the section and inserting in lieu
7 thereof the following:

8 296.7 INDEBTEDNESS FOR INSURANCE AUTHORIZED -- TAX
9 LEVY.

10 1. A school district or merged area school
11 corporation may contract indebtedness and issue
12 general obligation bonds or enter into insurance
13 agreements obligating the school district or
14 corporation to make payments beyond its current budget
15 year for one or more of the following mechanisms to
16 protect the school district or corporation from tort
17 liability, loss of property, environmental hazards, or
18 any other risk associated with the operation of the
19 school district or corporation:

20 a. To procure or provide for a policy of
21 insurance.

22 b. To provide a self-insurance program.

23 c. To establish and maintain a local government
24 risk pool.

25 However, this subsection does not apply to an
26 insurance program described in subsection 3.

27 2. For purposes of subsection 1, an employee
28 benefit plan which includes a specific or aggregate
29 excess loss coverage or a program that self-insures
30 only a per-employee or per-family deductible for each
31 year and which transfers the risk remaining beyond
32 this deductible is not a self-insurance program, but
33 is instead an insurance program. As used in this
34 section, an "employee benefit plan" includes, but is
35 not limited to benefits for hospital and surgical,
36 medical expense, major medical, dental, prescription
37 drug, disability, or life insurance costs or benefits.

38 3. A school district, providing an insurance
39 program as described in subsection 2, shall not
40 contract indebtedness and issue general obligation
41 bonds or enter into insurance agreements obligating
42 the school district or corporation to make payments
43 beyond its current budget year for that employee
44 benefit plan. A school district may, however, apply
45 to the school budget review committee for relief if
46 necessitated by the expenses in the school district's
47 insurance program as described in subsection 2.

48 4. Taxes may be levied in excess of any limitation
49 imposed by statute for payment of one or more of the
50 following authorized by subsection 1:

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1 a. Principal, premium, or interest on bonds.
2 b. Premium on an insurance policy, including a
3 stop loss or reinsurance policy, except as limited by
4 subsection 3.

5 c. Costs of a self-insurance program.

6 d. Costs of a local government risk pool.

7 e. Amounts payable under an insurance agreement.

8 However, for a school district, a tax levied under
9 this section shall be included in the district
10 management levy under section 298.4.

11 5. A self-insurance program or local government
12 risk pool authorized by subsection 1 is not insurance
13 and is not subject to regulation under chapters 505
14 through 523C. However, those self-insurance plans
15 regulated pursuant to section 509A.14 shall remain
16 subject to the requirements of section 509A.14 and
17 rules adopted pursuant to that section.

18 6. Notwithstanding the other provisions of this
19 section or any other statute, the tax levy authorized
20 by this section shall not be used to pay the costs of
21 employee benefits, including, but not limited to costs
22 for hospital and surgical, medical expense, major
23 medical, dental, prescription drug, disability, or
24 life insurance benefits.

25 7. If the board by resolution restricts the use of
26 money in a fund as a reserve for uninsured liability
27 or a self-insurance program, the use shall be
28 restricted and unavailable for any other purpose until
29 the board removes the restriction. The removal is not
30 effective until all obligations of the restricted fund
31 have been satisfied, or the next fiscal year,
32 whichever occurs later.

33 Sec. 103. Section 505.8, subsection 2, Code 1989,
34 is amended to read as follows:

35 2. The commissioner shall, subject to ~~the~~
36 ~~provisions of~~ chapter 17A, establish, publish, and
37 enforce rules not inconsistent with the law for the
38 enforcement of ~~the provisions of~~ this title and for
39 the enforcement of the laws, the administration and
40 supervision of which are imposed on the division,
41 including rules to establish fees sufficient to
42 administer the laws, where appropriate fees are not
43 otherwise provided for in rule or statute, and as
44 necessary to obtain from persons authorized to do
45 business in the state or regulated by the division
46 that data required pursuant to section 145.3 by the
47 state health data commission.

48 Sec. 104. Section 507.14, Code 1989, is amended by
49 striking the section and inserting in lieu thereof the
50 following:

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1 .507.14 CONFIDENTIAL DOCUMENTS -- EXCEPTIONS.

2 A report, preliminary or final, of an examination
3 of a domestic or foreign insurer, and all notes, work
4 papers, or other documents related to an examination
5 of an insurer are not public records under chapter 22
6 except when sought by the insurer to whom they relate
7 or an insurance regulator of another state, and shall
8 be privileged and confidential in any judicial or
9 administrative proceeding except any of the following:

10 1. An action commenced by the commissioner under
11 chapter 507C.

12 2. An administrative proceeding brought by the
13 insurance division under chapter 17A.

14 3. A judicial review proceeding under chapter 17A
15 brought by an insurer to whom the records relate.

16 4. An action or proceeding which arises out of the
17 criminal provisions of the laws of this state or the
18 United States.

19 5. An action brought in a shareholders' derivative
20 suit against an insurer.

21 6. An action brought to recover moneys or to
22 recover upon an indemnity bond for embezzlement,
23 misappropriation, or misuse of insurer funds.

24 Sec. 106. Section 507C.6, subsection 1, paragraph
25 b, Code 1989, is amended to read as follows:

26 b. To make available to the commissioner any
27 books, accounts, documents, or other records, or
28 information, or property of or pertaining to the
29 insurer and in the commissioner's person's possession,
30 custody, or control.

31 Sec. 107. Section 508.5, Code 1989, is amended to
32 read as follows:

33 508.5 CAPITAL AND SURPLUS REQUIRED.

34 A stock life insurance company shall not be
35 authorized to transact business under ~~the provisions~~
36 ~~of this chapter with less than one two million five~~
37 ~~hundred thousand dollars capital stock fully paid for~~
38 ~~in cash and one two million five hundred thousand~~
39 ~~dollars of surplus paid in in cash or invested as~~
40 ~~provided by law. A stock life insurance company shall~~
41 ~~not increase its capital stock unless the amount of~~
42 ~~the increase is fully paid in cash. The stock shall~~
43 ~~be divided into shares of not less than one dollar par~~
44 ~~value each.~~

45 Sec. 108. Section 508.9, Code 1989, is amended to
46 read as follows:

47 508.9 MUTUAL COMPANIES -- CONDITIONS.

48 Level premium and natural premium life insurance
49 companies organized under the laws of this state upon
50 the mutual plan shall, before issuing policies, have

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1 actual applications on at least two hundred and fifty
2 lives for an average amount of one thousand dollars
3 each. A list of the applications giving the name,
4 age, residence, amount of insurance, and annual
5 premium of each applicant shall be filed with the
6 commissioner of insurance, and a deposit made with the
7 commissioner of an amount equal to three-fifths of the
8 whole annual premium on the applications, in cash or
9 the securities required by section 508.5. In
10 addition, a deposit of cash or securities of the
11 character provided by law for the investment of funds
12 for life insurance companies in the sum of ~~two~~ five
13 million dollars shall be made with the commissioner,
14 which shall constitute a guaranty fund for the
15 protection of policyholders. ~~In no event shall the~~
16 The contribution to the guaranty fund shall not give
17 to contributors to the fund or to other persons any
18 voting or other power in the management of the affairs
19 of the company. The guaranty fund may be repaid to
20 the contributors thereto to the guarantee fund with
21 interest at six percent from the date of contribution,
22 at any time, in whole or in part, provided if the
23 repayment does not reduce the surplus of the company
24 below the amount of two million dollars and then only
25 provided if consent in writing for the repayment is
26 obtained from the commissioner of insurance. Upon
27 compliance with ~~the provisions of~~ this section, the
28 commissioner shall issue to the mutual company the
29 certificate prescribed in this chapter.

30 Sec. 109. Section 508B.1, subsection 4, paragraph
31 a, Code 1989, is amended to read as follows:

32 a. "Plan of conversion" or "conversion plan" means
33 a plan authorized by section 508B.3 and, in the case
34 of plans authorized by section 508B.3, subsections 1
35 and 3, includes a procedure by which the mutual
36 company's participating policies and contracts in
37 force on the effective date of the conversion plan are
38 operated by the reorganized company as a closed block
39 of participating business for the exclusive benefit of
40 the policies and contracts included, for dividend
41 purposes only; to which are allocated assets of the
42 mutual company in an amount which together with
43 anticipated revenue from the business is reasonably
44 expected to be sufficient to support the business; and
45 and which includes, but is not limited to, provisions
46 for payment of claims and reasonable expenses, and
47 provisions for continuation of current payable
48 dividend scales if the experience underlying the
49 scales continues, and a procedure for appropriate
50 adjustments in the scales if the experience changes.

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1 However, at the option of the mutual company, some or
2 all classes of group policies and contracts shall not
3 be placed in the closed block but shall continue to be
4 eligible to receive dividends based on the experience
5 of such the class or classes.

6 Sec. 110. Section 508B.2, unnumbered paragraph 3,
7 Code 1989, is amended to read as follows:

8 In lieu of selecting a plan of conversion provided
9 for in this chapter, a mutual company may convert to a
10 stock company pursuant to a plan approved by the
11 commissioner. The commissioner or the mutual company
12 may use any provisions or combination of provisions
13 provided for a plan in this chapter and may adopt any
14 other provisions which are not unfair or inequitable
15 to the policyholders of the mutual company. If a
16 mutual company selects this procedure for conversion
17 purposes, the mutual company shall reimburse the state
18 for expenses incurred by the division in connection
19 with the conversion plan except for expenses that are
20 normal operating expenses of the division.

21 Sec. 111. Section 508B.3, subsection 2, paragraph
22 a, Code 1989, is amended to read as follows:

23 a. The mutual company's participating business,
24 comprised of its participating policies and contracts
25 in force on the effective date of the conversion,
26 shall be operated by the reorganized insurer as a
27 closed block of participating business. However, at
28 the option of the mutual company, group policies and
29 group contracts may be omitted from the closed block.

30 Sec. 112. Section 508B.3, subsection 2, paragraph
31 e, Code 1989, is amended to read as follows:

32 e. The reorganized company or its parent
33 corporation shall issue and sell shares of one or more
34 classes having a total price equal to the estimated
35 value in the market on the initial offering date of
36 such the shares.

37 Sec. 113. Section 508B.3, subsection 2, paragraph
38 g, Code 1989, is amended to read as follows:

39 g. If a purchaser or a group of purchasers acting
40 in concert is to attain such control in the initial
41 offering, the mutual company shall not, directly or
42 indirectly, pay for any of the costs or expenses of
43 the-proposed conversion of the mutual company, whether
44 or not the conversion is effected.

45 Sec. 114. Section 508B.3, subsection 3, paragraph
46 b, Code 1989, is amended to read as follows:

47 b. The participating policyholders' consideration
48 shall be based on the latest annual statement, updated
49 to the effective date of the conversion plan, and
50 filed prior to the effective date of the adoption by

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1 the board of directors of the plan of conversion and.
2 The policyholders' consideration shall be equal to the
3 excess of both of the following:
4 ~~---(1)---The total amount of the mutual company's~~
5 ~~assets accumulated from the operations of~~
6 ~~participating policies and contracts in force on the~~
7 ~~date of the statement over the sum of the total amount~~
8 ~~of assets allocated to the participating business.~~
9 ~~---(2)---An amount equal to reserves and other~~
10 ~~liabilities attributable to any group participating~~
11 ~~policies and contracts not included in the closed~~
12 ~~block of participating business~~ sum of the total
13 amount of assets allocated to the participating
14 business and an amount equal to reserves and other
15 liabilities attributable to any group participating
16 policies and contracts not included in the closed
17 block of participating business.

18 Sec. 115. Section 508B.3, subsection 3, paragraph
19 j, Code 1989, is amended to read as follows:

20 j. The liquidation account referred to in
21 paragraph "c" must be equal to the excess of the total
22 amount of the assets of the mutual company as of the
23 effective date of the conversion over the sum of the
24 total amount of assets allocated to the closed block
25 of participating business and the policyholders'
26 consideration and other reserves and liabilities
27 attributed to policies and contracts not included in
28 the amount attributable to policies and contracts in
29 force on that effective date. The determinations
30 shall be based on the latest annual statement of the
31 mutual company, updated to the effective date, and
32 filed before the effective date of the conversion
33 plan. The function of the liquidation account shall
34 be is solely to establish a priority on liquidation
35 and its existence shall does not operate to restrict
36 the use or application of the surplus of the
37 reorganized company except as specified in paragraph
38 "i". The liquidation account shall be allocated
39 equally as of the effective date of conversion among
40 the then participating policyholders. The amount
41 allocated to any a policy or contract shall not
42 increase and shall be reduced to zero when the policy
43 or contract terminates. In the event of a complete
44 liquidation of the reorganized company, the
45 policyholders among which the liquidation account is
46 allocated shall-be are entitled to receive a
47 liquidation distribution in the then amount of the
48 liquidation account before any liquidation
49 distribution is made with respect to shares.

50 Sec. 116. Section 508B.3, subsection 3, paragraph

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1 k, Code 1989, is amended to read as follows:

2 k. At the option of the mutual company, the
3 consideration to be given in exchange for the
4 policyholders' membership ~~interest-or-into-which-the~~
5 ~~membership-is-to-be-converted~~ interests may consist of
6 cash, securities of the reorganized company,
7 securities of another institution, a certificate of
8 contribution, additional life insurance, annuity
9 benefits, increased dividends, or other consideration
10 or any combination of forms of consideration. The
11 consideration, if any, given to any a class or
12 category of ~~policyholder~~ policyholders may differ from
13 the consideration given to another class or category
14 of policyholders. The certificate of contribution
15 shall be repayable in ten years, equal to one hundred
16 percent of the value of the policyholders' membership
17 interest, and bear interest at the highest rate
18 charged by the reorganized company for policy loans on
19 the effective date of the conversion.

