

Reprinted

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HOUSE FILE 634  
BY COMMITTEE ON COMMERCE

Place On Calendar

(SUCCESSOR TO HSB 235)

Passed House, Date 4/4/91 (p.1093) Passed Senate, Date 4/30/91 (p.1563)  
Vote: Ayes 91 Nays 1 Vote: Ayes 48 Nays 0  
Approved May 28, 1991

A BILL FOR

1 An Act relating to the regulation of the business of insurance,  
2 amending certain filing requirements, filing fees, and the  
3 deposit of those fees by the insurance division, providing for  
4 the prior review and approval of certain policy forms and  
5 rates prior to issuance or delivery, making modifications to  
6 certain meeting and license renewal requirements, providing  
7 administrative penalties, and providing for the Act's  
8 applicability.

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

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HF 634

1 Section 1. NEW SECTION. 507C.20A REDOMESTICATION OF  
2 FOREIGN INSURER.

3 The commissioner may petition the court for an ancillary  
4 receivership or for an order redomesticating a foreign insurer  
5 which is the subject of a liquidation or other delinquency  
6 order in a reciprocal state. Only the corporate charter and  
7 rights to the licenses under such charter shall be  
8 redomesticated to Iowa. All claims against the foreign  
9 insurer shall remain a part of and be administered through the  
10 reciprocal state liquidation or other delinquency proceeding.  
11 Following notice as prescribed by the court and a hearing, the  
12 court may sell the corporation as an entity, together with any  
13 of its licenses, free and clear from the claims or interests  
14 of all claimants, creditors, policyholders, and stockholders  
15 of the corporation under liquidation or other delinquency  
16 proceedings, wherever located. The sale may be made on terms  
17 and conditions the court deems appropriate. The proceeds of  
18 the sale, less court costs, attorney fees, broker's fees, and  
19 the commissioner's expenses in effectuating the sale, shall  
20 become part of the assets of the liquidation or other estate  
21 in the reciprocal state.

22 Sec. 2. Section 507C.33, subsection 1, Code 1991, is  
23 amended by adding the following new paragraph after paragraph  
24 a and relettering existing paragraph b:

25 NEW PARAGRAPH. b. Notwithstanding paragraph "a", the  
26 agent, broker, premium finance company, or other person, is  
27 not liable for uncollected unearned premium of the insurer. A  
28 presumption exists that the premium as shown on the books of  
29 the insurer is collected and the burden is upon the agent,  
30 broker, premium finance company, or other person to  
31 demonstrate by a preponderance of the evidence that the  
32 unearned premium was not actually collected. For purposes of  
33 this paragraph, "unearned premium" means that portion of an  
34 insurance premium covering the unexpired term of the policy or  
35 the unexpired period of the policy period.

1     Sec. 3. Section 508.15, Code 1991, is amended to read as  
2 follows:

3     508.15 VIOLATION BY FOREIGN COMPANY.

4     Companies organized and chartered by the laws of a foreign  
5 state or country, failing to file the evidence of investment  
6 and statement within the time fixed, or failing to timely file  
7 any financial statement required by rule of the commissioner  
8 of insurance, shall forfeit and pay ~~the sum of three~~ five  
9 hundred dollars, to be collected in an action in the name of  
10 the state and paid to the treasurer of state for deposit in  
11 the general fund of the state as provided in section 505.7,  
12 and their right to transact further new business in this state  
13 shall immediately cease until the requirements of this chapter  
14 have been fully complied with. The commissioner may give  
15 notice to a company which has failed to file within the time  
16 fixed that the company is in violation of this section and if  
17 the company fails to file the evidence of investment and  
18 statement within ten days of the date of the notice the  
19 company shall forfeit and pay the additional sum of one  
20 hundred dollars for each day the failure continues, to be paid  
21 to the state treasurer for deposit in the general fund of the  
22 state as provided in section 505.7.

23     Sec. 4. NEW SECTION. 508.15A SUSPENSION AND SUMMARY  
24 SUSPENSION.

25     The commissioner may do one or more of the following:

26     1. For a violation of Title XX, after a hearing provided  
27 pursuant to chapter 17A, order the suspension of the license  
28 or authority to transact the business of insurance within the  
29 state.

30     2. Upon three days' notice, if the commissioner has reason  
31 to believe that there is imminent substantial risk to an  
32 insurer's solvency, order the insurer to appear before the  
33 commissioner and show cause why its license or authority to do  
34 insurance business within the state should not be suspended.

35 At the hearing to show cause, the commissioner may summarily

1 suspend the license or authority of the insurer to do business  
2 within the state.

3 3. Summarily order an insurer to cease and desist from a  
4 violation, anticipated violation, or suspected violation of  
5 chapter 507B, 510, or 513A, if a hearing is provided pursuant  
6 to chapter 17A within thirty days of the summary cease and  
7 desist order.

8 Sec. 5. Section 512A.5, Code 1991, is amended to read as  
9 follows:

10 512A.5 FEES TO COMMISSIONER.

11 ~~There~~ The following fees shall be paid to the commissioner  
12 for services required under ~~the provisions of~~ this chapter ~~the~~  
13 ~~following fees~~, which shall be accounted for by the  
14 commissioner in the same manner as other fees received in the  
15 discharge of the duties of the office:

16 1. For filing and examination of amendments to the  
17 articles of incorporation ~~for organization~~ in this state and  
18 the accompanying general plan of operation of any benevolent  
19 association, and the issuing of the permission to do business,  
20 ~~ten~~ twenty dollars.

21 2. For filing an annual statement of a benevolent  
22 association, and issuing the renewal of the permission  
23 required by law to authorize continuance in business, ~~three~~  
24 twenty-five dollars per existing unit, not to exceed three  
25 hundred dollars in the aggregate.

26 Sec. 6. NEW SECTION. 514A.13 FILING REQUIREMENT -- PRIOR  
27 APPROVAL.

28 A policy of insurance against loss or expense from sickness  
29 or from the bodily injury or death by accident of the insured  
30 shall not be issued or delivered to any person in this state  
31 and an application, rider, or endorsement shall not be used in  
32 connection with the policy until a copy of the policy form and  
33 of the classification of risks and the premium rates, or, in  
34 the case of cooperatives or assessment companies the estimated  
35 costs pertaining to the policy have been filed with and

1 approved by the commissioner.

2 A filing is deemed to be approved unless disapproved by the  
3 commissioner within thirty days of receipt of the filing by  
4 the commissioner.

5 Sec. 7. NEW SECTION. 514A.14 DISAPPROVAL OF FILING.

6 1. The commissioner shall notify an insurer which has  
7 filed a policy form pursuant to section 514A.13 that does not  
8 comply with this chapter or chapter 514D, or rules adopted  
9 pursuant to those chapters. The notice shall inform the  
10 insurer that it is unlawful for the insurer to issue the form  
11 or use it in connection with any policy, if the commissioner  
12 finds upon review of the form, either of the following:

13 a. The benefits provided are unreasonable in relation to  
14 the premium charged.

15 b. The form contains a provision which is unjust, unfair,  
16 inequitable, misleading, deceptive, or which encourages  
17 misrepresentation of the policy.

18 2. In a notice provided under subsection 1, the  
19 commissioner shall specify the reasons for disapproval and  
20 state that a hearing will be granted within twenty days after  
21 request in writing by the insurer.

22 Sec. 8. NEW SECTION. 514A.15 WITHDRAWAL OF APPROVAL.

23 The commissioner may at any time, after opportunity for  
24 hearing, withdraw the commissioner's previously given approval  
25 of any such form on any of the grounds stated in section  
26 514A.14. It shall be unlawful for the insurer to issue a form  
27 or use the form in connection with any policy after the  
28 effective date of the withdrawal of approval. The notice of  
29 any hearing granted under this paragraph shall specify the  
30 matters to be considered at the hearing. Any decision  
31 affirming disapproval or directing withdrawal of approval  
32 under this section shall be in writing and shall specify the  
33 reasons for the disapproval or withdrawal of approval.

34 Sec. 9. Section 515.26, Code 1991, is amended to read as  
35 follows:

## 1 515.26 DIRECTORS.

2 The affairs of a company organized as provided by this  
3 chapter shall be managed by a number of directors, of not less  
4 than five nor more than twenty-one, all of whom, in case of a  
5 stock company, shall be stockholders, or, in case of a mutual  
6 company, be policyholders, or before the company shall effect  
7 insurance, be subscribers for stock or for insurance as the  
8 case may be. ~~When the paid-up capital for a stock company, or~~  
9 ~~the subscriptions for insurance for a mutual company, shall~~  
10 ~~have been obtained, the incorporators or directors in charge~~  
11 ~~of the business shall give at least ten days' written notice~~  
12 ~~by mail to stockholders or subscribers, as the case may be, of~~  
13 ~~a meeting of the stockholders or subscribers, for the election~~  
14 ~~of directors, and such meeting shall be held within thirty~~  
15 ~~days after the paid-up capital or subscriptions have been~~  
16 ~~secured. The directors then elected shall continue in office~~  
17 ~~until their successors have been elected and qualified.~~

18 Sec. 10. Section 515.65, Code 1991, is amended to read as  
19 follows:

## 20 515.65 CERTIFICATE REFUSED -- ADMINISTRATIVE PENALTY.

21 The commissioner of insurance shall withhold the  
22 commissioner's certificate or permission of authority to do  
23 business from a company neglecting or failing to comply with  
24 this chapter. In addition, a company organized or authorized  
25 under this chapter which fails to file the annual statement  
26 referred to in section 515.63 in the time required shall pay  
27 and forfeit an administrative penalty in an amount of three  
28 five hundred dollars to be collected in the name of the state  
29 for the use of the state deposit in the general fund of the  
30 state as provided in section 505.7. The company's right to  
31 transact further new business in this state shall immediately  
32 cease until the company has fully complied with this chapter.  
33 The commissioner may give notice to a company which has failed  
34 to file within the time required that the company is in  
35 violation of this section and if the company fails to file the

1 Sec. 3. Section 508.15, Code 1991, is amended to read as  
2 follows:

3 508.15 VIOLATION BY FOREIGN COMPANY.

4 Companies organized and chartered by the laws of a foreign  
5 state or country, failing to file the evidence of investment  
6 and statement within the time fixed, or failing to timely file  
7 any financial statement required by rule of the commissioner  
8 of insurance, shall forfeit and pay ~~the sum of three~~ five  
9 hundred dollars, to be collected in an action in the name of  
10 the state and paid to the treasurer of state for deposit in  
11 the general fund of the state as provided in section 505.7,  
12 and their right to transact further new business in this state  
13 shall immediately cease until the requirements of this chapter  
14 have been fully complied with. The commissioner may give  
15 notice to a company which has failed to file within the time  
16 fixed that the company is in violation of this section and if  
17 the company fails to file the evidence of investment and  
18 statement within ten days of the date of the notice the  
19 company shall forfeit and pay the additional sum of one  
20 hundred dollars for each day the failure continues, to be paid  
21 to the state treasurer for deposit in the general fund of the  
22 state as provided in section 505.7.

23 Sec. 4. NEW SECTION. 508.15A SUSPENSION AND SUMMARY  
24 SUSPENSION.

25 The commissioner may do one or more of the following:

- 26 1. For a violation of Title XX, after a hearing provided  
27 pursuant to chapter 17A, order the suspension of the license  
28 or authority to transact the business of insurance within the  
29 state.
- 30 2. Upon three days' notice, if the commissioner has reason  
31 to believe that there is imminent substantial risk to an  
32 insurer's solvency, order the insurer to appear before the  
33 commissioner and show cause why its license or authority to do  
34 insurance business within the state should not be suspended.  
35 At the hearing to show cause, the commissioner may summarily

1 suspend the license or authority of the insurer to do business  
2 within the state.

3 3. Summarily order an insurer to cease and desist from a  
4 violation, anticipated violation, or suspected violation of  
5 chapter 507B, 510, or 513A, if a hearing is provided pursuant  
6 to chapter 17A within thirty days of the summary cease and  
7 desist order.

8 Sec. 5. Section 512A.5, Code 1991, is amended to read as  
9 follows:

10 512A.5 FEES TO COMMISSIONER.

11 ~~Where~~ The following fees shall be paid to the commissioner  
12 for services required under ~~the provisions of~~ this chapter ~~the~~  
13 ~~following fees~~, which shall be accounted for by the  
14 commissioner in the same manner as other fees received in the  
15 discharge of the duties of the office:

16 1. For filing and examination of amendments to the  
17 articles of incorporation ~~for organization~~ in this state and  
18 the accompanying general plan of operation of any benevolent  
19 association, and the issuing of the permission to do business,  
20 ~~ten~~ twenty dollars.

21 2. For filing an annual statement of a benevolent  
22 association, and issuing the renewal of the permission  
23 required by law to authorize continuance in business, ~~three~~  
24 twenty-five dollars per existing unit, not to exceed three  
25 hundred dollars in the aggregate.

26 Sec. 6. NEW SECTION. 514A.13 FILING REQUIREMENT -- PRIOR  
27 APPROVAL.

28 A policy of insurance against loss or expense from sickness  
29 or from the bodily injury or death by accident of the insured  
30 shall not be issued or delivered to any person in this state  
31 and an application, rider, or endorsement shall not be used in  
32 connection with the policy until a copy of the policy form and  
33 of the classification of risks and the premium rates, or, in  
34 the case of cooperatives or assessment companies the estimated  
35 costs pertaining to the policy have been filed with and

1 evidence of investment and statement within ten days of the  
2 date of the notice the company shall forfeit and pay the  
3 additional sum of one hundred dollars for each day the failure  
4 continues, to be paid to the treasurer of state for deposit in  
5 the general fund of the state as provided in section 505.7.

6 Sec. 11. Section 515.77, Code 1991, is amended to read as  
7 follows:

8 515.77 CERTIFICATE TO FOREIGN COMPANY.

9 When any a foreign company has fully complied with the  
10 requirements of law and become entitled to do business, the  
11 commissioner of insurance shall issue to such the company a  
12 certificate of that fact, which certificate shall be renewed  
13 annually on the first day of May June, if the commissioner is  
14 satisfied that the capital, securities, and investments of  
15 such the company remain unimpaired, and the company has  
16 complied with the provisions of law applicable ~~thereto~~ to the  
17 company. ~~Provided, however~~ However, the commissioner shall  
18 not grant or continue authority to transact insurance in this  
19 state ~~as to any an~~ insurer the management of which is found by  
20 the commissioner, after a hearing ~~held thereon~~ is provided, in  
21 which the commissioner shall establish and consider any prior  
22 criminal records or any other matters, to be untrustworthy, or  
23 so lacking in insurance experience as to make the proposed  
24 operation hazardous to the insurance-buying public; or which,  
25 after a hearing ~~held thereon~~ is provided, the commissioner has  
26 good reason to believe is affiliated directly or indirectly  
27 through ownership, control, reinsurance transactions, or other  
28 insurance or business relations, with any a person or persons  
29 whose business operations are or have been marked, to the  
30 detriment of policyholders or stockholders or investors or  
31 creditors or of the public, by manipulation or dissipation of  
32 assets, or manipulation of accounts, or of reinsurance, or by  
33 similar injurious actions.

34 Sec. 12. Section 515.89, Code 1991, is amended to read as  
35 follows:

1 515.89 REVOCATION OF CERTIFICATE OF FOREIGN COMPANY.

2 The commissioner of insurance ~~shall-be-authorized-to~~ may  
3 examine ~~into~~ the condition and affairs of any insurance  
4 company, as provided for in this chapter, doing business in  
5 this state, not organized under its laws, or cause such  
6 examination to be made by ~~some~~ a person or ~~persons~~ appointed  
7 by the commissioner having no interest in any insurance  
8 company; and ~~when~~ if it ~~shall-appear~~ appears to the  
9 commissioner's satisfaction that the affairs of ~~any-such~~ a  
10 company are in an unsound condition or that a company has  
11 failed to maintain the capital and surplus required by section  
12 515.69, the commissioner shall revoke or suspend the  
13 certificates granted in its behalf, ~~and-cause-a-notification~~  
14 ~~thereof-to-be-published-in-some-newspaper-of-general~~  
15 ~~circulation,-published-at-the-seat-of-government,-and-no-agent~~  
16 ~~or-agents-of-such-company-after-such-notice-shall-issue~~  
17 ~~polices-or-renew-any-previously-issued.~~

18 Sec. 13. NEW SECTION. 515.89A SUSPENSION AND SUMMARY  
19 SUSPENSION.

20 The commissioner may do one or more of the following:

- 21 1. For a violation of Title XX, after a hearing provided  
22 pursuant to chapter 17A, order the suspension of the license  
23 or authority to transact the business of insurance within the  
24 state.
- 25 2. Upon three days' notice, if the commissioner has reason  
26 to believe that there is imminent substantial risk to an  
27 insurer's solvency, order the insurer to appear before the  
28 commissioner and show cause why its license or authority to do  
29 insurance business within the state should not be suspended.  
30 At the hearing to show cause, the commissioner may summarily  
31 suspend the license or authority of the insurer to do business  
32 within the state.
- 33 3. Summarily order an insurer to cease and desist from a  
34 violation, anticipated violation, or suspected violation of  
35 chapter 507B, 510, or 513A, if a hearing is provided pursuant

1 to chapter 17A within thirty days of the summary cease and  
2 desist order.

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3 Sec. 14. Section 682.11, subsection 1, Code 1991, is  
4 amended to read as follows:

5 1. ~~Any company engaged in the business of becoming surety~~  
6 ~~upon bonds~~ The commissioner of insurance shall annually file,  
7 with the clerk of the district court of any each county in  
8 ~~which the company will do business, a certificate from the~~  
9 ~~commissioner of insurance that the company has complied with~~  
10 ~~the law and is authorized to do business~~ a complete list of  
11 the corporate sureties to whom the commissioner has issued a  
12 current certificate of authority to transact the business of a  
13 surety in this state.

14 Sec. 15. Section 682.13, Code 1991, is amended to read as  
15 follows:

16 682.13 RECORD BY CLERK.

17 The clerk shall keep a book, properly indexed, in which  
18 shall be recorded all such certificates annual lists from the  
19 commissioner of insurance and subsequent notices of  
20 revocations.

21 Sec. 16. 1990 Iowa Acts, chapter 1234, section 76, is  
22 amended to read as follows:

23 SEC. 76. Sections 515A.1 through 515A.19, Code 1989, are  
24 repealed effective July 1, ~~1992~~ 1993.

25 Sec. 17. Section 515.23, Code 1991, is repealed.

26 Sec. 18. APPLICABILITY. Section 2 of this Act applies to  
27 any insurer subject to an order under section 507C.18 issued  
28 on or after the effective date of this Act.

29 Sec. 19. The Code editor shall remove all references to  
30 chapter 513A in this Act and make other related conforming  
31 changes, if chapter 513A in this Act is not enacted by the  
32 general assembly during the 1991 regular session.

33

EXPLANATION

34 Section 1 provides that the commissioner may redomesticate  
35 a foreign insurer which is the subject of a liquidation or

1 other delinquency order in a reciprocal state for the purpose  
2 of selling the assets of the corporation. The proceeds, less  
3 court costs, attorney fees, broker's fees, and the expenses of  
4 the commissioner, become part of the assets of the liquidation  
5 or other estate in the reciprocal state.