20 Sec. 117. Section 508B.5, unnumbered paragraph 2,
21 Code 1989, is amended to read as follows:

22 The consultant may assist in determining the equity
23 ~~or-value~~ of the policyholders and or value of the
24 mutual company. The consultant may consider the value
25 of the consideration to be given to the participating
26 policyholders in exchange for their membership
27 ~~interests or-into-which-the-membership-interest-is-to~~
28 ~~be-converted~~ and may consider the valuations necessary
29 to carry out the plans provided for in section 508B.3.
30 Valuations shall be made taking into account the
31 latest filed annual statement of the mutual company,
32 updated to the effective date of the conversion plan,
33 and any significant developments occurring subsequent
34 to the date of the statement.

35 Sec. 118. Section 508B.7, Code 1989, is amended to
36 read as follows:

37 508B.7 REVIEW OF PLAN BY COMMISSIONER -- HEARING
38 AUTHORIZED -- APPROVAL.

39 The commissioner of insurance shall review the
40 plan. The commissioner shall approve the plan if the
41 commissioner finds the plan complies with all
42 provisions of law, is not unfair or inequitable to the
43 mutual company and its policyholders, and that the
44 reorganized company will have the amount of capital
45 and surplus deemed by the commissioner to be
46 reasonably necessary for its future solvency. The
47 commissioner may order a hearing on the fairness and
48 equity of the terms of the plan after giving written
49 notice of the hearing to the mutual company, its
50 policyholders, and other interested persons, all of

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1 whom have the right to appear at the hearing. Costs
2 incurred in connection with the notice shall be paid
3 by the company.

4 Sec. 119. Section 508B.13, Code 1989, is amended
5 to read as follows:

6 508B.13 PROHIBITIONS ON CERTAIN OFFERS TO ACQUIRE
7 SHARES.

8 Prior to and for a period of five years following
9 the effective date of the conversion, and in the case
10 of the plans of conversion specified in subsections 1
11 and 3 of section 508B.3, five years following the date
12 of distribution of consideration to the policyholders
13 in exchange for their membership interests, ~~an officer~~
14 ~~or director, including family members and their~~
15 ~~spouses, of the mutual company or the reorganized~~
16 ~~company~~ a person, shall not directly or indirectly
17 acquire or offer to acquire ~~or acquire~~ the beneficial
18 ownership of the reorganized company unless the
19 acquisition is made pursuant to a ~~stock option~~ plan
20 approved by the commissioner, made pursuant to the
21 plan of conversion, or made after the initial public
22 offering from a broker or dealer of registered
23 securities with the securities and exchange commission
24 at the quoted price on the date of purchase. An
25 approved plan may include a stock option plan. As
26 used in this section, "beneficial ownership" means,
27 with respect to any a security, the sole or shared
28 power to vote or direct the voting of the security or
29 the sole power to dispose or direct the disposition of
30 the security, ~~and "family member" includes a brother,~~
31 ~~sister, spouse, parent, grandparent, ancestor, or~~
32 ~~descendant of the officer or director.~~

33 Sec. 120. Section 508B.14, unnumbered paragraph 2,
34 Code 1989, is amended to read as follows:

35 The reorganized company or any a defendant may
36 ~~require the plaintiff~~ petition the court in such an
37 action to give security for the reasonable attorney
38 fees which may be incurred by any party to the action.
39 The amount of the security may be increased or
40 decreased in the discretion of the court having
41 jurisdiction if a showing is made that the security
42 provided is or may become inadequate or excessive.

43 Sec. 121. Section 508C.5, subsection 6, unnumbered
44 paragraph 1, Code 1989, is amended to read as follows:

45 "Impaired insurer" means a member insurer ~~domiciled~~
46 ~~in this state~~ which, after July 1, 1987, is either of
47 the following:

48 Sec. 122. Section 508C.5, subsection 7, Code 1989,
49 is amended to read as follows:

50 7. "Insolvent insurer" means a member insurer

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1 which, after July 1, 1987, becomes insolvent and is
2 placed under a final order of liquidation,
3 rehabilitation, or conservation by a court of
4 competent jurisdiction.

5 Sec. 123. Section 508C.8, subsection 1, unnumbered
6 paragraph 1, Code 1989, is amended to read as follows:

7 If a domestic, foreign, or alien insurer is an
8 impaired insurer, the association, subject to
9 conditions imposed by the association and approved by
10 the impaired insurer and the commissioner, may:

11 Sec. 124. Section 508C.8, subsection 2, Code 1989,
12 is amended by striking the subsection and inserting in
13 lieu thereof the following:

14 2. a. If a domestic, foreign, or alien insurer is
15 an impaired insurer and the insurer is not paying
16 claims timely, then, subject to the approval of the
17 commissioner and to the preconditions specified in
18 this subsection, the association may do either or both
19 of the following:

20 (1) Take any of the actions specified in
21 subsection 1, subject to the conditions in that
22 subsection.

23 (2) Provide substitute benefits in lieu of the
24 contractual obligations of the impaired insurer solely
25 for health claims, periodic annuity benefits, death
26 benefits, supplemental benefits, and cash withdrawals
27 for policy or contract owners who petition for the
28 benefits under claims of emergency or hardship in
29 accordance with standards proposed by the association
30 and approved by the commissioner.

31 b. The association is subject to this subsection
32 only if all of the following conditions are met:

33 (1) The laws of the state of domicile provide that
34 until all payments of or on account of the impaired
35 insurer's contractual obligations by all guaranty
36 associations, along with all interest on the payments
37 and expenses have been repaid to the guaranty
38 associations or a plan of repayment by the impaired
39 insurer has been approved by the guaranty associations
40 all of the following apply:

41 (a) The delinquency proceeding shall not be
42 dismissed.

43 (b) Neither the impaired insurer nor its assets
44 shall be returned to the control of its shareholders
45 or private management.

46 (c) The impaired insurer shall not be permitted to
47 solicit or accept new business or have any suspended
48 or revoked license restored.

49 (2) If the impaired insurer is a domestic insurer
50 it has been placed under an order of rehabilitation by

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1 a court of competent jurisdiction in this state; or,
2 if the impaired insurer is a foreign or alien insurer
3 it has been prohibited from soliciting or accepting
4 new business in this state, its certificate of
5 authority has been suspended or revoked in this state,
6 and a petition for rehabilitation or liquidation has
7 been filed in a court of competent jurisdiction in its
8 state or nation of domicile by the commissioner of
9 that state or similar authority in an alien nation.

10 Sec. 125. Section 508C.9, subsection 3, paragraph
11 a, Code 1989, is amended to read as follows:

12 a. The amount of a class A assessment shall be
13 determined by the board and to the extent that class A
14 assessments do not exceed one hundred dollars per
15 company in any one calendar year may be made on a per
16 capita basis. ~~The assessment shall be credited~~
17 ~~against future insolvency assessments.~~ The amount of
18 a class B assessment shall be allocated for assessment
19 purposes among the accounts as the liabilities and
20 expenses of the association, either experienced or
21 reasonably expected, are attributable to those
22 accounts, all as determined by the association and on
23 as equitable a basis as is reasonably practical.

24 Sec. 126. Section 508C.9, subsection 3, paragraph
25 b, Code 1989, is amended to read as follows:

26 b. Class A assessments in excess of one hundred
27 dollars per company per calendar year and class B
28 assessments against member insurers for each account
29 shall be in the proportion that the aggregate premiums
30 received on business in this state by each assessed
31 member insurer on policies or contracts related to
32 that account for the three most recent calendar years
33 for which information is available, preceding the year
34 of impairment or insolvency in which the insurer
35 became impaired or insolvent, bear to is to the
36 aggregate premiums received on business in this state
37 by all assessed member insurers on policies related to
38 that account for the three most recent calendar years
39 for which information is available preceding the
40 assessment.

41 Sec. 127. Section 508C.9, subsection 5, paragraph
42 a, Code 1989, is amended to read as follows:

43 a. The total of all assessments upon a member
44 insurer for each account shall not in any one calendar
45 year exceed two percent of the insurer's premiums
46 received in this state during the ~~calendar year~~
47 ~~preceding the assessment~~ three most recent calendar
48 years for which information is available, preceding
49 the year in which the insurer becomes impaired or
50 insolvent, on the policies related to that account.

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1 If the maximum assessment for any an account, together
2 with the other assets of the association in the
3 account, does not provide in any one year in the
4 account an amount sufficient to carry out the
5 responsibilities of the association, the necessary
6 additional funds shall be assessed for the account as
7 soon-thereafter in succeeding years as soon as
8 permitted by this chapter.

9 Sec. 128. Section 508C.13, subsection 5, paragraph
10 b, Code 1989, is amended to read as follows:

11 b. Stock-dividends Distributions are not
12 recoverable if the insurer shows that when paid the
13 ~~distribution-was~~ distributions were lawful and
14 reasonable and that the insurer did not know and could
15 not reasonably have known that the ~~distribution~~
16 distributions might adversely affect the ability of
17 the insurer to fulfill its contractual obligations.

18 Sec. 129. Section 509.16, Code 1989, is amended to
19 read as follows:

20 509.16 PREMIUM RATES APPROVED.

21 No An individual policy of credit life or credit
22 accident and health insurance or certificate under a
23 policy of group credit life or credit accident and
24 health insurance shall not be issued for delivery or
25 delivered in this state unless the premium rates
26 charged for the insurance are approved by the
27 commissioner of insurance.

28 The commissioner of insurance, after notice and
29 hearing, may adopt rules as are necessary to identify
30 specific methods of competition or acts or practices
31 within the business of credit life and credit accident
32 and health insurance which are unfair or deceptive.

33 Sec. 130. Section 509.17, subsection 2, Code 1989,
34 is amended to read as follows:

35 2. Due consideration shall be given to past and
36 prospective loss experience within and outside this
37 state, to a reasonable margin for underwriting profit
38 and contingencies, to past and prospective expenses
39 both countrywide and those especially applicable to
40 this state, and to all other relevant factors within
41 and outside this state, ~~but rates shall be deemed~~
42 ~~reasonable under this section and section 509.16 if~~
43 ~~they reasonably may be expected to produce a ratio of~~
44 ~~fifty percent by dividing claims incurred by premiums~~
45 ~~earned.~~

46 Sec. 131. Section 509.17, subsection 3, Code 1989,
47 is amended to read as follows:

48 3. The commissioner shall, after a public hearing,
49 approve a reasonable charge or premium for credit
50 accident and health insurance and for credit life

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1 insurance as the commissioner deems appropriate and
2 necessary for the implementation of this section. A
3 ~~charge-or-premium-of-not-more-than-sixty-five-cents~~
4 ~~per-annum-per-one-hundred-dollars-of-the-initial~~
5 ~~amount-of-decreasing-term-credit-life-insurance,-or~~
6 ~~its-actuarial-equivalent-for-credit-life-insurance~~
7 ~~written-on-other-than-the-decreasing-term-basis,-shall~~
8 ~~be-conclusively-presumed-to-meet-the-requirements-of~~
9 ~~this-section.~~

10 Sec. 132. NEW SECTION. 509.17A SMALL GROUP
11 RATING.

12 1. The commissioner shall with all due diligence
13 adopt by rule the recommendations of the national
14 association of insurance commissioners concerning life
15 and accident or health insurance rating practices for
16 small employer groups, provided that the final
17 recommendations are generally consistent with the
18 following principles:

19 a. Better disclosure to the group of the insurer's
20 group rating practices.

21 b. Limits on the amount of rate increase that can
22 be based upon the group's own claim experience in the
23 small group market.

24 c. Actuarial certification that the insurer's
25 rating practices meet the requirements of the national
26 association of insurance commissioners and meet
27 generally accepted actuarial practice.

28 2. Specific limitations which may be contained in
29 the rules adopted pursuant to subsection 1 include,
30 but are not limited to, the following:

31 a. The annual rate increase for a group cannot
32 exceed the change in the block's new business rate
33 level plus a fixed percentage of the average rate
34 level for the block.

35 b. The maximum renewal rate within a block of
36 business cannot exceed the average rate for that block
37 of business by more than a fixed percentage.

38 c. The maximum renewal rate in any block of
39 business of an insurer cannot exceed the lowest new
40 business rate for any block of business for that
41 insurer by more than a fixed percentage.

42 d. Other limits on tier and duration rating
43 practices.

44 3. Within six months of adopting any rule pursuant
45 to subsection 1, the commissioner shall prepare a
46 report to the general assembly regarding the success,
47 if any, of the rules, and make such recommendations as
48 necessary, including offering proposed legislation, to
49 effectuate the general assembly's goals of reducing
50 the potential for abuse in charging higher than

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1 actuarially justified rates for some small groups and
2 in underpricing for new small group business.

3 Sec. 133. Section 514A.3, subsection 1, paragraph
4 m, unnumbered paragraph 3, Code 1989, is amended to
5 read as follows:

6 ~~(In addition to incorporating the~~ The foregoing
7 ~~provision into the policy, the insurer shall deliver~~
8 ~~to the insured at the time of delivery of the policy a~~
9 ~~duplicate statement of the foregoing provision which~~
10 ~~shall be contained in conspicuous print on a separate~~
11 ~~and otherwise blank sheet of paper.)~~ shall be
12 prominently printed on the first page of the policy or
13 attached to the policy.

14 Sec. 134. NEW SECTION. 514D.9 REGULATIONS
15 REGARDING LIMITATION ON COMPENSATION.

16 The commissioner shall issue rules to establish
17 minimum standards to assure fair and reasonable
18 benefits, claim payment, marketing practices, and
19 compensation arrangements and reporting practices for
20 the following classes of policies:

- 21 1. Medicare supplement insurance.
- 22 2. Nursing home insurance.
- 23 3. Long-term care insurance.