6 Section 2 provides that an agent, broker, premium finance  
7 company, or other person is not liable for uncollected  
8 unearned premium related to an insolvency.

9 Section 3 changes the fine for late filing of an annual  
10 statement by a foreign insurer from \$300 to \$500. It further  
11 directs the penalty to be deposited into the state general  
12 fund for partial allocation to the insurance revolving fund.  
13 A continuing violation is subject to an additional penalty of  
14 \$100 per day.

15 Section 4 authorizes the commissioner to suspend an  
16 insurer's license as a penalty for violation of chapter 507B,  
17 510, or 513A. The section further authorizes summary and  
18 emergency suspensions, provided an opportunity for hearing is  
19 provided following the emergency or summary order.

20 Section 5 increases fees for certain filings made by  
21 benevolent associations with the division of insurance. The  
22 fee for filing amendments to the association's articles of  
23 incorporation would increase from \$10 to \$20. The annual fee  
24 would be increased on a sliding scale depending upon the size  
25 of the association. The maximum annual fee under this section  
26 would be \$300.

27 Sections 6 through 8 adopt the model accident and health  
28 policy regulatory law to require filing and prior approval of  
29 individual accident and health policies. This section permits  
30 the commissioner to reject any policy or rider if the  
31 commissioner finds that the benefits provided are unreasonable  
32 in relation to the premium, or if it contains a provision  
33 which is unjust, unfair, inequitable, misleading, deceptive,  
34 or subject to misrepresentation.

35 Section 9 strikes language governing notice of a meeting of

1 the shareholders of a stock insurer at which directors are  
2 elected.

3 Section 10 would change the penalty for late filing of an  
4 annual statement by a domestic insurer from \$300 to \$500. It  
5 further directs the penalty to be deposited into the state  
6 general fund for partial allocation to the insurance revolving  
7 fund.

8 Section 11 amends the annual renewal date of a foreign  
9 insurer's license from May 1, to June 1, to conform with  
10 changes to license renewal dates for other insurers enacted in  
11 1990.

12 Section 12 provides that a foreign insurer's license may be  
13 revoked or suspended for failing to maintain the statutorily  
14 required capital and surplus. It also eliminates the  
15 requirement of publishing notice of the revocation of a  
16 foreign insurer's license in a newspaper of general  
17 circulation.

18 Section 13 authorizes the commissioner to suspend an  
19 insurer's license as a penalty for violation of chapter 507B,  
20 510, or 513A. The section further authorizes emergency and  
21 summary suspensions, provided an opportunity for hearing is  
22 provided following the emergency or summary order.

23 Sections 14 and 15 remove the requirement that a surety  
24 company file a copy of its certificate of authority from the  
25 commissioner of insurance with the clerk of the district court  
26 in each county in which the surety company will do business.  
27 In place of filing individual certificates of authority the  
28 commissioner will provide an annual list of admitted sureties  
29 to all district court clerks. The commissioner will continue  
30 to provide notice to district court clerks of any revocations  
31 of sureties' authority.

32 Section 16 amends the 1990 loss cost Act to extend until  
33 July 1, 1993, the repeal of the existing rate filing system  
34 for workers' compensation.

35 Section 17 repeals Iowa Code section 515.23. Both sections

1 are grandfather clauses or transition provisions for insurers  
2 organized prior to 1924.

3 Section 18 provides an applicability date.

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## HOUSE FILE 634

H-3478

1 Amend House File 634 as follows:

2 1. Page 3, by inserting after line 7, the  
3 following:

4 "Sec. \_\_\_\_\_. Section 510.7, subsection 1, as enacted  
5 by 1991 Iowa Acts, Senate File 518, is amended to read  
6 as follows:

7 510.7 PENALTIES AND LIABILITIES.

8 1. If the commissioner finds, after a hearing  
9 conducted in accordance with chapter 17A, that any  
10 person has violated one or more provisions of this  
11 chapter, the commissioner may order do one or more of  
12 the following:

13 a. For each separate violation, order the  
14 imposition of an administrative penalty of not more  
15 than ten thousand dollars.

16 b. Revocation Order the revocation or suspension  
17 of the producer's license.

18 c. Reimbursement Bring a civil suit seeking  
19 reimbursement by the managing general agent of the  
20 insurer, the rehabilitator, or the liquidator of the  
21 insurer for any losses incurred by the insurer caused  
22 by a violation of this chapter committed by the  
23 managing general agent.

24 Sec. \_\_\_\_\_. Section 510A.4, subsection 1, as enacted  
25 by 1991 Iowa Acts, Senate File 518, is amended to read  
26 as follows:

27 1. a. If the commissioner has reason to believe  
28 that a controlling producer has committed or is  
29 committing an act which could be determined to be a  
30 violation, as defined in section 510A.2, the  
31 commissioner shall serve upon the controlling producer  
32 in the manner provided by chapter 17A, a statement of  
33 the charges and notice of a hearing to be conducted in  
34 accordance with chapter 17A.

35 ~~b. At such hearing, the commissioner must~~  
36 ~~establish that the controlling producer engaged in a~~  
37 ~~violation, as defined in section 510A.2. The~~  
38 ~~controlling producer shall have an opportunity to be~~  
39 ~~heard and to present evidence rebutting the charges~~  
40 ~~and to establish that the insolvency of the controlled~~  
41 ~~insurer arose out of events not attributable to the~~  
42 ~~violation. The decision, determination, or order of~~  
43 ~~the commissioner is subject to judicial review~~  
44 ~~pursuant to chapter 17A.~~

45 b. At such hearing the commissioner shall  
46 determine whether the controlling producer engaged in  
47 a violation, as defined in section 510A.2. The  
48 controlling producer shall have an opportunity to be  
49 heard and to present evidence rebutting the alleged  
50 violations. The final action of the commissioner is

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1 subject to judicial review pursuant to chapter 17A.  
2 c. Upon the commissioner's finding of a violation  
3 by a controlling producer, the commissioner may bring  
4 a civil suit seeking reimbursement from the  
5 controlling producer as provided in paragraph "d". In  
6 the suit, the controlling producer shall have the  
7 burden of establishing that the insolvency of the  
8 controlled insurer arose out of events not  
9 attributable to the violation.

10 e d. Upon a finding, pursuant to this section,  
11 that the controlling producer committed a violation  
12 and the controlling producer failed to establish that  
13 the violation did not substantially contribute to the  
14 insolvency, the controlling producer shall reimburse  
15 the state guaranty funds, created pursuant to chapter  
16 515B for all payments made for losses, loss  
17 adjustment, and administrative expenses on the  
18 business placed by the producer in excess of gross  
19 earned premiums and investment income earned on  
20 premiums and loss reserves for such business.

21 d e. This section does not affect the right of the  
22 commissioner to impose any other penalties provided  
23 for under Title XX."

24 2. Page 8, by inserting after line 2, the  
25 following:

26 "Sec. \_\_\_\_ . Section 521C.11, subsection 1,  
27 paragraph c, as enacted by 1991 Iowa Acts, Senate File  
28 518, is amended to read as follows:

29 c. If a violation was committed by the reinsurance  
30 intermediary, a civil action brought by the  
31 commissioner seeking restitution by the reinsurance  
32 intermediary to the insurer, reinsurer, rehabilitator,  
33 or liquidator of the insurer or reinsurer for the net  
34 losses incurred by the insurer or reinsurer  
35 attributable to the violation.

36 Sec. \_\_\_\_ . 1991 Iowa Acts, Senate File 518, section  
37 63, is amended to read as follows:

38 Sec. 63. Sections 10 through 13, the producer  
39 controlled property and casualty insurer Act, division  
40 II of this Act, take effect July 1, 1991. An insurer  
41 or producer subject to division II of this Act shall  
42 not continue, renew, or initiate a contract, or place  
43 business on or after July 1, 1991, unless in  
44 compliance with division II of this Act, regardless of  
45 the date on which the original contract was entered  
46 into between the parties. The commissioner shall have  
47 the authority to suspend enforcement of sections 10  
48 through 13 of this Act until the earlier of July 1,  
49 1992, or affirmative action of the national  
50 association of insurance commissioners to require

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1 enforcement of the Act as a condition of  
 2 accreditation. If the national association of  
 3 insurance commissioners rescinds the model producer  
 4 controlled property and casualty insurer Act or  
 5 materially amends the Act, the commissioner shall  
 6 submit the repeal or revisions in a division prefiled  
 7 bill for consideration by the general assembly."

8 3. By renumbering as necessary.

By GRONINGA of Cerro Gordo

H-3478 FILED APRIL 3, 1991

*Adopted 4/4/91 (p. 1093)*

## HOUSE FILE 634

I-3495

1 Amend House File 634 as follows:

2 1. Page 1, by inserting after line 35, the  
3 following:

4 "Sec. \_\_\_\_\_. Section 508.7, Code 1991, is amended to  
5 read as follows:

6 508.7 LOANS TO OFFICERS.

7 Except as permitted in ~~section~~ sections 508.8 and  
8 508.8A, the capital or other funds shall not be loaned  
9 directly or indirectly to an officer, director,  
10 stockholder, or employee of the company or directly or  
11 indirectly to a relative of an officer or director of  
12 the company.

13 Sec. \_\_\_\_\_. NEW SECTION. 508.8A LOANS TO  
14 EMPLOYEES.

15 1. A life insurance company having a ratio of  
16 statutory surplus to admitted assets of at least four  
17 percent may make, acquire, and hold loans to  
18 employees, officers, and directors under the following  
19 terms and conditions:

20 a. The company may make a mortgage loan on real  
21 property owned by an employee of the company which is  
22 to serve as the employee's dwelling, provided the  
23 company is regularly and actively involved in making  
24 residential mortgage loans to the public.

25 b. The company may acquire a mortgage loan on real  
26 property owned by an employee of the company which is  
27 to serve as the employee's dwelling, provided the  
28 company acquiring such loan is regularly and actively  
29 involved in acquiring residential mortgage loans not  
30 involving employees from sources in the secondary  
31 market.

32 c. The company may acquire a mortgage loan on real  
33 property owned by an employee, officer, or director  
34 which is included in a portfolio of mortgages  
35 initiated by others and acquired by the life insurance  
36 company. The mortgage loans in any such acquired  
37 portfolio of mortgage loans must satisfy both of the  
38 following conditions:

39 (1) More than seventy-five percent of the dollar  
40 value of the mortgage loans must be for real property  
41 that is owned by persons who are not employees,  
42 officers, or directors of the company.

43 (2) More than seventy-five percent of the mortgage  
44 loans must be for real property that is owned by  
45 persons who are not employees, officers, or directors  
46 of the company.

47 d. The company may continue to hold a mortgage  
48 loan on real estate which is assumed by an employee,  
49 officer, or director if the mortgage was originally  
50 properly made or acquired by the life insurance

1 company, provided that all terms and conditions of the  
2 mortgage loan remain unchanged and the mortgage loan  
3 is serviced in accordance with customary servicing  
4 practices of prudent lending institutions.

5 e. The company may continue to hold a mortgage on  
6 real estate owned by an officer or director which was  
7 properly made or acquired by the company before the  
8 officer or director became an officer or director of  
9 the company, provided that all terms and conditions of  
10 the mortgage loan remain unchanged and the mortgage  
11 loan is serviced in accordance with customary  
12 servicing practices of prudent lending institutions.

13 2. As used in this section, "employee" does not  
14 include officers or directors of a life insurance  
15 company."

16 2. Renumber as necessary.

By GRONINGA of Cerro Gordo

H-3495 FILED APRIL 3, 1991

*Adopted 4/4/91 (p. 109a)*

Sen. Commerce 4/5/91 D. Pass 4/11/91 (p. 1196)  
Wayman Mason D. Pass 4/18/91 (p. 1354)

HOUSE FILE 634  
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 235)

(As Amended and Passed by the House April 4, 1991)

As amended  
by Senate  
Passed House, Date 5/1/91 (p. 1962) Passed Senate, Date 4/30/91 (p. 1562)  
Vote: Ayes 99 Nays 0 Vote: Ayes 48 Nays 0  
Approved May 28, 1991

A BILL FOR

1 An Act relating to the regulation of the business of insurance,  
2 amending certain filing requirements, filing fees, and the  
3 deposit of those fees by the insurance division, providing for  
4 the prior review and approval of certain policy forms and  
5 rates prior to issuance or delivery, making modifications to  
6 certain meeting and license renewal requirements, providing  
7 administrative penalties, and providing for the Act's  
8 applicability.

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

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

1 Section 1. NEW SECTION. 507C.20A REDOMESTICATION OF  
2 FOREIGN INSURER.

3 The commissioner may petition the court for an ancillary  
4 receivership or for an order redomesticating a foreign insurer  
5 which is the subject of a liquidation or other delinquency  
6 order in a reciprocal state. Only the corporate charter and  
7 rights to the licenses under such charter shall be  
8 redomesticated to Iowa. All claims against the foreign  
9 insurer shall remain a part of and be administered through the  
10 reciprocal state liquidation or other delinquency proceeding.  
11 Following notice as prescribed by the court and a hearing, the  
12 court may sell the corporation as an entity, together with any  
13 of its licenses, free and clear from the claims or interests  
14 of all claimants, creditors, policyholders, and stockholders  
15 of the corporation under liquidation or other delinquency  
16 proceedings, wherever located. The sale may be made on terms  
17 and conditions the court deems appropriate. The proceeds of  
18 the sale, less court costs, attorney fees, broker's fees, and  
19 the commissioner's expenses in effectuating the sale, shall  
20 become part of the assets of the liquidation or other estate  
21 in the reciprocal state.

22 Sec. 2. Section 507C.33, subsection 1, Code 1991, is  
23 amended by adding the following new paragraph after paragraph  
24 a and relettering existing paragraph b:

25 NEW PARAGRAPH. b. Notwithstanding paragraph "a", the  
26 agent, broker, premium finance company, or other person, is  
27 not liable for uncollected unearned premium of the insurer. A  
28 presumption exists that the premium as shown on the books of  
29 the insurer is collected and the burden is upon the agent,  
30 broker, premium finance company, or other person to  
31 demonstrate by a preponderance of the evidence that the  
32 unearned premium was not actually collected. For purposes of  
33 this paragraph, "unearned premium" means that portion of an  
34 insurance premium covering the unexpired term of the policy or  
35 the unexpired period of the policy period.

1 Sec. 3. Section 508.7, Code 1991, is amended to read as  
2 follows:

3 508.7 LOANS TO OFFICERS.

4 Except as permitted in section sections 508.8 and 508.8A,  
5 the capital or other funds shall not be loaned directly or  
6 indirectly to an officer, director, stockholder, or employee  
7 of the company or directly or indirectly to a relative of an  
8 officer or director of the company.

9 Sec. 4. NEW SECTION. 508.8A LOANS TO EMPLOYEES.

10 1. A life insurance company having a ratio of statutory  
11 surplus to admitted assets of at least four percent may make,  
12 acquire, and hold loans to employees, officers, and directors  
13 under the following terms and conditions:

14 a. The company may make a mortgage loan on real property  
15 owned by an employee of the company which is to serve as the  
16 employee's dwelling, provided the company is regularly and  
17 actively involved in making residential mortgage loans to the  
18 public.

19 b. The company may acquire a mortgage loan on real  
20 property owned by an employee of the company which is to serve  
21 as the employee's dwelling, provided the company acquiring  
22 such loan is regularly and actively involved in acquiring  
23 residential mortgage loans not involving employees from  
24 sources in the secondary market.

25 c. The company may acquire a mortgage loan on real  
26 property owned by an employee, officer, or director which is  
27 included in a portfolio of mortgages initiated by others and  
28 acquired by the life insurance company. The mortgage loans in  
29 any such acquired portfolio of mortgage loans must satisfy  
30 both of the following conditions:

31 (1) More than seventy-five percent of the dollar value of  
32 the mortgage loans must be for real property that is owned by  
33 persons who are not employees, officers, or directors of the  
34 company.

35 (2) More than seventy-five percent of the mortgage loans

1 must be for real property that is owned by persons who are not  
2 employees, officers, or directors of the company.

3 d. The company may continue to hold a mortgage loan on  
4 real estate which is assumed by an employee, officer, or  
5 director if the mortgage was originally properly made or  
6 acquired by the life insurance company, provided that all  
7 terms and conditions of the mortgage loan remain unchanged and  
8 the mortgage loan is serviced in accordance with customary  
9 servicing practices of prudent lending institutions.

10 e. The company may continue to hold a mortgage on real  
11 estate owned by an officer or director which was properly made  
12 or acquired by the company before the officer or director  
13 became an officer or director of the company, provided that  
14 all terms and conditions of the mortgage loan remain unchanged  
15 and the mortgage loan is serviced in accordance with customary  
16 servicing practices of prudent lending institutions.

17 2. As used in this section, "employee" does not include  
18 officers or directors of a life insurance company.

19 Sec. 5. Section 508.15, Code 1991, is amended to read as  
20 follows:

21 508.15 VIOLATION BY FOREIGN COMPANY.

22 Companies organized and chartered by the laws of a foreign  
23 state or country, failing to file the evidence of investment  
24 and statement within the time fixed, or failing to timely file  
25 any financial statement required by rule of the commissioner  
26 of insurance, shall forfeit and pay ~~the sum of three~~ five  
27 hundred dollars, to be collected in an action in the name of  
28 the state and paid to the treasurer of state for deposit in  
29 the general fund of the state as provided in section 505.7,  
30 and their right to transact further new business in this state  
31 shall immediately cease until the requirements of this chapter  
32 have been fully complied with. The commissioner may give  
33 notice to a company which has failed to file within the time  
34 fixed that the company is in violation of this section and if  
35 the company fails to file the evidence of investment and

1 statement within ten days of the date of the notice the  
2 company shall forfeit and pay the additional sum of one  
3 hundred dollars for each day the failure continues, to be paid  
4 to the state treasurer for deposit in the general fund of the  
5 state as provided in section 505.7.

6 Sec. 6. NEW SECTION. 508.15A SUSPENSION AND SUMMARY  
7 SUSPENSION.

8 The commissioner may do one or more of the following:

9 1. For a violation of Title XX, after a hearing provided  
10 pursuant to chapter 17A, order the suspension of the license  
11 or authority to transact the business of insurance within the  
12 state.

13 2. Upon three days' notice, if the commissioner has reason  
14 to believe that there is imminent substantial risk to an  
15 insurer's solvency, order the insurer to appear before the  
16 commissioner and show cause why its license or authority to do  
17 insurance business within the state should not be suspended.  
18 At the hearing to show cause, the commissioner may summarily  
19 suspend the license or authority of the insurer to do business  
20 within the state.

21 3. Summarily order an insurer to cease and desist from a  
22 violation, anticipated violation, or suspected violation of  
23 chapter 507B, 510, or 513A, if a hearing is provided pursuant  
24 to chapter 17A within thirty days of the summary cease and  
25 desist order.

26 Sec. 7. Section 510.7, subsection 1, as enacted by 1991  
27 Iowa Acts, Senate File 518, is amended to read as follows:

28 510.7 PENALTIES AND LIABILITIES.