24 Sec. 135. Section 515.8, Code 1989, is amended to
25 read as follows:

26 515.8 PAID-UP CAPITAL REQUIRED.

27 An insurance company other than a life insurance
28 company shall not be incorporated to transact business
29 upon the stock plan with less than one two million
30 five hundred thousand dollars capital, the entire
31 amount of which shall be fully paid up in cash and
32 invested as provided by law. An insurance company
33 other than a life insurance company shall not increase
34 its capital stock unless the amount of the increase is
35 fully paid up in cash. The stock shall be divided
36 into shares of not less than one dollar each.

37 Sec. 136. Section 515.10, Code 1989, is amended to
38 read as follows:

39 515.10 SURPLUS REQUIRED.

40 An insurance company other than a life insurance
41 company shall have, in addition to the required paid-
42 up capital, a surplus in cash or invested in
43 securities authorized by law of not less than one two
44 million five hundred thousand dollars. ~~if the~~
45 ~~commissioner of insurance finds that a company offers~~
46 ~~or plans to offer only one kind of insurance the~~
47 ~~commissioner may reduce the amount of surplus~~
48 ~~required, but in no event shall it be reduced to less~~
49 ~~than three hundred thousand dollars.~~

50 Sec. 137. Section 515.11, Code 1989, is amended to

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1 read as follows:

2 515.11 PROHIBITED LOANS.

3 ~~No-part-of-the-capital-referred-to Capital,~~

4 surplus, funds, or other assets, or any part of any or

5 all of the foregoing, shall not be directly or

6 indirectly loaned to any an officer, director,

7 stockholder, or employee of the a company or to a

8 relative of any an officer or director of the a

9 company.

10 Sec. 138. Section 515.12, subsection 5, Code 1989,

11 is amended to read as follows:

12 5. The mutual company shall have in cash or in

13 securities in which insurance companies are authorized

14 to invest, surplus in an amount not less than two five

15 million dollars. The surplus so required may be

16 advanced in accordance with ~~the-provisions-of~~ section

17 515.19.

18 ~~Provided,-however,-that-such~~ However, the surplus

19 requirements ~~shall do~~ not apply to a company which

20 establishes and maintains a guaranty fund as provided

21 by section 515.20.

22 Sec. 139. Section 515.70, Code 1989, is amended by

23 adding the following new unnumbered paragraph:

24 NEW UNNUMBERED PARAGRAPH. An alien insurer, with

25 the approval of the commissioner, may be treated as a

26 domestic insurer of this state in whole or in part.

27 The approval of the commissioner may be based upon

28 such factors as:

29 1. Maintenance of an appropriate trust account,

30 surplus account, or other financial mechanism in this

31 state.

32 2. Maintenance of all books and records of United

33 States operations in this state.

34 3. Maintenance of a separate financial reporting

35 system for its United States operations.

36 4. Any other provisions deemed necessary by the

37 commissioner.

38 Sec. 140. Section 515.80, Code 1989, is amended by

39 striking the section and inserting in lieu thereof the

40 following:

41 515.80 FORFEITURE OF POLICIES -- NOTICE.

42 A policy or contract of insurance, unless otherwise

43 provided in section 515.81A or 515.81B, provided for

44 in this chapter shall not be forfeited, suspended, or

45 canceled except by notice to the insured as provided

46 in this chapter. A notice of cancellation is not

47 effective unless mailed or delivered by the insurer to

48 the named insured at least twenty days before the

49 effective date of cancellation, or, where cancellation

50 is for nonpayment of a premium, assessment, or

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1 installment provided for in the policy, or in a note
2 or contract for the payment thereof, at least ten days
3 prior to the date of cancellation. The notice may be
4 made in person, or by sending by mail a letter
5 addressed to the insured at the insured's address as
6 given in or upon the policy, anything in the policy,
7 application, or a separate agreement to the contrary
8 notwithstanding.

9 An insurer shall not fail to renew a policy except
10 by notice to the insured as provided in this chapter.
11 A notice of intention not to renew is not effective
12 unless mailed or delivered by the insurer to the named
13 insured at least thirty days prior to the expiration
14 date of the policy.

15 If the reason does not accompany the notice of
16 cancellation or nonrenewal, the insurer shall, upon
17 receipt of a timely request by the named insured,
18 state in writing the reason for cancellation or
19 nonrenewal.

20 Sec. 141. Section 515.81, Code 1989, is amended to
21 read as follows:

22 515.81 CANCELLATION OF POLICY -- NOTICE TO INSURED
23 OR MORTGAGEE.

24 Unless otherwise provided in section 515.81A or
25 515.81B, at any time after the maturity of a premium,
26 assessment, or installment provided for in the policy,
27 or any a note or contract for the payment thereof, or
28 after the suspension, forfeiture, or cancellation of
29 any a policy or contract of insurance, the insured may
30 pay to the company the customary short rates and costs
31 of action, if one has been commenced or judgment
32 rendered thereon, and may, if the insured so elects,
33 have the policy and all contracts or obligations
34 connected therewith with the policy, whether in
35 judgment or otherwise, canceled, and all such policy
36 and contracts shall be void; and in case of
37 suspension, forfeiture, or cancellation of any a
38 policy or contract of insurance, the insured shall is
39 not be liable for any a greater amount than the short
40 rates earned at the date of such the suspension,
41 forfeiture, or cancellation and the costs of action
42 provided for in this section. ~~The policy may be~~
43 ~~canceled by the insurance company by service of notice~~
44 ~~in writing upon the insured which notice shall fix the~~
45 ~~date of cancellation which shall be not less than ten~~
46 ~~days after service of the notice. -- The service of~~
47 ~~notice may be made in person, or by mailing the notice~~
48 ~~to the insured at the insured's post office address as~~
49 ~~given in or upon the policy, or to another address~~
50 ~~given to the company in writing by the insured. -- A~~

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1 ~~post-office-department-receipt-of-certified-or~~
2 ~~registered-mailing-shall-be-deemed-proof-of-receipt-of~~
3 ~~the-notice.~~ If the policy is canceled by the
4 insurance company, the insurer may retain only the pro
5 rata premium, and if the initial cash premium, or any
6 part ~~thereof~~ of the premium, has not been paid, the
7 policy may be canceled by the insurance company by
8 giving notice to the insured as provided in section
9 515.80 and ten days' notice to the mortgagee, or other
10 person to whom the policy is made payable, if any,
11 without tendering any part ~~or-portion~~ of the premium,
12 anything to the contrary in the policy
13 notwithstanding.

14 Sec. 142. Section 515.147, Code 1989, is amended
15 to read as follows:

16 515.147 BUSINESS WITH UNAUTHORIZED INSURERS.

17 ~~Nothing-contained-in-this~~ This chapter shall be
18 ~~construed-to~~ does not prevent a licensed resident
19 agent of this state from procuring insurance in
20 certain ~~unauthorized nonadmitted~~ insurers providing
21 that if such insurance is restricted to the type and
22 kind of insurance authorized by this chapter and the
23 agent makes oath to the commissioner of insurance in
24 such the form as-is prescribed by the commissioner
25 that the agent has made diligent effort to place said
26 the insurance in authorized insurers and has either
27 exhausted the capacity of all authorized insurers or
28 has been unable to obtain the desired insurance in
29 insurers licensed to transact business in this state.
30 The procuring of ~~any-such-contracts~~ a contract of
31 insurance in ~~unauthorized-insurers~~ a nonadmitted
32 insurer makes ~~such-insurers~~ the insurer liable for,
33 and the agent shall pay, the taxes on such the
34 premiums as if such the insurer were duly authorized
35 to transact business in the state. A sworn report of
36 all business transacted by agents of this state in
37 such-unauthorized nonadmitted insurers shall be made
38 to the commissioner of insurance on or before March 1
39 of each year for the preceding calendar year, on such
40 the form as required by the commissioner of insurance
41 may-require; such. The report shall be accompanied by
42 a remittance to cover the taxes thereon on the
43 premiums. Any An agent who makes the oath as-above
44 provided, pays the taxes on the premiums, and files
45 the report above-provided; shall has not be-deemed-to
46 have written such contracts of insurance unlawfully,
47 and such-agent-shall is not be personally liable for
48 such the contracts.

49 Sec. 143. Section 515.148, Code 1989, is amended
50 to read as follows:

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1 ~~515.148~~ BANNED COMPANIES.

2 No ~~An~~ agent shall not knowingly place insurance,
3 either directly or through an intermediary broker, in
4 insurers who are insolvent or unsound financially; and
5 ~~in-no-event~~ shall an agent not place or renew any
6 insurance with unauthorized nonadmitted insurers found
7 by the ~~commissioner~~ of insurance to have failed or
8 refused to furnish, in such the manner as-is provided
9 in section 515.149, information reasonably showing the
10 ability or willingness of such the insurers to satisfy
11 obligations undertaken with respect to insurance
12 issued by them."

13 2. Page 1, after line 19, by inserting the
14 following:

15 "Sec. 144. Section 515E.9, Code 1989, is amended
16 by striking the section and inserting in lieu thereof
17 the following:

18 515E.9 PURCHASING GROUP RESTRICTIONS.

19 A purchasing group shall not purchase insurance
20 from an insurer not admitted in this state unless the
21 purchase is effected through a duly licensed agent or
22 broker acting pursuant to sections 515.147 through
23 515.149."

24 3. Page 20, by inserting after line 12, the
25 following:

26 "Sec. 145. Section 518.10, Code 1989, is amended
27 by adding the following new unnumbered paragraph:

28 NEW UNNUMBERED PARAGRAPH. An alien insurer, with
29 the approval of the commissioner, may be treated as a
30 domestic insurer of this state in whole or in part.
31 The approval of the commissioner may be based upon
32 such factors as:

33 1. Maintenance of an appropriate trust account,
34 surplus account, or other financial mechanism in this
35 state.

36 2. Maintenance of all books and records of United
37 States operations in this state.

38 3. Maintenance of a separate financial reporting
39 system for its United States operations.

40 4. Any other provisions deemed necessary by the
41 commissioner.

42 Sec. 146. NEW SECTION. 518.25 SURPLUS.

43 An association organized under this chapter shall
44 at all times maintain a surplus of not less than fifty
45 thousand dollars or one-tenth of one percent of the
46 gross property risk in force, whichever is greater.

47 Reinsurance sufficient to protect the financial
48 stability of the company is also required. The

49 insurance commissioner may require additional
50 reinsurance if necessary to protect the policyholders

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1 of the company. An association authorized to transact
2 business in this state before July 1, 1990, shall meet
3 this requirement not later than July 1, 1993.

4 Sec. 147. NEW SECTION. 518A.37 SURPLUS.

5 An association organized under this chapter shall
6 at all times maintain a surplus of not less than one
7 hundred thousand dollars. Reinsurance sufficient to
8 protect the financial stability of the company is also
9 required. The insurance commissioner may require
10 additional reinsurance if necessary to protect the
11 policyholders of the company. An association
12 authorized to transact business in this state before
13 July 1, 1990, shall meet this requirement not later
14 than July 1, 1992.

15 Sec. 148. Section 521A.1, subsection 6, unnumbered
16 paragraph 1, Code 1989, is amended to read as follows:

17 Insurer ~~shall mean~~ means a company qualified and
18 licensed by the insurance division to transact the
19 business of insurance in this state by certificate
20 issued pursuant to chapters 508, 514B, 515, 518A, and
21 520, except that it shall not include:

22 Sec. 149.

23 Sections 107, 108, 135, 136, and 138 of this Act do
24 not affect insurance companies which, on or before the
25 effective date of this Act, were authorized to
26 transact business in this state."

27 4. Title page, line 1, by inserting after the
28 word "to" the following: "the regulation of insurers,
29 insurance, and annuity contracts, including".

30 5. By renumbering as necessary.

By WILLIAM D. PALMER

S-5505 FILED MARCH 15, 1990

*Adopted as amended by 5635 3/23 (p. 1278) Motion to reconsider (p. 1290)
Revised 0/0 (p. 1308)*

HOUSE FILE 2320

S-5588

1 Amend the amendment S-5505, to House File 2320, as
2 amended, passed, and reprinted by the House, as
3 follows:

4 1. Page 2, by inserting after line 47, the
5 following:

6 "Sec. ____ . NEW SECTION. 505.17 INSURANCE RATE
7 INFORMATION FOR CONSUMERS' USE.

8 The commissioner shall compile and cause to be
9 disseminated every six months a rate information
10 report for all competitive lines of insurance. The
11 report shall facilitate cost comparisons between
12 carriers for equivalent insurance coverage by
13 similarly situated consumers. The report shall be
14 structured to permit the average insurance consumer to
15 understand and use the information. The report shall
16 carry an appropriate disclaimer that publication of
17 information concerning a carrier within the report
18 does not constitute an endorsement of the carrier by
19 the division or the state. The division shall dis-
20 seminate the report to libraries and media outlets in
21 order to facilitate access to, and knowledge of, the
22 existence of the report and the information contained
23 in the report. The division shall also make the
24 report available upon request."

25 2. By renumbering as necessary.

By MICHAEL E. GRONSTAL

S-5588 FILED MARCH 20, 1990

W/D 3/23 (p. 1277)

HOUSE FILE 2320

S-5601

1 Amend the amendment S-5505, to House File 2320, as
2 amended, passed, and reprinted by the House, as
3 follows:

4 1. Page 2, by inserting after line 47, the
5 following:

6 "Sec. ____ . NEW SECTION. 505.17 INSURANCE RATE
7 INFORMATION FOR CONSUMERS' USE.