29 1. If the commissioner finds, after a hearing conducted in  
30 accordance with chapter 17A, that any person has violated one  
31 or more provisions of this chapter, the commissioner may order  
32 do one or more of the following:

33 a. For each separate violation, order the imposition of an  
34 administrative penalty of not more than ten thousand dollars.

35 b. Revocation Order the revocation or suspension of the

1 producer's license.

2 c. Reimbursement Bring a civil suit seeking reimbursement  
3 by the managing general agent of the insurer, the  
4 rehabilitator, or the liquidator of the insurer for any losses  
5 incurred by the insurer caused by a violation of this chapter  
6 committed by the managing general agent.

7 Sec. 8. Section 510A.4, subsection 1, as enacted by 1991  
8 Iowa Acts, Senate File 518, is amended to read as follows:

9 1. a. If the commissioner has reason to believe that a  
10 controlling producer has committed or is committing an act  
11 which could be determined to be a violation, as defined in  
12 section 510A.2, the commissioner shall serve upon the  
13 controlling producer in the manner provided by chapter 17A, a  
14 statement of the charges and notice of a hearing to be  
15 conducted in accordance with chapter 17A.

16 ~~b. At such hearing, the commissioner must establish that~~  
17 ~~the controlling producer engaged in a violation, as defined in~~  
18 ~~section 510A.2. The controlling producer shall have an~~  
19 ~~opportunity to be heard and to present evidence rebutting the~~  
20 ~~charges and to establish that the insolvency of the controlled~~  
21 ~~insurer arose out of events not attributable to the violation.~~  
22 ~~The decision, determination, or order of the commissioner is~~  
23 ~~subject to judicial review pursuant to chapter 17A.~~

24 b. At such hearing the commissioner shall determine  
25 whether the controlling producer engaged in a violation, as  
26 defined in section 510A.2. The controlling producer shall  
27 have an opportunity to be heard and to present evidence  
28 rebutting the alleged violations. The final action of the  
29 commissioner is subject to judicial review pursuant to chapter  
30 17A.

31 c. Upon the commissioner's finding of a violation by a  
32 controlling producer, the commissioner may bring a civil suit  
33 seeking reimbursement from the controlling producer as  
34 provided in paragraph "d". In the suit, the controlling  
35 producer shall have the burden of establishing that the

1 insolvency of the controlled insurer arose out of events not  
2 attributable to the violation.

3 e d. Upon a finding, pursuant to this section, that the  
4 controlling producer committed a violation and the controlling  
5 producer failed to establish that the violation did not  
6 substantially contribute to the insolvency, the controlling  
7 producer shall reimburse the state guaranty funds, created  
8 pursuant to chapter 515B for all payments made for losses,  
9 loss adjustment, and administrative expenses on the business  
10 placed by the producer in excess of gross earned premiums and  
11 investment income earned on premiums and loss reserves for  
12 such business.

13 d e. This section does not affect the right of the  
14 commissioner to impose any other penalties provided for under  
15 Title XX.

16 Sec. 9. Section 512A.5, Code 1991, is amended to read as  
17 follows:

18 512A.5 FEES TO COMMISSIONER.

19 There The following fees shall be paid to the commissioner  
20 for services required under ~~the provisions of~~ this chapter ~~the~~  
21 ~~following fees~~, which shall be accounted for by the  
22 commissioner in the same manner as other fees received in the  
23 discharge of the duties of the office:

24 1. For filing and examination of amendments to the  
25 articles of incorporation ~~for organization~~ in this state and  
26 the accompanying general plan of operation of any benevolent  
27 association, and the issuing of the permission to do business,  
28 ten twenty dollars.

29 2. For filing an annual statement of a benevolent  
30 association, and issuing the renewal of the permission  
31 required by law to authorize continuance in business, three  
32 twenty-five dollars per existing unit, not to exceed three  
33 hundred dollars in the aggregate.

34 Sec. 10. NEW SECTION. 514A.13 FILING REQUIREMENT --PRIOR  
35 APPROVAL.

1 A policy of insurance against loss or expense from sickness  
2 or from the bodily injury or death by accident of the insured  
3 shall not be issued or delivered to any person in this state  
4 and an application, rider, or endorsement shall not be used in  
5 connection with the policy until a copy of the policy form and  
6 of the classification of risks and the premium rates, or, in  
7 the case of cooperatives or assessment companies the estimated  
8 costs pertaining to the policy have been filed with and  
9 approved by the commissioner.

10 A filing is deemed to be approved unless disapproved by the  
11 commissioner within thirty days of receipt of the filing by  
12 the commissioner.

13 Sec. 11. NEW SECTION. 514A.14 DISAPPROVAL OF FILING.

14 1. The commissioner shall notify an insurer which has  
15 filed a policy form pursuant to section 514A.13 that does not  
16 comply with this chapter or chapter 514D, or rules adopted  
17 pursuant to those chapters. The notice shall inform the  
18 insurer that it is unlawful for the insurer to issue the form  
19 or use it in connection with any policy, if the commissioner  
20 finds upon review of the form, either of the following:

21 a. The benefits provided are unreasonable in relation to  
22 the premium charged.

23 b. The form contains a provision which is unjust, unfair,  
24 inequitable, misleading, deceptive, or which encourages  
25 misrepresentation of the policy.

26 2. In a notice provided under subsection 1, the  
27 commissioner shall specify the reasons for disapproval and  
28 state that a hearing will be granted within twenty days after  
29 request in writing by the insurer.

30 Sec. 12. NEW SECTION. 514A.15 WITHDRAWAL OF APPROVAL.

31 The commissioner may at any time, after opportunity for  
32 hearing, withdraw the commissioner's previously given approval  
33 of any such form on any of the grounds stated in section  
34 514A.14. It shall be unlawful for the insurer to issue a form  
35 or use the form in connection with any policy after the

1 effective date of the withdrawal of approval. The notice of  
2 any hearing granted under this paragraph shall specify the  
3 matters to be considered at the hearing. Any decision  
4 affirming disapproval or directing withdrawal of approval  
5 under this section shall be in writing and shall specify the  
6 reasons for the disapproval or withdrawal of approval.

7 Sec. 13. Section 515.26, Code 1991, is amended to read as  
8 follows:

9 515.26 DIRECTORS.

10 The affairs of a company organized as provided by this  
11 chapter shall be managed by a number of directors, of not less  
12 than five nor more than twenty-one, all of whom, in case of a  
13 stock company, shall be stockholders, or, in case of a mutual  
14 company, be policyholders, or before the company shall effect  
15 insurance, be subscribers for stock or for insurance as the  
16 case may be. ~~When the paid-up capital for a stock company, or~~  
17 ~~the subscriptions for insurance for a mutual company, shall~~  
18 ~~have been obtained, the incorporators or directors in charge~~  
19 ~~of the business shall give at least ten days' written notice~~  
20 ~~by mail to stockholders or subscribers, as the case may be, of~~  
21 ~~a meeting of the stockholders or subscribers, for the election~~  
22 ~~of directors, and such meeting shall be held within thirty~~  
23 ~~days after the paid-up capital or subscriptions have been~~  
24 ~~secured. The directors then elected shall continue in office~~  
25 ~~until their successors have been elected and qualified.~~

26 Sec. 14. Section 515.65, Code 1991, is amended to read as  
27 follows:

28 515.65 CERTIFICATE REFUSED -- ADMINISTRATIVE PENALTY.

29 The commissioner of insurance shall withhold the  
30 commissioner's certificate or permission of authority to do  
31 business from a company neglecting or failing to comply with  
32 this chapter. In addition, a company organized or authorized  
33 under this chapter which fails to file the annual statement  
34 referred to in section 515.63 in the time required shall pay  
35 and forfeit an administrative penalty in an amount of three

1 five hundred dollars to be collected in the name of the state  
2 for the use of the state deposit in the general fund of the  
3 state as provided in section 505.7. The company's right to  
4 transact further new business in this state shall immediately  
5 cease until the company has fully complied with this chapter.  
6 The commissioner may give notice to a company which has failed  
7 to file within the time required that the company is in  
8 violation of this section and if the company fails to file the  
9 evidence of investment and statement within ten days of the  
10 date of the notice the company shall forfeit and pay the  
11 additional sum of one hundred dollars for each day the failure  
12 continues, to be paid to the treasurer of state for deposit in  
13 the general fund of the state as provided in section 505.7.

14 Sec. 15. Section 515.77, Code 1991, is amended to read as  
15 follows:

16 515.77 CERTIFICATE TO FOREIGN COMPANY.

17 When any a foreign company has fully complied with the  
18 requirements of law and become entitled to do business, the  
19 commissioner of insurance shall issue to such the company a  
20 certificate of that fact, which certificate shall be renewed  
21 annually on the first day of May June, if the commissioner is  
22 satisfied that the capital, securities, and investments of  
23 such the company remain unimpaired, and the company has  
24 complied with the provisions of law applicable thereto to the  
25 company. Provided, -however However, the commissioner shall  
26 not grant or continue authority to transact insurance in this  
27 state as to any an insurer the management of which is found by  
28 the commissioner, after a hearing held thereon is provided, in  
29 which the commissioner shall establish and consider any prior  
30 criminal records or any other matters, to be untrustworthy, or  
31 so lacking in insurance experience as to make the proposed  
32 operation hazardous to the insurance-buying public; or which,  
33 after a hearing held thereon is provided, the commissioner has  
34 good reason to believe is affiliated directly or indirectly  
35 through ownership, control, reinsurance transactions, or other

1 insurance or business relations, with any a person or persons  
2 whose business operations are or have been marked, to the  
3 detriment of policyholders or stockholders or investors or  
4 creditors or of the public, by manipulation or dissipation of  
5 assets, or manipulation of accounts, or of reinsurance, or by  
6 similar injurious actions.

7 Sec. 16. Section 515.89, Code 1991, is amended to read as  
8 follows:

9 515.89 REVOCATION OF CERTIFICATE OF FOREIGN COMPANY.