8 The commissioner shall compile and cause to be
9 disseminated, to the extent practicable, every six
10 months a rate information report for all lines of
11 insurance determined to be in a competitive market
12 pursuant to section 515A.22. The report shall
13 facilitate cost comparisons between carriers for
14 equivalent insurance coverage by similarly situated
15 consumers. The report shall be structured to permit
16 the average insurance consumer to understand and use
17 the information. The report shall carry an
18 appropriate disclaimer that publication of information
19 concerning a carrier within the report does not
20 constitute an endorsement of the carrier by the
21 division or the state. The division shall disseminate
22 the report to libraries and media outlets in order to
23 facilitate access to, and knowledge of, the existence
24 of the report and the information contained in the
25 report. The division shall also make the report
26 available upon request."

27 2. By renumbering as necessary.

By MICHAEL E. GRONSTAL

S-5601 FILED MARCH 20, 1990

W/D 3/23 (p. 1277)

HOUSE FILE 2320

S-5598

1 Amend the amendment, S-5505, to House File 2320, as
2 amended, passed, and reprinted by the House, as
3 follows:

4 1. Page 18, by inserting after line 21, the
5 following:

6 "Sec. ____ . Section 702.11, Code Supplement 1989,
7 is amended to read as follows:

8 702.11 FORCIBLE FELONY.

9 A "forcible felony" is any felonious child
10 endangerment, assault, murder, sexual abuse other than
11 sexual abuse in the third degree committed between
12 spouses or in violation of section 709.4, subsection
13 2, paragraph "c", subparagraph (4), kidnapping,
14 robbery, arson in the first or second degree, or
15 burglary in the first degree.

16 Sec. ____ . NEW SECTION. 712.1A ARSON IN THE FIRST
17 DEGREE.

18 Arson in the first degree is arson which results in
19 the death of a person, including the death of a paid
20 or volunteer firefighter. Arson in the first degree
21 is a class "A" felony.

22 Sec. ____ . Section 712.2, Code 1989, is amended to
23 read as follows:

24 712.2 ARSON IN THE FIRST SECOND DEGREE.

25 Arson is arson in the first second degree when the
26 property which the defendant intends to destroy or
27 damage, or which the defendant knowingly endangers, is
28 property in which the presence of one or more persons
29 can be reasonably anticipated, ~~or the arson results in~~
30 ~~the death of a fire-fighter, whether paid or~~
31 volunteer.

32 Arson in the first second degree is a class "B"
33 felony.

34 Sec. ____ . Section 712.3, Code 1989, is amended to
35 read as follows:

36 712.3 ARSON IN THE SECOND THIRD DEGREE.

37 Arson which is not arson in the first or second
38 degree is arson in the second third degree when the
39 property which the defendant intends to destroy or
40 damage, or which the defendant knowingly endangers, is
41 a building or a structure, or real property of any
42 kind, or standing crops, or is personal property the
43 value of which exceeds five hundred dollars. Arson in
44 the second third degree is a class "C" felony.

45 Sec. ____ . Section 712.4, Code 1989, is amended to
46 read as follows:

47 712.4 ARSON IN THE THIRD FOURTH DEGREE.

48 Arson which is not arson in the first, second, or
49 third degree ~~or arson in the second degree~~ is arson in
50 the third fourth degree. Arson in the third fourth

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1 degree is an aggravated misdemeanor."

2 2. Page 18, line 29, by inserting after the word
3 "insurance," the following: "insurable casualties
4 including arson,".

5 3. By renumbering as necessary.

By MARK R. HAGERLA

HOUSE FILE 2320

S-5635

1 Amend the amendment, S-5505, to House File 2320, as
2 amended, passed, and reprinted by the House, as
3 follows:
4 1. Page 16, by inserting after line 13, the
5 following:
6 "Sec. ____ . NEW SECTION. 515.81C CANCELLATION OR
7 NONRENEWAL OF COMMERCIAL UMBRELLA OR EXCESS POLICIES
8 OR CONTRACTS.
9 1. As used in this section, "umbrella or excess
10 insurance policy" means a commercial line policy or
11 contract of insurance providing liability or property
12 coverage over one or more underlying policies or over
13 a specified amount of self-insured retention.
14 Umbrella or excess insurance policy includes policies
15 or contracts written over an umbrella or excess
16 insurance policy or policies.
17 2. An umbrella or excess insurance policy which
18 has not previously been renewed may be canceled by the
19 insurer if it has been in effect for less than sixty
20 days at the time notice of cancellation is mailed or
21 delivered.
22 3. An umbrella or excess insurance policy which
23 has been renewed or which has been in effect for sixty
24 or more days shall not be canceled by the insurer,
25 except as provided in section 515.81A, subsections 2
26 and 3, except by notice to the insured as required by
27 this section or unless at least one of the following
28 conditions occurs:
29 a. A material change in the limits, scope of
30 coverage, or exclusions in one or more of the
31 underlying policies.
32 b. Cancellation or nonrenewal of one or more of
33 the underlying policies where the policies are not
34 replaced without lapse.
35 c. A reduction in the financial rating or grade of
36 one or more of the insurers insuring one or more of
37 the underlying policies based on an evaluation by a
38 recognized financial rating organization.
39 4. A notice of cancellation is not effective
40 unless mailed by certified mail or delivered to the
41 named insured and any loss payee at least ten days
42 prior to the effective date of cancellation. A notice
43 of cancellation shall include the reason for
44 cancellation of the umbrella or excess insurance
45 policy. A post office department certificate of
46 mailing to the named insured at the address shown in
47 the umbrella or excess policy is proof of receipt of
48 the mailing; however, such a certificate of mailing is
49 not required if cancellation is for nonpayment of
50 premium.

S-5635

Page 2

1 5. An insurer shall not fail to renew an umbrella
 2 or excess insurance policy except by notice to the
 3 insured as provided in this section; however, an
 4 insurer may condition renewal of an umbrella or excess
 5 insurance policy upon requirements relating to the
 6 underlying policy or policies. If the requirements
 7 are not satisfied as of the expiration date of the
 8 umbrella or excess insurance policy, or thirty days
 9 after mailing or delivery of the notice, whichever is
 10 later, the conditional renewal notice shall be deemed
 11 to be an effective notice of nonrenewal. This
 12 subsection does not apply if the insurer has offered
 13 to renew or if the insured fails to pay a premium due
 14 or any advance premium required by the insurer for
 15 renewal.

16 6. A notice of nonrenewal is not effective unless
 17 mailed by certified mail or delivered to the named
 18 insured and any loss payee at least forty-five days
 19 prior to the expiration date of the umbrella or excess
 20 insurance policy. If the insurer fails to meet the
 21 notice requirements of this subsection the insured has
 22 the option of continuing the policy for the remainder
 23 of the notice period plus an additional thirty days at
 24 the premium rate of the existing umbrella or excess
 25 policy.

26 7. Section 515.81A and 515.81B are not applicable
 27 to umbrella or excess insurance policies except as
 28 provided in subsection 3."

29 2. By renumbering as necessary.

By MICHAEL GRONSTAL

S-5635 FILED MARCH 21, 1990

*Adopted 3/23 (p. 1277) Motion to reconsider (p. 1291)
 Ruled 9/8 (p. 1308)*

HOUSE FILE 2320

S-5664

1 Amend the amendment, S-5505, to House File 2320, as
 2 amended, passed, and reprinted by the House, as
 3 follows:

- 4 1. Page 11, by striking lines 33 through 45.
- 5 2. By renumbering as necessary.

By WILLIAM D. PALMER
 CALVIN O. HULTMAN

S-5664 FILED MARCH 22, 1990

6/10 3/23 (p. 1277)

HOUSE AMENDMENT TO SENATE AMENDMENT TO
HOUSE FILE 2320

S-5825

1 Amend the amendment, H-5882, to House File 2320, as
2 amended, passed, and reprinted by the House, as
3 follows:

4 1. Page 1, line 42, by striking the words "or
5 corporation".

6 2. Page 19, by inserting after line 49, the
7 following:

8 "Sec. 103.

9 Section 102 of this Act, applies to all
10 indebtedness contracted for, general obligation bonds
11 issued, or insurance agreements entered into or
12 renewed pursuant to section 296.7 on or after the
13 effective date of section 102, but shall not apply to
14 an act permitted by section 296.7 at any time prior to
15 January 1, 1990.

16 Sec. ____.

17 Sections 102 and 103 of this Act, being deemed of
18 immediate importance, take effect upon enactment.""

19 3. Page 20, by inserting after line 2, the
20 following:

21 "____. Title page, line 4, by striking the words
22 "a special effective date" and inserting the
23 following: "special effective dates"."

24 4. By renumbering as necessary.

RECEIVED FROM THE HOUSE

S-5825 FILED APRIL 2, 1990

Senate concurred 4/5

HOUSE FILE 2320

AN ACT

RELATING TO THE REGULATION OF INSURERS, INSURANCE, AND ANNUITY CONTRACTS, INCLUDING FIRE AND CASUALTY INSURANCE, ALTERING THE METHOD OF FILING RATES SUBJECT TO THE APPROVAL OF THE COMMISSIONER OF INSURANCE, EXCEPT FOR WORKERS' COMPENSATION LIABILITY INSURANCE RATES, PROVIDING SPECIAL EFFECTIVE DATES, AND AUTHORIZING CIVIL PENALTIES.

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

Section 1. Section 296.7, Code Supplement 1989, is amended by striking the section and inserting in lieu thereof the following:

296.7 INDEBTEDNESS FOR INSURANCE AUTHORIZED -- TAX LEVY.

1. A school district or merged area school corporation may contract indebtedness and issue general obligation bonds or enter into insurance agreements obligating the school district or corporation to make payments beyond its current budget year for one or more of the following mechanisms to protect the school district or corporation from tort liability, loss of property, environmental hazards, or any other risk associated with the operation of the school district or corporation:

- a. To procure or provide for a policy of insurance.
- b. To provide a self-insurance program.
- c. To establish and maintain a local government risk pool.

However, this subsection does not apply to an insurance program described in subsection 3.

2. For purposes of subsection 1, an employee benefit plan which includes a specific or aggregate excess loss coverage or a program that self-insures only a per-employee or per-family deductible for each year and which transfers the risk remaining beyond this deductible is not a self-insurance program, but is instead an insurance program. As used in this section, an "employee benefit plan" includes, but is not limited to benefits for hospital and surgical, medical expense, major medical, dental, prescription drug, disability, or life insurance costs or benefits.

3. A school district, providing an insurance program as described in subsection 2, shall not contract indebtedness and issue general obligation bonds or enter into insurance agreements obligating the school district to make payments beyond its current budget year for that employee benefit plan. A school district may, however, apply to the school budget review committee for relief if necessitated by the expenses in the school district's insurance program as described in subsection 2.

4. Taxes may be levied in excess of any limitation imposed by statute for payment of one or more of the following authorized by subsection 1:

- a. Principal, premium, or interest on bonds.

- b. Premium on an insurance policy, including a stop loss or reinsurance policy, except as limited by subsection 3.
- c. Costs of a self-insurance program.
- d. Costs of a local government risk pool.
- e. Amounts payable under an insurance agreement.

However, for a school district, a tax levied under this section shall be included in the district management levy under section 298.4.

5. A self-insurance program or local government risk pool authorized by subsection 1 is not insurance and is not subject to regulation under chapters 505 through 523C. However, those self-insurance plans regulated pursuant to section 509A.14 shall remain subject to the requirements of section 509A.14 and rules adopted pursuant to that section.

6. Notwithstanding the other provisions of this section or any other statute, the tax levy authorized by this section shall not be used to pay the costs of employee benefits, including, but not limited to costs for hospital and surgical, medical expense, major medical, dental, prescription drug, disability, or life insurance benefits.

7. If the board by resolution restricts the use of money in a fund as a reserve for uninsured liability or a self-insurance program, the use shall be restricted and unavailable for any other purpose until the board removes the restriction. The removal is not effective until all obligations of the restricted fund have been satisfied, or the next fiscal year, whichever occurs later.

Sec. 2. Section 505.8, subsection 2, Code 1989, is amended to read as follows:

2. The commissioner shall, subject to the provisions of chapter 17A, establish, publish, and enforce rules not inconsistent with the law for the enforcement of the provisions of this title and for the enforcement of the laws, the administration and supervision of which are imposed on the division, including rules to establish fees sufficient to

administer the laws, where appropriate fees are not otherwise provided for in rule or statute, and as necessary to obtain from persons authorized to do business in the state or regulated by the division that data required pursuant to section 145.3 by the state health data commission.

Sec. 3. Section 507.14, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

507.14 CONFIDENTIAL DOCUMENTS -- EXCEPTIONS.

A report, preliminary or final, of an examination of a domestic or foreign insurer, and all notes, work papers, or other documents related to an examination of an insurer are not public records under chapter 22 except when sought by the insurer to whom they relate or an insurance regulator of another state, and shall be privileged and confidential in any judicial or administrative proceeding except any of the following:

1. An action commenced by the commissioner under chapter 507C.
2. An administrative proceeding brought by the insurance division under chapter 17A.
3. A judicial review proceeding under chapter 17A brought by an insurer to whom the records relate.
4. An action or proceeding which arises out of the criminal provisions of the laws of this state or the United States.
5. An action brought in a shareholders' derivative suit against an insurer.
6. An action brought to recover moneys or to recover upon an indemnity bond for embezzlement, misappropriation, or misuse of insurer funds.

Sec. 4. Section 507C.6, subsection 1, paragraph b, Code 1989, is amended to read as follows:

b. To make available to the commissioner any books, accounts, documents, or other records, or information, or property of or pertaining to the insurer and in the commissioner's person's possession, custody, or control.