10 The commissioner of insurance ~~shall be authorized to~~ may  
11 ~~examine into~~ the condition and affairs of any insurance  
12 company, as provided for in this chapter, doing business in  
13 this state, not organized under its laws, or cause such  
14 examination to be made by some a person or persons appointed  
15 by the commissioner having no interest in any insurance  
16 company; and ~~when if it shall appear~~ appears to the  
17 commissioner's satisfaction that the affairs of ~~any such a~~  
18 company are in an unsound condition or that a company has  
19 failed to maintain the capital and surplus required by section  
20 515.69, the commissioner shall revoke or suspend the  
21 certificates granted in its behalf, ~~and cause a notification~~  
22 ~~thereof to be published in some newspaper of general~~  
23 ~~circulation, published at the seat of government, and no agent~~  
24 ~~or agents of such company after such notice shall issue~~  
25 ~~policies or renew any previously issued.~~

26 Sec. 17. NEW SECTION. 515.89A SUSPENSION AND SUMMARY  
27 SUSPENSION.

28 The commissioner may do one or more of the following:

29 1. For a violation of Title XX, after a hearing provided  
30 pursuant to chapter 17A, order the suspension of the license  
31 or authority to transact the business of insurance within the  
32 state.

33 2. Upon three days' notice, if the commissioner has reason  
34 to believe that there is imminent substantial risk to an  
35 insurer's solvency, order the insurer to appear before the

1 commissioner and show cause why its license or authority to do  
2 insurance business within the state should not be suspended.  
3 At the hearing to show cause, the commissioner may summarily  
4 suspend the license or authority of the insurer to do business  
5 within the state.

6 3. Summarily order an insurer to cease and desist from a  
7 violation, anticipated violation, or suspected violation of  
8 chapter 507B, 510, or 513A, if a hearing is provided pursuant  
9 to chapter 17A within thirty days of the summary cease and  
10 desist order.

11 Sec. 18. Section 521C.11, subsection 1, paragraph c, as  
12 enacted by 1991 Iowa Acts, Senate File 518, is amended to read  
13 as follows:

14 c. If a violation was committed by the reinsurance  
15 intermediary, a civil action brought by the commissioner  
16 seeking restitution by the reinsurance intermediary to the  
17 insurer, reinsurer, rehabilitator, or liquidator of the  
18 insurer or reinsurer for the net losses incurred by the  
19 insurer or reinsurer attributable to the violation.

20 Sec. 19. 1991 Iowa Acts, Senate File 518, section 63, is  
21 amended to read as follows:

22 Sec. 20. Sections 10 through 13, the producer controlled  
23 property and casualty insurer Act, division II of this Act,  
24 take effect July 1, 1991. An insurer or producer subject to  
25 division II of this Act shall not continue, renew, or initiate  
26 a contract, or place business on or after July 1, 1991, unless  
27 in compliance with division II of this Act, regardless of the  
28 date on which the original contract was entered into between  
29 the parties. The commissioner shall have the authority to  
30 suspend enforcement of sections 10 through 13 of this Act  
31 until the earlier of July 1, 1992, or affirmative action of  
32 the national association of insurance commissioners to require  
33 enforcement of the Act as a condition of accreditation. If  
34 the national association of insurance commissioners rescinds  
35 the model producer controlled property and casualty insurer

1 Act or materially amends the Act, the commissioner shall  
2 submit the repeal or revisions in a division prefiled bill for  
3 consideration by the general assembly.

4 Sec. 21. Section 682.11, subsection 1, Code 1991, is  
5 amended to read as follows:

6 1. ~~Any company engaged in the business of becoming surety~~  
7 ~~upon bonds~~ The commissioner of insurance shall annually file,  
8 with the clerk of the district court of any each county in  
9 ~~which the company will do business, a certificate from the~~  
10 ~~commissioner of insurance that the company has complied with~~  
11 ~~the law and is authorized to do business~~ a complete list of  
12 the corporate sureties to whom the commissioner has issued a  
13 current certificate of authority to transact the business of a  
14 surety in this state.

15 Sec. 22. Section 682.13, Code 1991, is amended to read as  
16 follows:

17 682.13 RECORD BY CLERK.

18 The clerk shall keep a book, properly indexed, in which  
19 shall be recorded all such certificates annual lists from the  
20 commissioner of insurance and subsequent notices of  
21 revocations.

22 Sec. 23. 1990 Iowa Acts, chapter 1234, section 76, is  
23 amended to read as follows:

24 SEC. 76. Sections 515A.1 through 515A.19, Code 1989, are  
25 repealed effective July 1, ~~1992~~ 1993.

26 Sec. 24. Section 515.23, Code 1991, is repealed.

27 Sec. 25. APPLICABILITY. Section 2 of this Act applies to  
28 any insurer subject to an order under section 507C.18 issued  
29 on or after the effective date of this Act.

30 Sec. 26. The Code editor shall remove all references to  
31 chapter 513A in this Act and make other related conforming  
32 changes, if chapter 513A in this Act is not enacted by the  
33 general assembly during the 1991 regular session.

34

35

## HOUSE FILE 634

S-3409

1 Amend House File 634, as amended, passed, and  
2 reprinted by the House, as follows:

3 1. Page 6, by inserting after line 33, the  
4 following:

5 "Sec. \_\_\_\_ . NEW SECTION. 513A.1 PURPOSE.

6 The purpose of this chapter is to give the  
7 commissioner jurisdiction over third-party payors of  
8 health care benefits; to indicate how a third-party  
9 payor of health care benefits may show the  
10 jurisdiction to which the third-party payor is  
11 subject, to allow for examinations by the commissioner  
12 if the third-party payor of health care benefits is  
13 unable to establish that a third-party payor is  
14 subject to another jurisdiction, to make a third-party  
15 payor of health care benefits subject to the laws of  
16 this state if the third-party payor cannot show that  
17 it is subject to another jurisdiction, and to disclose  
18 to purchasers of such health care benefits whether or  
19 not the plans are fully insured.

20 Sec. \_\_\_\_ . NEW SECTION. 513A.2 AUTHORITY AND  
21 JURISDICTION OF COMMISSIONER.

22 Except as provided in this chapter, a third-party  
23 payor providing coverage in this state for medical,  
24 surgical, chiropractic, physical therapy, speech  
25 pathology, audiology, professional mental health,  
26 dental, hospital, or optometric expenses, whether the  
27 coverage is by direct payment, reimbursement, or  
28 otherwise, is presumed to be subject to the  
29 jurisdiction of the commissioner of insurance, unless  
30 the person shows that while providing such services  
31 the person is subject to the jurisdiction of another  
32 agency of the state or the federal government.

33 Sec. \_\_\_\_ . NEW SECTION. 513A.3 HOW TO SHOW  
34 JURISDICTION.

35 A third-party payor may establish that the third-  
36 party payor is subject to the jurisdiction of another  
37 agency of the state, any subdivision of the state, or  
38 the federal government, by providing to the insurance  
39 commissioner the appropriate certificate, license, or  
40 other document issued by the agency which permits or  
41 qualifies the third-party payor to provide those  
42 services.

43 Sec. \_\_\_\_ . NEW SECTION. 513A.4 EXAMINATION.

44 A third-party payor unable to establish under  
45 section 513A.3 that the third-party payor is subject  
46 to the jurisdiction of another agency of the state,  
47 any subdivision of the state, or the federal  
48 government, shall submit to an examination by the  
49 insurance commissioner to determine the organization  
50 and solvency of the third-party payor or the entity,

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1 and to determine whether or not the third-party payor  
2 complies with the applicable provisions of state law.

3 Sec. \_\_\_\_ . NEW SECTION. 513A.5 SUBJECT TO STATE  
4 LAWS.

5 A third-party payor unable to establish that the  
6 third-party payor is subject to the jurisdiction of  
7 another agency of the state, any subdivision of the  
8 state, or the federal government, is subject to all  
9 appropriate provisions of Title XX regarding the  
10 conduct of the business of the third-party payor.

11 Sec. \_\_\_\_ . NEW SECTION. 513A.6 DISCLOSURE.

12 A production agency or administrator which  
13 advertises, sells, transacts, or administers the  
14 coverage in this state as defined in section 513A.2  
15 and which is required to submit to an examination by  
16 the insurance commissioner under section 513A.4,  
17 shall, if the coverage is not fully insured or  
18 otherwise fully covered by an admitted life or  
19 disability insurer, nonprofit hospital service plan,  
20 or nonprofit health care plan, advise every purchaser,  
21 prospective purchaser, and covered person of the lack  
22 of insurance or other coverage.

23 An administrator which advertises or administers  
24 the coverage in this state as defined in section  
25 513A.2 and which is required to submit to an  
26 examination by the insurance commissioner under  
27 section 513A.4, shall advise any production agency of  
28 the elements of the coverage, including the amount of  
29 stop-loss insurance in effect."

30 2. Page 8, by inserting after line 6, the  
31 following:

> 32 "Sec. \_\_\_\_ . NEW SECTION. 514C.6 UNIFORMITY OF  
33 TREATMENT -- EMPLOYEE WELFARE BENEFIT PLANS.

34 1. A statutory provision to mandate a health care  
35 coverage or service, or to mandate the offering of a  
36 health care coverage or service, applies to all state-  
37 regulated third-party payors and to employee welfare  
38 benefit plans described in 29 U.S.C. § 1001 et seq.  
39 However, if an employee welfare benefit plan subject  
40 to federal regulation is not subject to a  
41 substantially similar requirement, the statutory  
42 provision does not apply to a state-regulated third-  
43 party payor until the employee welfare benefit plans  
44 are subject to a substantially similar standard under  
45 federal regulations as determined by the commissioner.

46 2. For purposes of this section unless the context  
47 otherwise requires, a third-party payor means:

48 a. An accident and sickness insurer, subject to  
49 chapter 509 or 514A.

50 b. A nonprofit health service corporation, subject

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1 to chapter 514.

2 c. A health maintenance organization, subject to  
3 chapter 514B.

4 d. Any other entity engaged in the business of  
5 insurance, risk transfer, or risk retention, which is  
6 subject to the jurisdiction of the commissioner.

7 Sec. \_\_\_\_\_. Section 514G.7, subsection 2, Code 1991,  
8 is amended by adding the following new paragraph:

x 9 NEW PARAGRAPH. d. Be issued without obtaining one  
10 or more of the following:

11 (1) A report of a physical examination.

12 (2) An assessment of functional capacity.

13 (3) An attending physician's statement.

14 (4) Copies of medical records.

15 Sec. \_\_\_\_\_. Section 514G.7, subsection 4, paragraph  
16 a, subparagraph (1), Code 1991, is amended by adding  
17 the following new subparagraph subdivisions:

18 NEW SUBPARAGRAPH SUBDIVISION. (a) Effective July  
19 1, 1991, any holder of a long-term care insurance  
20 policy, which is not noncancelable or guaranteed  
21 renewable, was issued before July 1, 1989, and  
22 conditions eligibility for benefits on a requirement  
23 of prior hospitalization, shall, unless it has  
24 previously been offered by the insurer, be offered by  
25 the insurer a rider or endorsement that waives the  
26 requirement of prior hospitalization. If the rider or  
27 endorsement results in a concomitant increase in  
28 premium during the policy term, then it must be agreed  
29 to in writing and signed by the insured to become  
30 effective.

31 NEW SUBPARAGRAPH SUBDIVISION. (b) The rider or  
32 endorsement under subparagraph subdivision (a) shall  
33 be subject to the insurer's underwriting guidelines as  
34 proof of insurability at the time of application for  
35 the rider or endorsement.

36 NEW SUBPARAGRAPH SUBDIVISION. (c) Effective July  
37 1, 1991, any holder of a noncancelable or guaranteed  
38 renewable long-term care insurance policy issued  
39 before July 1, 1989, which conditions eligibility for  
40 benefits on a requirement of prior hospitalization,  
41 shall, unless the holder has previously been notified  
42 by the insurer, be notified by the insurer in writing  
43 prior to or at the time of delivery of the next  
44 premium statement of the existence of the condition  
45 and that new policies issued by any insurance carrier  
46 may not condition benefits on a requirement of prior  
47 hospitalization. The insurer shall not solicit the  
48 replacement of the noncancelable or guaranteed  
49 renewable policy at the same time as the delivery of  
50 notice under this subparagraph subdivision.

1 Sec. \_\_\_\_ . Section 514G.7, subsection 4, paragraph  
2 d, Code 1991, is amended to read as follows:  
3 d. A long-term care insurance policy which  
4 ~~conditions shall not condition~~ eligibility for  
5 noninstitutional benefits on the prior receipt of  
6 institutional care ~~shall not require a prior~~  
7 ~~institutional stay of more than thirty days for which~~  
8 ~~benefits are paid.~~

9 Sec. \_\_\_\_ . NEW SECTION. 514G.10 LONG-TERM CARE  
10 CONSUMER GUIDE.

11 An insurer offering a long-term care insurance  
12 policy to any person shall provide to the applicant  
13 the current long-term care insurance consumer guide  
14 prescribed by the insurance division of the department  
15 of commerce. The commissioner of insurance may by  
16 reference adopt or permit the use of the long-term  
17 care insurance consumer guide developed by the  
18 national association of insurance commissioners, the  
19 blue cross and blue shield association, or the health  
20 insurance association of America. Delivery of the  
21 long-term care insurance consumer guide shall be made  
22 if a policy is advertised, solicited, or issued as a  
23 policy as defined in this chapter, or if it is subject  
24 to this chapter, regardless of the label applied by  
25 the insurer. Except in the case of direct response  
26 insurers, delivery of the long-term care insurance  
27 consumer guide shall be made to the applicant at the  
28 time of application, and acknowledgement of receipt of  
29 the long-term care insurance consumer guide shall be  
30 obtained by the insurer. A direct response insurer  
31 shall deliver the long-term care insurance consumer  
32 guide to the applicant at the time the policy is  
33 delivered. An insurance company required to  
34 distribute the guide shall reimburse the state for all  
35 costs associated with the guide."

36 3. Renumber as necessary.

By MICHAEL E. GRONSTAL

S-3409 FILED APRIL 12, 1991

*Adopted as amended by 3500, 3636, 3658  
4/30/91 (p. 1563)*

## HOUSE FILE 634

S-3538

1 Amend the amendment, S-3409, to House File 634, as  
2 amended, passed, and reprinted by the House, as  
3 follows:

4 1. Page 4, by inserting after line 35, the  
5 following:

6 "\_\_\_\_\_. Page 11, by inserting after line 10, the  
7 following:

8 "Sec. \_\_\_\_\_. Section 516A.2, Code 1991, is amended  
9 to read as follows:

10 516A.2 CONSTRUCTION -- MINIMUM COVERAGE.

11 1. Except-with-respect-to-a-policy-containing-both  
12 underinsured-motor-vehicle-coverage-and-uninsured-or  
13 hit-and-run-motor-vehicle-coverage,-nothing-contained  
14 in-this This chapter shall not be construed as  
15 requiring forms of coverage provided pursuant hereto  
16 to this chapter, whether alone or in combination with  
17 similar coverage afforded under other automobile  
18 liability or motor vehicle liability policies, to  
19 afford limits in excess of those that would be  
20 afforded had the insured thereunder under the policy  
21 been involved in an accident with a motorist who was  
22 insured under a policy of liability insurance with the  
23 minimum limits for bodily injury or death prescribed  
24 in subsection 10 of section 321A.1. Such-forms-of  
25 coverage-may The provisions of such coverage shall be  
26 allowed to include terms, exclusions, limitations,  
27 conditions, and offsets which are designed to avoid  
28 duplication of insurance or other benefits. Nothing  
29 in this section is intended to limit or reduce the  
30 insurer's obligation under section 516A.1 to offer  
31 uninsured, underinsured, or hit-and-run motorist  
32 coverage.

33 2. a. The limits of liability for uninsured,  
34 underinsured, or hit-and-run motorist coverage for two  
35 or more motor vehicles shall not be added together to  
36 determine or increase the limit of insurance coverage  
37 available to an injured person for any one accident  
38 regardless of the number of motor vehicles involved,  
39 policies involved, vehicles or premiums shown in a  
40 policy, persons covered, claims made, amount of  
41 damages, or premiums paid. The terms of a motor  
42 vehicle insurance policy shall be construed to  
43 prohibit adding coverages to determine or increase the  
44 amount of coverage available to an insured injured in  
45 any one accident unless the policy terms expressly  
46 permit adding coverages by providing that the  
47 uninsured, underinsured, or hit-and-run motorist  
48 coverages provided under the policy are in addition to  
49 other similar coverages which insure the injured  
50 insured.

1 b. An insurer may issue a motor vehicle insurance  
2 policy which expressly provides that the uninsured,  
3 underinsured, or hit-and-run motorist coverage limits  
4 under that policy shall be added to similar coverages  
5 of another policy or policies under which the injured  
6 person is insured.

7 c. When more than one motor vehicle insurance  
8 policy provides uninsured, underinsured, or hit-and-  
9 run motorist coverage to an insured injured in an  
10 accident, the injured insured is entitled to recover  
11 up to an amount equal to the highest single limit for  
12 uninsured, underinsured, or hit-and-run motorist  
13 coverage afforded with respect to such accident under  
14 any one motor vehicle insurance policy insuring the  
15 injured person and shall be bound by any priority of  
16 coverage provisions contained in the insurance  
17 policies.

18 3. Subsection 2 shall not apply to claims for  
19 uninsured, underinsured, or hit-and-run motorist  
20 coverage which arose prior to July 1, 1991. For  
21 purposes of this chapter, a claim for uninsured,  
22 underinsured, or hit-and-run motorist coverage is  
23 deemed to have arisen when the accident giving rise to  
24 the underlying cause of action occurred."

25 2. Renumber as necessary.

By MICHAEL E. GRONSTAL

S-3538 FILED APRIL 23, 1991

*W/B 4/30/91 (p. 1563)*

HOUSE FILE 634

S-3476

1 Amend the amendment, S-3409, to House File 634, as  
2 amended, passed, and reprinted by the House, as  
3 follows:

4 1. By striking page 2, line 32, through page 3,  
5 line 15, and inserting the following:

6 ""Sec. Section 514G.7, subsection 4,  
7 paragraph".

By MICHAEL E. GRONSTAL

S-3476 FILED APRIL 18, 1991

*W/B 4/30 (p. 1563)*

HOUSE FILE 634

S-3500

1 Amend the amendment, S-3409, to House File 634, as  
2 amended, passed, and reprinted by the House, as  
3 follows:

4 1. Page 3, line 9, by inserting after the word  
5 "issued" the following: "to an individual".

By MICHAEL E. GRONSTAL

S-3500 FILED APRIL 18, 1991

*Adopted 4/30/91 (p. 1563)*

## HOUSE FILE 634

S-3655

1 Amend the amendment, S-3409, to House File 634, as  
2 amended, passed, and reprinted by the House, as  
3 follows:

4 1. Page 4, by inserting after line 35, the  
5 following:

6 " . Page 11, by inserting after line 10, the  
7 following:

8 "Sec. 1001. Section 516A.2, Code 1991, is amended  
9 to read as follows:

10 516A.2 CONSTRUCTION -- MINIMUM COVERAGE.