Sec. 5. Section 508.5, Code 1989, is amended to read as follows:

508.5 CAPITAL AND SURPLUS REQUIRED.

A stock life insurance company shall not be authorized to transact business under ~~the provisions of~~ this chapter with less than one two million five hundred thousand dollars capital stock fully paid for in cash and one two million five hundred thousand dollars of surplus paid in ~~in~~ cash or invested as provided by law. A stock life insurance company shall not increase its capital stock unless the amount of the increase is fully paid in cash. The stock shall be divided into shares of not less than one dollar par value each.

Sec. 6. Section 508.9, Code 1989, is amended to read as follows:

508.9 MUTUAL COMPANIES -- CONDITIONS.

Level premium and natural premium life insurance companies organized under the laws of this state upon the mutual plan shall, before issuing policies, have actual applications on at least two hundred and fifty lives for an average amount of one thousand dollars each. A list of the applications giving the name, age, residence, amount of insurance, and annual premium of each applicant shall be filed with the commissioner of insurance, and a deposit made with the commissioner of an amount equal to three-fifths of the whole annual premium on the applications, in cash or the securities required by section 508.5. In addition, a deposit of cash or securities of the character provided by law for the investment of funds for life insurance companies in the sum of two five million dollars shall be made with the commissioner, which shall constitute a guaranty fund for the protection of policyholders. ~~In no event shall the~~ The contribution to the guaranty fund shall not give to contributors to the fund or to other persons any voting or other power in the management of the affairs of the company. The guaranty fund may be repaid to the contributors thereto to the guarantee fund with

interest at six percent from the date of contribution, at any time, in whole or in part, provided if the repayment does not reduce the surplus of the company below the amount of two million dollars and then only provided if consent in writing for the repayment is obtained from the commissioner of insurance. Upon compliance with ~~the provisions of~~ this section, the commissioner shall issue to the mutual company the certificate prescribed in this chapter.

Sec. 7. Section 508B.1, subsection 4, paragraph a, Code 1989, is amended to read as follows:

a. "Plan of conversion" or "conversion plan" means a plan authorized by section 508B.3 and, in the case of plans authorized by section 508B.3, subsections 1 and 3, includes a procedure by which the mutual company's participating policies and contracts in force on the effective date of the conversion plan are operated by the reorganized company as a closed block of participating business for the exclusive benefit of the policies and contracts included, for dividend purposes only; to which are allocated assets of the mutual company in an amount which together with anticipated revenue from the business is reasonably expected to be sufficient to support the business; and which includes, but is not limited to, provisions for payment of claims and reasonable expenses, and provisions for continuation of current payable dividend scales if the experience underlying the scales continues, and a procedure for appropriate adjustments in the scales if the experience changes. However, at the option of the mutual company, some or all classes of group policies and contracts shall not be placed in the closed block but shall continue to be eligible to receive dividends based on the experience of such the class or classes.

Sec. 8. Section 508B.2, unnumbered paragraph 3, Code 1989, is amended to read as follows:

In lieu of selecting a plan of conversion provided for in this chapter, a mutual company may convert to a stock company

pursuant to a plan approved by the commissioner. The commissioner or the mutual company may use any provisions or combination of provisions provided for a plan in this chapter and may adopt any other provisions which are not unfair or inequitable to the policyholders of the mutual company. If a mutual company selects this procedure for conversion purposes, the mutual company shall reimburse the state for expenses incurred by the division in connection with the conversion plan except for expenses that are normal operating expenses of the division.

Sec. 9. Section 508B.3, subsection 2, paragraph a, Code 1989, is amended to read as follows:

a. The mutual company's participating business, comprised of its participating policies and contracts in force on the effective date of the conversion, shall be operated by the reorganized insurer as a closed block of participating business. However, at the option of the mutual company, group policies and group contracts may be omitted from the closed block.

Sec. 10. Section 508B.3, subsection 2, paragraph e, Code 1989, is amended to read as follows:

e. The reorganized company or its parent corporation shall issue and sell shares of one or more classes having a total price equal to the estimated value in the market on the initial offering date of such the shares.

Sec. 11. Section 508B.3, subsection 2, paragraph g, Code 1989, is amended to read as follows:

g. If a purchaser or a group of purchasers acting in concert is to attain such control in the initial offering, the mutual company shall not, directly or indirectly, pay for any of the costs or expenses of the proposed conversion of the mutual company, whether or not the conversion is effected.

Sec. 12. Section 508B.3, subsection 3, paragraph b, Code 1989, is amended to read as follows:

b. The participating policyholders' consideration shall be based on the latest annual statement, updated to the effective date of the conversion plan, and filed prior to the effective date of the adoption by the board of directors of the plan of conversion and. The policyholders' consideration shall be equal to the excess-of-both-of-the-following:

{1}--The total amount of the mutual company's assets accumulated from the operations of participating policies and contracts in force on the date of the statement over the sum of the total amount of assets allocated to the participating business;

{2}--An amount equal to reserves and other liabilities attributable to any group participating policies and contracts not included in the closed block of participating business sum of the total amount of assets allocated to the participating business and an amount equal to reserves and other liabilities attributable to any group participating policies and contracts not included in the closed block of participating business.

Sec. 13. Section 508B.3, subsection 3, paragraph j, Code 1989, is amended to read as follows:

j. The liquidation account referred to in paragraph "c" must be equal to the excess of the total amount of the assets of the mutual company as of the effective date of the conversion over the sum of the total amount of assets allocated to the closed block of participating business and the policyholders' consideration and other reserves and liabilities attributed to policies and contracts not included in the amount attributable to policies and contracts in force on that effective date. The determinations shall be based on the latest annual statement of the mutual company, updated to the effective date, and filed before the effective date of the conversion plan. The function of the liquidation account ~~shall be~~ is solely to establish a priority on liquidation and its existence ~~shall does~~ not operate to restrict the use or application of the surplus of the reorganized company except

as specified in paragraph "i". The liquidation account shall be allocated equally as of the effective date of conversion among the then participating policyholders. The amount allocated to any a policy or contract shall not increase and shall be reduced to zero when the policy or contract terminates. In the event of a complete liquidation of the reorganized company, the policyholders among which the liquidation account is allocated shall be are entitled to receive a liquidation distribution in the then amount of the liquidation account before any liquidation distribution is made with respect to shares.

Sec. 14. Section 508B.3, subsection 3, paragraph k, Code 1989, is amended to read as follows:

k. At the option of the mutual company, the consideration to be given in exchange for the policyholders' ~~membership interest-or-into-which-the-membership-is-to-be-converted interests~~ may consist of cash, securities of the reorganized company, securities of another institution, a certificate of contribution, additional life insurance, annuity benefits, increased dividends, or other consideration or any combination of forms of consideration. The consideration, if any, given to any a class or category of ~~policyholder~~ policyholders may differ from the consideration given to another class or category of policyholders. The certificate of contribution shall be repayable in ten years, equal to one hundred percent of the value of the policyholders' membership interest, and bear interest at the highest rate charged by the reorganized company for policy loans on the effective date of the conversion.

Sec. 15. Section 508B.5, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The consultant may assist in determining the equity or value of the policyholders and or value of the mutual company. The consultant may consider the value of the consideration to be given to the participating policyholders in exchange for

~~their membership interests or-into-which-the-membership interest-is-to-be-converted~~ and may consider the valuations necessary to carry out the plans provided for in section 508B.3. Valuations shall be made taking into account the latest filed annual statement of the mutual company, updated to the effective date of the conversion plan, and any significant developments occurring subsequent to the date of the statement.

Sec. 16. Section 508B.7, Code 1989, is amended to read as follows:

508B.7 REVIEW OF PLAN BY COMMISSIONER -- HEARING AUTHORIZED -- APPROVAL.

The commissioner of insurance shall review the plan. The commissioner shall approve the plan if the commissioner finds the plan complies with all provisions of law, is not unfair or inequitable to the mutual company and its policyholders, and that the reorganized company will have the amount of capital and surplus deemed by the commissioner to be reasonably necessary for its future solvency. The commissioner may order a hearing on the fairness and equity of the terms of the plan after giving written notice of the hearing to the mutual company, its policyholders, and other interested persons, all of whom have the right to appear at the hearing. Costs incurred in connection with the notice shall be paid by the company.

Sec. 17. Section 508B.13, Code 1989, is amended to read as follows:

508B.13 PROHIBITIONS ON CERTAIN OFFERS TO ACQUIRE SHARES.

Prior to and for a period of five years following the effective date of the conversion, and in the case of the plans of conversion specified in subsections 1 and 3 of section 508B.3, five years following the date of distribution of consideration to the policyholders in exchange for their ~~membership interests, an-officer-or-director,-including-family members-and-their-spouses,-of-the-mutual-company-or-the~~

reorganized-company a person, shall not directly or indirectly acquire or offer to acquire or-acquire the beneficial ownership of the reorganized company unless the acquisition is made pursuant to a stock-option plan approved by the commissioner, made pursuant to the plan of conversion, or made after the initial public offering from a broker or dealer of registered securities with the securities and exchange commission at the quoted price on the date of purchase. An approved plan may include a stock option plan. As used in this section, "beneficial ownership" means, with respect to any a security, the sole or shared power to vote or direct the voting of the security or the sole power to dispose or direct the disposition of the security, ~~and "family member" includes a brother, sister, spouse, parent, grandparent, ancestor, or descendant of the officer or director.~~

Sec. 18. Section 508B.14, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The reorganized company or any a defendant may require the plaintiff petition the court in such an action to give security for the reasonable attorney fees which may be incurred by any party to the action. The amount of the security may be increased or decreased in the discretion of the court having jurisdiction if a showing is made that the security provided is or may become inadequate or excessive.

Sec. 19. Section 508C.5, subsection 6, unnumbered paragraph 1, Code 1989, is amended to read as follows:

"Impaired insurer" means a member insurer domiciled in this state which, after July 1, 1987, is either of the following:

Sec. 20. Section 508C.5, subsection 7, Code 1989, is amended to read as follows:

7. "Insolvent insurer" means a member insurer which, after July 1, 1987, becomes insolvent and is placed under a final order of liquidation, rehabilitation, or conservation by a court of competent jurisdiction.

Sec. 21. Section 508C.8, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

If a domestic, foreign, or alien insurer is an impaired insurer, the association, subject to conditions imposed by the association and approved by the impaired insurer and the commissioner, may:

Sec. 22. Section 508C.8, subsection 2, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

2. a. If a domestic, foreign, or alien insurer is an impaired insurer and the insurer is not paying claims timely, then, subject to the approval of the commissioner and to the preconditions specified in this subsection, the association may do either or both of the following:

(1) Take any of the actions specified in subsection 1, subject to the conditions in that subsection.

(2) Provide substitute benefits in lieu of the contractual obligations of the impaired insurer solely for health claims, periodic annuity benefits, death benefits, supplemental benefits, and cash withdrawals for policy or contract owners who petition for the benefits under claims of emergency or hardship in accordance with standards proposed by the association and approved by the commissioner.

b. The association is subject to this subsection only if all of the following conditions are met:

(1) The laws of the state of domicile provide that until all payments of or on account of the impaired insurer's contractual obligations by all guaranty associations, along with all interest on the payments and expenses have been repaid to the guaranty associations or a plan of repayment by the impaired insurer has been approved by the guaranty associations all of the following apply:

(a) The delinquency proceeding shall not be dismissed.

(b) Neither the impaired insurer nor its assets shall be returned to the control of its shareholders or private management.

(c) The impaired insurer shall not be permitted to solicit or accept new business or have any suspended or revoked license restored.

(2) If the impaired insurer is a domestic insurer it has been placed under an order of rehabilitation by a court of competent jurisdiction in this state; or, if the impaired insurer is a foreign or alien insurer it has been prohibited from soliciting or accepting new business in this state, its certificate of authority has been suspended or revoked in this state, and a petition for rehabilitation or liquidation has been filed in a court of competent jurisdiction in its state or nation of domicile by the commissioner of that state or similar authority in an alien nation.

Sec. 23. Section 508C.9, subsection 3, paragraph a, Code 1989, is amended to read as follows:

a. The amount of a class A assessment shall be determined by the board and to the extent that class A assessments do not exceed one hundred dollars per company in any one calendar year may be made on a per capita basis. ~~The assessment shall be credited against future insolvency assessments.~~ The amount of a class B assessment shall be allocated for assessment purposes among the accounts as the liabilities and expenses of the association, either experienced or reasonably expected, are attributable to those accounts, all as determined by the association and on as equitable a basis as is reasonably practical.

Sec. 24. Section 508C.9, subsection 3, paragraph b, Code 1989, is amended to read as follows:

b. Class A assessments in excess of one hundred dollars per company per calendar year and class B assessments against member insurers for each account shall be in the proportion that the aggregate premiums received on business in this state by each assessed member insurer on policies or contracts related to that account for the three most recent calendar years for which information is available, preceding the year

~~of impairment or insolvency in which the insurer became impaired or insolvent~~, bear ~~to is to~~ the aggregate premiums received on business in this state by all assessed member insurers on policies related to that account for the three most recent calendar years for which information is available preceding the assessment.

Sec. 25. Section 508C.9, subsection 5, paragraph a, Code 1989, is amended to read as follows:

a. The total of all assessments upon a member insurer for each account shall not in any one calendar year exceed two percent of the insurer's premiums received in this state during the ~~calendar year preceding the assessment~~ three most recent calendar years for which information is available, preceding the year in which the insurer becomes impaired or insolvent, on the policies related to that account. If the maximum assessment for any an account, together with the other assets of the association in the account, does not provide in any one year in the account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed for the account as soon thereafter in succeeding years as soon as permitted by this chapter.

Sec. 26. Section 508C.13, subsection 5, paragraph b, Code 1989, is amended to read as follows:

b. ~~Stock dividends~~ Distributions are not recoverable if the insurer shows that when paid the ~~distribution was~~ distributions were lawful and reasonable and that the insurer did not know and could not reasonably have known that the distributions might adversely affect the ability of the insurer to fulfill its contractual obligations.

Sec. 27. Section 509.16, Code 1989, is amended to read as follows:

509.16 PREMIUM RATES APPROVED.

No An individual policy of credit life or credit accident and health insurance or certificate under a policy of group

credit life or credit accident and health insurance shall not be issued for delivery or delivered in this state unless the premium rates charged for the insurance are approved by the commissioner of insurance.

The commissioner of insurance, after notice and hearing, may adopt rules as are necessary to identify specific methods of competition or acts or practices within the business of credit life and credit accident and health insurance which are unfair or deceptive.

Sec. 28. Section 509.17, subsection 2, Code 1989, is amended to read as follows:

2. Due consideration shall be given to past and prospective loss experience within and outside this state, to a reasonable margin for underwriting profit and contingencies, to past and prospective expenses both countrywide and those especially applicable to this state, and to all other relevant factors within and outside this state; ~~but rates shall be deemed reasonable under this section and section 509.16 if they reasonably may be expected to produce a ratio of fifty percent by dividing claims incurred by premiums earned.~~

Sec. 29. Section 509.17, subsection 3, Code 1989, is amended to read as follows:

3. The commissioner shall, after a public hearing, approve a reasonable charge or premium for credit accident and health insurance and for credit life insurance as the commissioner deems appropriate and necessary for the implementation of this section. ~~A charge or premium of not more than sixty-five cents per annum per one hundred dollars of the initial amount of decreasing term credit life insurance, or its actuarial equivalent for credit life insurance written on other than the decreasing term basis, shall be conclusively presumed to meet the requirements of this section.~~

Sec. 30. NEW SECTION. 509.17A SMALL GROUP RATING.

1. The commissioner shall with all due diligence adopt by rule the recommendations of the national association of

insurance commissioners concerning life and accident or health insurance rating practices for small employer groups, provided that the final recommendations are generally consistent with the following principles:

a. Better disclosure to the group of the insurer's group rating practices.

b. Limits on the amount of rate increase that can be based upon the group's own claim experience in the small group market.

c. Actuarial certification that the insurer's rating practices meet the requirements of the national association of insurance commissioners and meet generally accepted actuarial practice.

2. Specific limitations which may be contained in the rules adopted pursuant to subsection 1 include, but are not limited to, the following:

a. The annual rate increase for a group cannot exceed the change in the block's new business rate level plus a fixed percentage of the average rate level for the block.

b. The maximum renewal rate within a block of business cannot exceed the average rate for that block of business by more than a fixed percentage.

c. The maximum renewal rate in any block of business of an insurer cannot exceed the lowest new business rate for any block of business for that insurer by more than a fixed percentage.

d. Other limits on tier and duration rating practices.

3. Within six months of adopting any rule pursuant to subsection 1, the commissioner shall prepare a report to the general assembly regarding the success, if any, of the rules, and make such recommendations as necessary, including offering proposed legislation, to effectuate the general assembly's goals of reducing the potential for abuse in charging higher than actuarially justified rates for some small groups and in underpricing for new small group business.

Sec. 31. Section 514A.3, subsection 1, paragraph m, unnumbered paragraph 3, Code 1989, is amended to read as follows:

~~{in-addition-to-incorporating-the~~ The foregoing provision ~~into-the-policy,-the-inquirer-shall-deliver-to-the-insured-at-the-time-of-delivery-of-the-policy-a-duplicate-statement-of-the-foregoing-provision-which-shall-be-contained-in-conspicuous-print-on-a-separate-and-otherwise-blank-sheet-of-paper-}~~ shall be prominently printed on the first page of the policy or attached to the policy.

Sec. 32. **NEW SECTION. 514D.9 REGULATIONS REGARDING LIMITATION ON COMPENSATION.**

The commissioner shall issue rules to establish minimum standards to assure fair and reasonable benefits, claim payment, marketing practices, and compensation arrangements and reporting practices for the following classes of policies:

1. Medicare supplement insurance.
2. Nursing home insurance.
3. Long-term care insurance.

Sec. 33. Section 515.8, Code 1989, is amended to read as follows:

515.8 PAID-UP CAPITAL REQUIRED.

An insurance company other than a life insurance company shall not be incorporated to transact business upon the stock plan with less than one two million five hundred thousand dollars capital, the entire amount of which shall be fully paid up in cash and invested as provided by law. An insurance company other than a life insurance company shall not increase its capital stock unless the amount of the increase is fully paid up in cash. The stock shall be divided into shares of not less than one dollar each.

Sec. 34. Section 515.10, Code 1989, is amended to read as follows:

515.10 SURPLUS REQUIRED.

An insurance company other than a life insurance company shall have, in addition to the required paid-up capital, a surplus in cash or invested in securities authorized by law of not less than one two million five hundred thousand dollars. ~~If-the-commissioner-of-insurance-finds-that-a-company-offers-or-plans-to-offer-only-one-kind-of-insurance-the-commissioner-may-reduce-the-amount-of-surplus-required,-but-in-no-event-shall-it-be-reduced-to-less-than-three-hundred-thousand-dollars-~~

Sec. 35. Section 515.11, Code 1989, is amended to read as follows:

515.11 PROHIBITED LOANS.

~~No-part-of-the-capital-referred-to~~ Capital, surplus, funds, or other assets, or any part of any or all of the foregoing, shall not be directly or indirectly loaned to any an officer, director, stockholder, or employee of the a company or to a relative of any an officer or director of the a company.

Sec. 36. Section 515.12, subsection 5, Code 1989, is amended to read as follows:

5. The mutual company shall have in cash or in securities in which insurance companies are authorized to invest, surplus in an amount not less than two five million dollars. The surplus so required may be advanced in accordance with the provisions of section 515.19.

~~Provided,-however,-that-such~~ However, the surplus requirements shall do not apply to a company which establishes and maintains a guaranty fund as provided by section 515.20.

Sec. 37. Section 515.70, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. An alien insurer, with the approval of the commissioner, may be treated as a domestic insurer of this state in whole or in part. The approval of the commissioner may be based upon such factors as:

1. Maintenance of an appropriate trust account, surplus account, or other financial mechanism in this state.

2. Maintenance of all books and records of United States operations in this state.

3. Maintenance of a separate financial reporting system for its United States operations.

4. Any other provisions deemed necessary by the commissioner.

Sec. 38. Section 515.80, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

515.80 FORFEITURE OF POLICIES -- NOTICE.

A policy or contract of insurance, unless otherwise provided in section 515.81A or 515.81B, provided for in this chapter shall not be forfeited, suspended, or canceled except by notice to the insured as provided in this chapter. A notice of cancellation is not effective unless mailed or delivered by the insurer to the named insured at least twenty days before the effective date of cancellation, or, where cancellation is for nonpayment of a premium, assessment, or installment provided for in the policy, or in a note or contract for the payment thereof, at least ten days prior to the date of cancellation. The notice may be made in person, or by sending by mail a letter addressed to the insured at the insured's address as given in or upon the policy, anything in the policy, application, or a separate agreement to the contrary notwithstanding.

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 is not effective unless mailed or delivered by the insurer to the named insured at least thirty days prior to the expiration date of the policy.

If the reason does not accompany the notice of cancellation or nonrenewal, the insurer shall, upon receipt of a timely request by the named insured, state in writing the reason for cancellation or nonrenewal.

Sec. 39. Section 515.81, Code 1989, is amended to read as follows:

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 a note or contract for the payment thereof, or after the suspension, forfeiture, or cancellation of any a 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 with the policy, 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 a policy or contract of insurance, the insured shall is not be liable for any a greater amount than the short rates earned at the date of such the 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 of the premium, has not been paid, the policy may be canceled by the insurance company by giving notice to the insured as provided in section 515.80 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. 40. NEW SECTION. 515.81C CANCELLATION OR NONRENEWAL OF COMMERCIAL UMBRELLA OR EXCESS POLICIES OR CONTRACTS.

1. As used in this section, "umbrella or excess insurance policy" means a commercial line policy or contract of insurance providing liability or property coverage over one or more underlying policies or over a specified amount of self-insured retention. Umbrella or excess insurance policy includes policies or contracts written over an umbrella or excess insurance policy or policies.

2. An umbrella or excess insurance policy which has not previously been 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.

3. An umbrella or excess insurance policy which has been renewed or which has been in effect for sixty or more days shall not be canceled by the insurer, except as provided in section 515.81A, subsections 2 and 3, except by notice to the insured as required by this section or unless at least one of the following conditions occurs:

a. A material change in the limits, scope of coverage, or exclusions in one or more of the underlying policies.

b. Cancellation or nonrenewal of one or more of the underlying policies where the policies are not replaced without lapse.

c. A reduction in the financial rating or grade of one or more of the insurers insuring one or more of the underlying policies based on an evaluation by a recognized financial rating organization.

4. A notice of cancellation is not effective unless mailed by certified mail or delivered to the named insured and any loss payee at least ten days prior to the effective date of cancellation. A notice of cancellation shall include the reason for cancellation of the umbrella or excess insurance policy. A post office department certificate of mailing to the named insured at the address shown in the umbrella or

excess policy is proof of receipt of the mailing; however, such a certificate of mailing is not required if cancellation is for nonpayment of premium.

5. An insurer shall not fail to renew an umbrella or excess insurance policy except by notice to the insured as provided in this section; however, an insurer may condition renewal of an umbrella or excess insurance policy upon requirements relating to the underlying policy or policies. If the requirements are not satisfied as of the expiration date of the umbrella or excess insurance policy, or thirty days after mailing or delivery of the notice, whichever is later, the conditional renewal notice shall be deemed to be an effective notice of nonrenewal. This subsection 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.

6. A notice of nonrenewal is not effective unless mailed by certified mail or delivered to the named insured and any loss payee at least forty-five days prior to the expiration date of the umbrella or excess insurance policy. If the insurer fails to meet the notice requirements of this subsection 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 umbrella or excess policy.

7. Section 515.81A and 515.81B are not applicable to umbrella or excess insurance policies except as provided in subsection 3.

Sec. 41. Section 515.147, Code 1989, is amended to read as follows:

515.147 BUSINESS WITH UNAUTHORIZED INSURERS.

~~Nothing contained in this~~ This chapter shall be construed to does not prevent a licensed resident agent of this state from procuring insurance in certain unauthorized nonadmitted insurers providing that if such insurance is restricted to the

type and kind of insurance authorized by this chapter and the agent makes oath to the commissioner of insurance in such the form as is prescribed by the commissioner that the agent has made diligent effort to place said the insurance in authorized insurers and has either exhausted the capacity of all authorized insurers or has been unable to obtain the desired insurance in insurers licensed to transact business in this state. The procuring of ~~any such contracts~~ a contract of insurance in unauthorized insurers a nonadmitted insurer makes such insurers the insurer liable for, and the agent shall pay, the taxes on such the premiums as if such the insurer were duly authorized to transact business in the state. A sworn report of all business transacted by agents of this state in such ~~unauthorized nonadmitted~~ insurers shall be made to the commissioner of insurance on or before March 1 of each year for the preceding calendar year, on such the form as required by the commissioner of insurance ~~may require, such~~. The report shall be accompanied by a remittance to cover the taxes thereon on the premiums. Any An agent who makes the oath as above-provided, pays the taxes on the premiums, and files the report above-provided, ~~shall has~~ is not be deemed to have written such contracts of insurance unlawfully, and ~~such agent shall~~ is not be personally liable for such the contracts.

Sec. 42. Section 515.148, Code 1989, is amended to read as follows:

515.148 BANNED COMPANIES.

No An agent shall not knowingly place insurance, either directly or through an intermediary broker, in insurers who are insolvent or unsound financially; and ~~in no event~~ shall an agent not place or renew any insurance with ~~unauthorized nonadmitted~~ insurers found by the commissioner of insurance to have failed or refused to furnish, in such the manner as is provided in section 515.149, information reasonably showing the ability or willingness of such the insurers to satisfy obligations undertaken with respect to insurance issued by them.

Sec. 43. Section 515A.2, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

515A.2 DEFINITIONS -- SCOPE OF CHAPTER.

1. As used in this chapter:

- a. "Insurance" means workers' compensation liability insurance.
- b. "Insurer" means an insurer which issues a policy of workers' compensation liability insurance.
- c. "Policy" means a policy of workers' compensation liability insurance.
- d. "Rate" means a rate for workers' compensation liability insurance.
- e. "Rating organization" means a workers' compensation rating organization licensed pursuant to this chapter.
- f. "Rate filing" means a rate filing by a rating organization or an insurer.

2. This chapter applies only to workers' compensation liability insurance.

Sec. 44. Section 515E.9, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

515E.9 PURCHASING GROUP RESTRICTIONS.

A purchasing group shall not purchase insurance from an insurer not admitted in this state unless the purchase is effected through a duly licensed agent or broker acting pursuant to sections 515.147 through 515.149.

Sec. 45. NEW SECTION. 515F.1 PURPOSE OF CHAPTER.

1. The purpose of this chapter is to promote the public welfare by regulating insurance rates so they are not excessive, inadequate, or unfairly discriminatory, and to authorize and regulate limited cooperative action among insurers in ratemaking-related activities and in other matters within the scope of this chapter. This chapter is not intended to:

- a. Prohibit or discourage reasonable competition.

b. Prohibit or encourage, except to the extent necessary to accomplish its purpose, uniformity in rating systems, rating plans, or practices.

2. This chapter shall be liberally interpreted to carry into effect the provisions of this section.

Sec. 46. NEW SECTION. 515F.2 DEFINITIONS.

1. "Advisory organization" means an entity, including its affiliates or subsidiaries, which either has two or more member insurers or is controlled either directly or indirectly by two or more insurers, and which assists insurers in ratemaking-related activities such as enumerated in sections 515F.10 and 515F.11. Two or more insurers having a common ownership or operating in this state under common management or control constitute a single insurer for purposes of this definition.

2. "Commercial risk" means any kind of risk which is not a personal risk.

3. "Developed losses" means losses (including loss adjustment expenses) adjusted, using standard actuarial techniques, to eliminate the effect of differences between current payment or reserve estimates and those needed to provide actual ultimate loss (including loss adjustment expense) payments.

4. "Expenses" means that portion of a rate attributable to acquisition, field supervision, collection expenses, general expenses, taxes, licenses, and fees.

5. "Joint underwriting" means a voluntary arrangement established on an ad hoc basis to provide insurance coverage for a commercial risk pursuant to which two or more insurers jointly contract with the insured at a price and under policy terms agreed upon between the insurers.

6. "Loss trending" means a procedure for projecting developed losses to the average date of loss for the period during which the policies are to be effective.

7. "Personal risk" means insurance covering homeowners, tenants, private passenger nonfleet automobiles, and mobile homes, and other property and casualty insurance for personal, family, or household needs.

8. "Pool" means a voluntary arrangement, established on an ongoing basis, pursuant to which two or more insurers participate in the sharing of risks on a predetermined basis. The pool may operate through an association, syndicate, or other pooling agreement.

9. "Prospective loss costs" means that portion of a rate that does not include provisions for expenses (other than loss adjustment expenses) or profit, and is based on historical aggregate losses and loss adjustment expenses adjusted through development to their ultimate value and projected through trending to a future point in time.

10. "Rate" means the cost of insurance per exposure unit whether expressed as a single number or as a prospective loss cost with an adjustment to account for the treatment of expenses, profit, and individual insurer variation in loss experience, prior to any application of individual risk variations based on loss or expense considerations, and does not include minimum premium.

11. "Residual market mechanism" means an arrangement, either voluntary or mandated by law, involving participation by insurers in the equitable apportionment among them of insurance which may be offered to applicants who are unable to obtain insurance through ordinary methods.

12. "Supplementary rating information" includes a manual or plan of rates, classification, rating schedule, minimum premium, policy fee, rating rule, underwriting rule, statistical plan, and any other similar information needed to determine the applicable rate in effect or to be in effect.

13. "Supporting information" means the experience and judgment of the filer and the experience or data of other insurers or advisory organizations relied upon by the filer,

the interpretation of any other data relied upon by the filer, descriptions of methods used in making the rates, and any other information required by the commissioner to be filed.

Sec. 47. NEW SECTION. 515F.3 SCOPE OF CHAPTER.

This chapter applies to all forms of casualty insurance, including fidelity, surety, and guaranty bonds, including but not limited to all forms of fire and inland marine insurance, and to any combination of any of the foregoing, on risks or operations located in this state.

This chapter does not apply to:

1. Reinsurance, other than statutorily authorized joint reinsurance mechanisms to the extent stated in section 515F.13.
2. Accident and health insurance.
3. Insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, excluding inland marine insurance, as determined by the commissioner.
4. Workers' compensation insurance.
5. Surplus lines insurance.
6. Insurance written by a county mutual assessment association as provided in chapter 518A.

Sec. 48. NEW SECTION. 515F.4 RATE STANDARDS.

Rates shall be made in accordance with the following:

1. Rates shall not be excessive, inadequate, or unfairly discriminatory.
2. Due consideration may be given to past and prospective loss experience within and outside this state; to the conflagration and catastrophe hazards; to a reasonable margin for profit and contingencies; to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers; to past and prospective expenses both within and outside this state; and to all other relevant factors within and outside this state; and in the case of fire insurance rates, consideration shall

be given to the experience of the fire insurance business during a period of not less than the most recent five-year period for which experience data is available.

3. Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses. A risk classification, however, shall not be based upon race, creed, national origin, or the religion of the insured.

4. The expense provisions included in the rates to be used by an insurer shall reflect to the extent possible the operating methods of the insurer and its anticipated expenses.

5. The rates may contain a provision for contingencies and an allowance permitting a reasonable profit. In determining the reasonableness of the profit, consideration shall be given to investment income attributable to unearned premium and loss reserves. Income from other sources shall not be considered.

Sec. 49. NEW SECTION. 515F.5 RATE FILINGS.

1. An insurer shall file with the commissioner, except as to inland marine risks which are not written according to manual rates or rating plans, every manual, minimum premium, class rate, rating schedule, rating plan, and every other rating rule, and every modification of any of the foregoing which it proposes to use. A filing shall state its proposed effective date, and shall indicate the character and extent of the coverage contemplated.

An insurer shall file or incorporate by reference to material which has been approved by the commissioner, at the same time as the filing of the rate, all supplementary rating and supporting information to be used in support of or in conjunction with a rate. The information furnished in support

of a filing may include or consist of a reference to any of the following:

- a. The experience or judgment of the insurer or rating information filed by the advisory organization on behalf of the insurer as permitted by section 515F.11.
- b. An interpretation of any statistical data the insurer relies upon.
- c. The experience of other insurers or rating advisory organizations.
- d. Any other relevant factors. A filing and any supporting information shall be open to public inspection after the filing becomes effective.

When a filing is not accompanied by the information upon which the insurer supports the filing, the commissioner may require the insurer to furnish the supporting information and the waiting period commences on the date the information is furnished. Until the required information is furnished, the filing shall not be deemed complete or filed or available for use by the insurer. If the requested information is not furnished within a reasonable time period, the filing may be returned to the insurer as not filed and not available for use.

After reviewing an insurer's filing, the commissioner may require that the insurer's rates be based upon the insurer's own loss and expense information. If an insurer's loss or allocated loss adjustment expense information is not actuarially credible, as determined by the commissioner, the insurer may supplement its experience with information filed with the commissioner by an advisory organization.

Insurers using the services of an advisory organization shall, at the request of the commissioner, provide with a rate filing, a description of the rationale for that use, including its own information and method of using the advisory organization's information.

2. The commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of this chapter.

3. Subject to the exception in subsection 4, a filing shall be on file for a waiting period of fifteen days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed fifteen days if written notice is given within the waiting period to the insurer or advisory organization which made the filing that additional time is needed for the consideration of the filing. Upon written application by the insurer, the commissioner may authorize a filing which has been reviewed to become effective before the expiration of the waiting period or an extension of the waiting period. A filing shall be deemed to meet the requirements of this chapter unless disapproved by the commissioner within the waiting period or an extension of the waiting period.

4. Under rules adopted under chapter 17A, the commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, or subdivision or combination of insurance, or as to classes of risks, the rates for which cannot practicably be filed before they are used. The commissioner may make an examination as the commissioner deems advisable to ascertain whether rates affected by the order meet the standards set forth in section 515F.4.

5. Upon the written application of the insured stating the insured's reasons, filed with and approved by the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on a specific risk.

6. An insurer shall not make or issue a contract or policy except in accordance with the filings which have been approved and are in effect for the insurer as provided in this chapter. This subsection does not apply to contracts or policies for inland marine risks as to which filings are not required.

Sec. 50. NEW SECTION. 515F.6 DISAPPROVAL OF FILINGS.

1. If, within the waiting period or any extension of it as provided in section 515F.5, subsection 3, the commissioner finds that a filing does not meet the requirements of this chapter, written notice of disapproval shall be sent to the insurer or advisory organization which made the filing, specifying in what respects the filing fails to meet the requirements of this chapter and stating that the filing shall not become effective. If a filing is disapproved by the commissioner, the insurer or advisory organization, may request a hearing on the disapproval within thirty days. The insurer bears the burden of proving compliance with the standards established by this chapter.

2. If, at any time after a rate has been approved, the commissioner finds that the rate no longer meets the requirements of this chapter, the commissioner may order the discontinuance of use of the rate. The order of discontinuance may be issued only after a hearing with at least ten days' prior notice for all insurers affected by the order. The order must be in writing and state the grounds for the order. The order shall state when, within a reasonable period after the order is issued, the order of discontinuance shall be effective. The order shall not affect a contract or policy made or issued prior to the expiration of the period set forth in the order.

3. An insured which is aggrieved with respect to a filing which is in effect may make written application to the commissioner for a hearing on that filing. The application shall specify the grounds to be relied upon by the applicant. If the commissioner finds that the application is made in good faith, that the applicant would be so aggrieved if the applicant's grounds are established, and that the grounds otherwise justify holding a hearing, a hearing shall be held within thirty days after receipt of the application, upon not less than ten days' written notice to the applicant and to every insurer and advisory organization which made that filing.

If, after hearing, the commissioner finds that the filing does not meet the requirements of this chapter, the commissioner shall issue an order specifying in what respects the filing fails to meet the requirements of this chapter, and stating when, within a reasonable period after the order is issued, the filing shall no longer be in effect. Copies of the order shall be sent to the applicant and to every insurer and advisory organization which made that filing. The order shall not affect a contract or policy made or issued prior to the expiration of the period set forth in the order.

Sec. 51. NEW SECTION. 515F.7 INFORMATION TO BE FURNISHED INSUREDS -- HEARINGS AND APPEALS OF INSUREDS.

An insurer shall, within a reasonable time after receiving written request and upon payment of reasonable charges set by the commissioner, furnish to an insured affected by a rate made by the insurer, or to the authorized representative of the insured, all pertinent information as to the rate. An insurer shall provide within this state reasonable means for the insured aggrieved by the application of its rating system to be heard, in person or by the insured's authorized representative, on written request to review the manner in which the rating system has been applied in connection with the insurance afforded the insured. If the insurer fails to grant or reject a request for hearing and review within thirty days after it is made, the applicant may proceed in the same manner as if the application had been rejected. The insured affected by the action of the insurer on a request may, within thirty days after written notice of the action, appeal to the commissioner, who, after a hearing held upon not less than ten days' written notice to the appellant and to the insurer, may affirm or reverse the action.

Sec. 52. NEW SECTION. 515F.8 LICENSING ADVISORY ORGANIZATIONS.

1. LICENSE REQUIRED. An advisory organization shall not provide a service relating to the rates of insurance subject

to this chapter, and an insurer shall not utilize the services of an advisory organization for such purposes unless the advisory organization has obtained a license under subsection 3.

2. **AVAILABILITY OF SERVICES.** An advisory organization shall not refuse to supply any services for which it is licensed in this state to an insurer authorized to do business in this state and offering to pay the fair and usual compensation for the services.

3. **LICENSING.**

a. **APPLICATION.** An advisory organization applying for a license shall include with its application all of the following:

(1) A copy of its constitution, charter, articles of organization, agreement, association, or incorporation, and a copy of its bylaws, plan of operation, and any other rules or regulations governing the conduct of its business.

(2) A list of its members and subscribers.

(3) The name and address of one or more residents of this state upon whom notices, process affecting it, or orders of the commissioner may be served.

(4) A statement showing its technical qualifications for acting in the capacity for which it seeks a license.

(5) A biography of the ownership and management of the organization.

(6) Any other relevant information and documents that the commissioner may require.

b. **CHANGE OF CIRCUMSTANCES.** An advisory organization which has applied for a license shall notify the commissioner of every material change in the facts or in the documents on which its application was based. An amendment to a document filed under this section shall be filed at least thirty days before it becomes effective.

c. **GRANTING OF LICENSE.** If the commissioner finds that the applicant and the natural persons through whom it acts are

competent, trustworthy, and technically qualified to provide the services proposed, and that all requirements of the law are met, the commissioner shall issue a license specifying the authorized activity of the applicant. The commissioner shall not issue a license if the proposed activity would tend to create a monopoly or to substantially lessen the competition in any market.

d. **DURATION.** A license issued under this section shall remain in effect for one year unless the license is suspended or revoked. The commissioner may, at any time after hearing, revoke or suspend the license of an advisory organization which does not comply with the requirements and standards of this chapter.

Sec. 53. NEW SECTION. 515F.9 INSURERS AND ADVISORY ORGANIZATIONS -- PROHIBITED ACTIVITY.

1. An insurer or advisory organization shall not:

a. Attempt to monopolize, or combine or conspire with any other person to monopolize, an insurance market.

b. Engage in a boycott, on a concerted basis, of an insurance market.

2. a. An insurer shall not agree with any other insurer or with an advisory organization to mandate adherence to or to mandate use of a rate, rating plan, rating schedule, rating rule, policy or bond form, rate classification, rate territory, underwriting rule, survey, inspection, or similar material, except as needed to develop statistical plans permitted by section 515F.11, subsection 1. The fact that two or more insurers, whether or not members or subscribers of an advisory organization, use consistently or intermittently, the same rates, rating plans, rating schedules, rating rules, policy or bond forms, rate classifications, rate territories, underwriting rules, surveys or inspections or similar materials is not sufficient in itself to support a finding that an agreement exists.

b. Two or more insurers having a common ownership or operating in this state under common management or control may act in concert between or among themselves with respect to any matters pertaining to those activities authorized in this chapter as if they constituted a single insurer.

3. An insurer or advisory organization shall not make an arrangement with any other insurer, advisory organization, or other person which has the purpose or effect of restraining trade unreasonably or of substantially lessening competition in the business of insurance.

Sec. 54. NEW SECTION. 515F.10 ADVISORY ORGANIZATIONS -- PROHIBITED ACTIVITY.

In addition to the other prohibitions contained in this chapter, except as specifically permitted under section 515F.11, an advisory organization shall not compile or distribute recommendations relating to rates that include profit or expenses, other than loss adjustment expenses.

Sec. 55. NEW SECTION. 515F.11 ADVISORY ORGANIZATIONS -- PERMITTED ACTIVITY.

An advisory organization, in addition to other activities not prohibited, may, on behalf of its members and subscribers, do any or all of the following:

1. Develop statistical plans including territorial and class definitions.
2. Collect statistical data from members, subscribers, or any other source.
3. Prepare and distribute prospective loss costs.
4. Prepare and distribute factors, calculations, or formulas pertaining to classifications, territories, increased limits, and other variables.
5. Prepare and distribute manuals of rating rules and rating schedules that do not include final rates, expense provisions, profit provisions, or minimum premiums.
6. Distribute information that is required or directed to be filed with the commissioner.

7. Conduct research and on-site inspections in order to prepare classifications of public fire defenses.

8. Consult with public officials regarding public fire protection as it would affect members, subscribers, and others.

9. Conduct research and collect statistics in order to discover, identify, and classify information relating to causes or prevention of losses.

10. Prepare policy forms and endorsements and consult with members, subscribers, and others relative to their use and application.

11. Conduct research and on-site inspections for the purpose of providing risk information relating to individual structures.

12. Collect, compile, and distribute past and current prices of individual insurers and publish such information.

13. File final rates, at the direction of the commissioner, for residual market mechanisms.

14. Collect, compile, and distribute historical expense information.

15. Furnish any other services, as approved or directed by the commissioner, related to those enumerated in this section.

Sec. 56. NEW SECTION. 515F.12 ADVISORY ORGANIZATIONS -- FILING REQUIREMENTS.

An advisory organization shall file with the commissioner for approval all prospective loss costs and all supplementary rating information and every change or amendment or modification of any of the foregoing proposed for use in this state. The filings are subject to sections 515F.5 and 515F.6 and other provisions of this chapter relating to filings made by insurers.

Sec. 57. NEW SECTION. 515F.13 POOL AND RESIDUAL MARKET ACTIVITIES.

1. AUTHORIZATION. Notwithstanding section 515F.9, rating organizations, advisory organizations, and insurers

participating in joint underwriting, joint reinsurance pools, or residual market mechanisms may in connection with such activity act in cooperation with each other in the making of rates, rating systems, policy forms, underwriting rules, surveys, inspections, and investigations, the furnishing of loss and expense statistics or other information, or carrying on research. Joint underwriting, joint reinsurance pools, and residual market mechanisms shall not be deemed advisory organizations.

2. REGULATION.

a. Except to the extent modified by this section, insurers, and joint underwriting, joint reinsurance pool, and residual market mechanism activities are subject to the other provisions of this chapter.

b. If, after hearing, the commissioner finds that an activity or practice of an insurer participating in joint underwriting or a pool is unfair, is unreasonable, will tend to lessen competition in a market, or is otherwise inconsistent with the provisions or purposes of this chapter, the commissioner may issue a written order and require the discontinuance of that activity or practice.

c. A pool shall file with the commissioner a copy of its constitution; its articles of incorporation, agreement, or association; its bylaws, rules, and regulations governing its activities; its members; the name and address of a resident of this state upon whom notices or orders of the commissioner or process may be served; and any changes in amendments or changes in the foregoing.

d. A residual market mechanism, or plan or agreement to implement such a mechanism, and any changes or amendments thereto, shall be submitted in writing to the commissioner for consideration and approval, together with information as reasonably required by the commissioner. The commissioner shall only approve agreements found to contemplate both of the following:

(1) The use of rates which meet the standards prescribed by this chapter.

(2) Activities and practices that are not unfair, unreasonable, or otherwise inconsistent with this chapter.

At any time after the agreements are in effect, the commissioner may review the practices and activities of the adherents to the agreements and if, after a hearing, the commissioner finds that any such practice or activity is unfair or unreasonable, or is otherwise inconsistent with this chapter, the commissioner may issue a written order to the parties and either require the discontinuance of the acts or revoke approval of the agreement.

Sec. 58. NEW SECTION. 515F.14 EXAMINATIONS.

The commissioner may, as often as deemed expedient, make or cause to be made an examination of each advisory organization referred to in section 515F.8 and of each group, association, or other organization referred to in section 515F.13. The reasonable costs of an examination shall be paid by the advisory organization or group, association, or other organization examined. The officers, manager, agents, and employees of the advisory organization, or group, association, or other organization may be examined at any time under oath and shall exhibit all books, records, accounts, documents, or agreements governing its method of operation. In lieu of an examination, the commissioner may accept the report of an examination made by the insurance supervisory official of another state, pursuant to the laws of that state.

Sec. 59. NEW SECTION. 515F.15 RATE ADMINISTRATION.

1. RECORDING AND REPORTING OF LOSS AND EXPENSE EXPERIENCE.

The commissioner may adopt reasonable rules for use by companies to record and report to the commissioner their rates and other information determined by the commissioner to be necessary or appropriate for the administration of this chapter and the effectuation of its purposes.

The commissioner may adopt reasonable rules and statistical plans, which shall then be used by each insurer in the recording and reporting of its loss and expense experience, in order that the experience of all insurers may be made available at least annually in the form and detail necessary to aid the commissioner in determining whether rating systems comply with the standards set forth in section 515F.4. The commissioner may designate one or more advisory organizations or other agencies to assist in gathering the experience and making compilations, and the compilations shall be public documents.

2. INTERCHANGE OF RATING PLAN DATA.

Reasonable rules and plans may be adopted by the commissioner for the interchange of data necessary for the application of rating plans.

3. CONSULTATION WITH OTHER STATES.

In order to further uniform administration of rate regulatory laws, the commissioner and every insurer and advisory organization may exchange information and experience data with insurance supervisory officials, insurers, and advisory organizations in other states and may consult with them with respect to the application of rating systems.

4. RULES.

The commissioner may make reasonable rules necessary, including definitions of the rate standards contained in section 515F.4, to effect the purposes of this chapter.

Sec. 60. NEW SECTION. 515F.16 FALSE OR MISLEADING INFORMATION.

A person, including an insurer, or advisory organization, shall not willfully withhold information which will affect the rates or premiums chargeable under this chapter from, or knowingly give false or misleading information to, the commissioner, a statistical agency designated by the commissioner, an advisory organization, or an insurer. A violation of this section subjects the one guilty of the violation to the penalties provided in section 515F.19.

Sec. 61. NEW SECTION. 515F.17 ASSIGNED RISKS.

Agreements may be made among insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to, but who are unable to procure, the insurance through ordinary methods, and the insurers may agree among themselves on the use of reasonable rate modifications for such insurance, the agreements and rate modifications to be subject to the approval of the commissioner.

Sec. 62. NEW SECTION. 515F.18 EXEMPTIONS.

The commissioner may, upon the commissioner's own initiative or upon request of any person, by rule, exempt a market from any or all of the provisions of this chapter, if and to the extent that the exemption is necessary to achieve the purposes of this chapter.

Sec. 63. NEW SECTION. 515F.19 PENALTIES.

The commissioner may, upon a finding that a person or organization has violated a provision of this chapter, impose a civil penalty of not more than ten thousand dollars for each violation, but if the violation is found to be willful, a penalty of not more than twenty-five thousand dollars may be imposed for each violation. The civil penalties may be in addition to any other penalty provided by law.

For purposes of this section, an insurer using a rate for which the insurer has failed to file the rate, supplementary rate information, underwriting rules or guides, or supporting information as required by this chapter, has committed a separate violation for each day the failure continues.

The commissioner may suspend or revoke the license of an advisory organization or insurer which fails to comply with an order of the commissioner within the time limit set by the order, or an extension of the order.

The commissioner may determine when a suspension of license becomes effective and it shall remain in effect for the period fixed by the commissioner, unless the commissioner modifies or

rescinds the suspension, or until the order upon which the suspension is based is modified, rescinded, or reversed.

A penalty shall not be imposed and a license shall not be suspended or revoked except upon a written order of the commissioner stating the commissioner's findings, made after hearing.

Sec. 64. Section 507B.4, subsection 11, Code Supplement 1989, is amended to read as follows:

11. Rating organizations. Any violation of section ~~515A:16~~ 515P.16.

Sec. 65. Section 515A.21, Code 1989, is amended to read as follows:

515A.21 SCOPE OF APPLICATION.

Section 515A.20 and sections 515A.22 through 515A.25 apply to all forms of casualty insurance except those described in ~~sections 515A:11 and 515A:15~~ joint underwriting and joint reinsurance, assigned risks, and those excluded by section 515A.2.

Sec. 66. Section 515A.23, Code 1989, is amended to read as follows:

515A.23 NONCOMPETITIVE MARKET.

Unless the commissioner has determined a market to be competitive, the provisions of sections ~~515A:1~~ 515P.1 through ~~515A:19~~ 515P.19 apply.

Sec. 67. Section 515A.24, Code 1989, is amended to read as follows:

515A.24 FILING OF RATES IN A COMPETITIVE MARKET.

1. Subject to the inland marine exception specified in section ~~515A:47-subsection-5~~ 515P.5, subsection 1, a competitive filing shall become effective when filed and shall be deemed to meet the requirements of section ~~515A:3~~ 515P.4 as long as the filing remains in effect unless it is disapproved upon review by the commissioner.

2. In a competitive market, every insurer shall file with the commissioner all rates and supplementary rate information

which are used in this state. The rates and supplementary rate information shall be filed not later than fifteen days after the effective date of the rates.

3. In a competitive market, if the commissioner finds that an insurer's rates require closer supervision because of the insurer's financial condition or unfairly discriminatory rating practices, the insurer shall file with the commissioner at least thirty days prior to the effective date of the rates all the rates and supplementary rate information and supporting information as prescribed by the commissioner. Upon application by the filer, the commissioner may authorize an earlier effective date.

Sec. 68. Section 515A.25, Code 1989, is amended to read as follows:

515A.25 DISAPPROVAL OF A RATE FILING IN A COMPETITIVE MARKET.

1. If the commissioner believes that an insurer's rate filing in a competitive market violates the requirements of section ~~515A:3~~ 515P.4 through 515P.5, the commissioner may require the insurer to file supporting information. If after reviewing the supporting information the commissioner continues to believe that the filing violates section ~~515A:3~~ 515P.4 through 515P.5, the commissioner shall notify the insurer of the insurer's right to petition for a hearing on any subsequent order relating to the filing.

2. The commissioner may disapprove prefiled rates that have not become effective. However, the commissioner shall notify the insurer whose rates have been disapproved of the insurer's right to petition for a hearing on the disapproval within thirty days after the disapproval.

3. If the commissioner disapproves a filing in a competitive market, the commissioner shall issue an order specifying the reasons the filing fails to meet the requirements of section ~~515A:3~~ 515P.4 through 515P.5. For rates in effect at the time of disapproval, the commissioner

shall inform the insurer within a reasonable period of time the date when further use of the rates for policies or contracts of insurance is prohibited. The order shall be issued within thirty days of disapproval, or within thirty days of a hearing on the disapproval if a hearing is held. The order may include a provision for premium adjustment for the period after the effective date of the order for policies or contracts in effect on the date of the order.

4. Whenever an insurer has filed no legally effective rates as a result of the commissioner's disapproval of a filing, the commissioner shall on request of the insurer work with the insurer to develop interim rates for the insurer that are sufficient to protect the interest of all parties and the commissioner may order that a specified portion of the premium be placed in an escrow account approved by the commissioner. When new rates become legally effective, the commissioner shall order the escrowed funds or any overcharge in the interim rates to be distributed appropriately. The commissioner may waive distribution if the commissioner determines that the amount involved would not warrant such action.

Sec. 69. Section 518.10, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. An alien insurer, with the approval of the commissioner, may be treated as a domestic insurer of this state in whole or in part. The approval of the commissioner may be based upon such factors as:

1. Maintenance of an appropriate trust account, surplus account, or other financial mechanism in this state.
2. Maintenance of all books and records of United States operations in this state.
3. Maintenance of a separate financial reporting system for its United States operations.
4. Any other provisions deemed necessary by the commissioner.

Sec. 70. NEW SECTION. 518.25 SURPLUS.

An association organized under this chapter shall at all times maintain a surplus of not less than fifty thousand dollars or one-tenth of one percent of the gross property risk in force, whichever is greater. Reinsurance sufficient to protect the financial stability of the company is also required. The insurance commissioner may require additional reinsurance if necessary to protect the policyholders of the company. An association authorized to transact business in this state before July 1, 1990, shall meet this requirement not later than July 1, 1993.

Sec. 71. NEW SECTION. 518A.37 SURPLUS.

An association organized under this chapter shall at all times maintain a surplus of not less than one hundred thousand dollars. Reinsurance sufficient to protect the financial stability of the company is also required. The insurance commissioner may require additional reinsurance if necessary to protect the policyholders of the company. An association authorized to transact business in this state before July 1, 1990, shall meet this requirement not later than July 1, 1992.

Sec. 72. Section 521A.1, subsection 6, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Insurer shall mean means a company qualified and licensed by the insurance division to transact the business of insurance in this state by certificate issued pursuant to chapters 508, 514B, 515, 518A, and 520, except that it shall not include:

Sec. 73.

Sections 5, 6, 33, 34, and 36 of this Act do not affect insurance companies which, on or before the effective date of this Act, were authorized to transact business in this state.

Sec. 74.

Section 1 of this Act, applies to all indebtedness contracted for, general obligation bonds issued, or insurance agreements entered into or renewed pursuant to section 296.7 on or after the effective date of section 1, but shall not

apply to an act permitted by section 296.7 at any time prior to January 1, 1990.

Sec. 75.

Sections 1 and 74 of this Act, being deemed of immediate importance, take effect upon enactment.

Sec. 76. Sections 515A.1 through 515A.19, Code 1989, are repealed effective July 1, 1992.

Sec. 77.

The Code editor shall transfer sections 515A.20 through 515A.25 to be a division of new chapter 515F.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2320, Seventy-third General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved April 5, 1990

TERRY E. BRANSTAD
Governor

HF 2320