11 1. Except with respect to a policy containing both  
12 underinsured motor vehicle coverage and uninsured or  
13 hit-and-run motor vehicle coverage, nothing contained  
14 in this chapter shall be construed as requiring forms  
15 of coverage provided pursuant hereto, whether alone or  
16 in combination with similar coverage afforded under  
17 other automobile liability or motor vehicle liability  
18 policies, to afford limits in excess of those that  
19 would be afforded had the insured thereunder been  
20 involved in an accident with a motorist who was  
21 insured under a policy of liability insurance with the  
22 minimum limits for bodily injury or death prescribed  
23 in subsection 10 of section 321A.1. Such forms of  
24 coverage may include terms, exclusions, limitations,  
25 conditions, and offsets which are designed to avoid  
26 duplication of insurance or other benefits.

27 To the extent that Hernandez v. Farmers Insurance  
28 Company, 460 N.W.2d 842 (Iowa 1990), provided for  
29 interpolicy stacking of uninsured or underinsured  
30 coverages in contravention of specific contract or  
31 policy language, the general assembly declares such  
32 decision abrogated and declares that the enforcement  
33 of the antistacking provisions contained in a motor  
34 vehicle insurance policy does not frustrate the  
35 protection given to an insured under section 516A.1.

36 2. Pursuant to chapter 17A, the commissioner of  
37 insurance shall, by January 1, 1992, adopt rules to  
38 assure the availability, within the state, of motor  
39 vehicle insurance policies, riders, endorsements, or  
40 other similar forms of coverage, the terms of which  
41 shall provide for the stacking of uninsured and  
42 underinsured coverages with any similar coverage which  
43 may be available to an insured.

44 3. It is the intent of the general assembly that  
45 when more than one motor vehicle insurance policy is  
46 purchased by or on behalf of an injured insured and  
47 which provides uninsured, underinsured, or hit-and-run  
48 motor vehicle coverage to an injured insured in an  
49 accident, the injured insured is entitled to recover  
50 up to an amount equal to the highest single limit for

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1 uninsured, underinsured, or hit-and-run motor vehicle  
2 coverage under any one of the above described motor  
3 vehicle insurance policies insuring the injured person  
4 which amount shall be paid by the insurers according  
5 to any priority of coverage provisions contained in  
6 the policies insuring the injured person."

7 Page 12, by inserting after line 29, the  
8 following:

9 "Sec. \_\_\_\_ . Section 1001 of this Act applies to all  
10 causes of action accruing on or after July 1, 1991,  
11 and to those accruing before July 1, 1991, which are  
12 filed on or after September 15, 1991."

13 2. By renumbering as necessary.

By MICHAEL E. GRONSTAL

S-3655 FILED APRIL 30, 1991

WITHDRAWN (p. 1563)

HOUSE FILE 634

S-3636

1 Amend House File 634, as amended, passed, and  
2 reprinted by the House, as follows:

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

5 "Section 1001. NEW SECTION. 505.13A AVAILABILITY  
6 OF CERTAIN RATING INFORMATION.

7 1. The division shall provide to any person  
8 requesting publicly available information relating to  
9 the financial condition of any insurance company  
10 licensed to do business in the state, including, but  
11 not limited to, the following:

12 a. Current ratings issued by a private rating  
13 organization.

14 b. Information on how to obtain such information  
15 from various sources.

16 c. Information on the state insurance guaranty  
17 funds.

18 2. The provision of such information by the  
19 division shall not be the basis to impose liability  
20 upon the division or any employee of the division.  
21 Information provided under this section is not an  
22 endorsement or guaranty of any insurance company."

23 2. Page 12, by inserting after line 29, the  
24 following:

25 "Sec. \_\_\_\_ . Section 1001 of this Act is effective  
26 upon the enactment by the Seventy-fourth General  
27 Assembly of an appropriation of \$10,000 to the  
28 insurance division of the department of commerce for  
29 the implementation of that section."

30 3. By renumbering as necessary.

By JIM KERSTEN  
HARRY G. SLIFE  
BERL E. PRIEBE

S-3636 FILED APRIL 29, 1991

Adopted 4/30/91 (p. 1562)

## HOUSE FILE 634

S-3658

1 Amend the amendment, S-3409, to House File 634, as  
2 amended, passed, and reprinted by the House, as  
3 follows:

4 1. Page 4, by inserting after line 35, the  
5 following:

6 " . Page 11, by inserting after line 10, the  
7 following:

8 "Sec. 1001. Section 516A.2, Code 1991, is amended  
9 to read as follows:

10 516A.2 CONSTRUCTION -- MINIMUM COVERAGE.

11 1. Except with respect to a policy containing both  
12 underinsured motor vehicle coverage and uninsured or  
13 hit-and-run motor vehicle coverage, nothing contained  
14 in this chapter shall be construed as requiring forms  
15 of coverage provided pursuant hereto, whether alone or  
16 in combination with similar coverage afforded under  
17 other automobile liability or motor vehicle liability  
18 policies, to afford limits in excess of those that  
19 would be afforded had the insured thereunder been  
20 involved in an accident with a motorist who was  
21 insured under a policy of liability insurance with the  
22 minimum limits for bodily injury or death prescribed  
23 in subsection 10 of section 321A.1. Such forms of  
24 coverage may include terms, exclusions, limitations,  
25 conditions, and offsets which are designed to avoid  
26 duplication of insurance or other benefits.

27 To the extent that Hernandez v. Farmers Insurance  
28 Company, 460 N.W.2d 842 (Iowa 1990), provided for  
29 interpolicy stacking of uninsured or underinsured  
30 coverages in contravention of specific contract or  
31 policy language, the general assembly declares such  
32 decision abrogated and declares that the enforcement  
33 of the antistacking provisions contained in a motor  
34 vehicle insurance policy does not frustrate the  
35 protection given to an insured under section 516A.1.

36 2. Pursuant to chapter 17A, the commissioner of  
37 insurance shall, by January 1, 1992, adopt rules to  
38 assure the availability, within the state, of motor  
39 vehicle insurance policies, riders, endorsements, or  
40 other similar forms of coverage, the terms of which  
41 shall provide for the stacking of uninsured and  
42 underinsured coverages with any similar coverage which  
43 may be available to an insured.

44 3. It is the intent of the general assembly that  
45 when more than one motor vehicle insurance policy is  
46 purchased by or on behalf of an injured insured and  
47 which provides uninsured, underinsured, or hit-and-run  
48 motor vehicle coverage to an insured injured in an  
49 accident, the injured insured is entitled to recover  
50 up to an amount equal to the highest single limit for

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1 uninsured, underinsured, or hit-and-run motor vehicle  
2 coverage under any one of the above described motor  
3 vehicle insurance policies insuring the injured person  
4 which amount shall be paid by the insurers according  
5 to any priority of coverage provisions contained in  
6 the policies insuring the injured person."

7 . Page 12, by inserting after line 29, the  
8 following:

9 "Sec. \_\_\_\_ . Section 1001 of this Act applies to all  
10 causes of action accruing on or after July 1, 1991,  
11 and to those accruing before July 1, 1991, which are  
12 filed on or after September 15, 1991.""

13 2. By renumbering as necessary.

By MICHAEL E. GRONSTAL

S-3658 FILED APRIL 30, 1991

ADOPTED (A. 1563)

## SENATE AMENDMENT TO HOUSE FILE 634

H-3988

1 Amend House File 634, as amended, passed, and  
2 reprinted by the House, as follows:

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

5 "Section 1001. NEW SECTION. 505.13A AVAILABILITY  
6 OF CERTAIN RATING INFORMATION.

7 1. The division shall provide to any person  
8 requesting publicly available information relating to  
9 the financial condition of any insurance company  
10 licensed to do business in the state, including, but  
11 not limited to, the following:

12 a. Current ratings issued by a private rating  
13 organization.

14 b. Information on how to obtain such information  
15 from various sources.

16 c. Information on the state insurance guaranty  
17 funds.

18 2. The provision of such information by the  
19 division shall not be the basis to impose liability  
20 upon the division or any employee of the division.  
21 Information provided under this section is not an  
22 endorsement or guaranty of any insurance company."

23 2. Page 6, by inserting after line 33, the  
24 following:

25 "Sec. \_\_\_\_ . NEW SECTION. 513A.1 PURPOSE.

26 The purpose of this chapter is to give the  
27 commissioner jurisdiction over third-party payors of  
28 health care benefits; to indicate how a third-party  
29 payor of health care benefits may show the  
30 jurisdiction to which the third-party payor is  
31 subject, to allow for examinations by the commissioner  
32 if the third-party payor of health care benefits is  
33 unable to establish that a third-party payor is  
34 subject to another jurisdiction, to make a third-party  
35 payor of health care benefits subject to the laws of  
36 this state if the third-party payor cannot show that  
37 it is subject to another jurisdiction, and to disclose  
38 to purchasers of such health care benefits whether or  
39 not the plans are fully insured.

40 Sec. \_\_\_\_ . NEW SECTION. 513A.2 AUTHORITY AND  
41 JURISDICTION OF COMMISSIONER.

42 Except as provided in this chapter, a third-party  
43 payor providing coverage in this state for medical,  
44 surgical, chiropractic, physical therapy, speech  
45 pathology, audiology, professional mental health,  
46 dental, hospital, or optometric expenses, whether the  
47 coverage is by direct payment, reimbursement, or  
48 otherwise, is presumed to be subject to the  
49 jurisdiction of the commissioner of insurance, unless  
50 the person shows that while providing such services

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1 the person is subject to the jurisdiction of another  
2 agency of the state or the federal government.

3 Sec. \_\_\_\_ . NEW SECTION. 513A.3 HOW TO SHOW  
4 JURISDICTION.

5 A third-party payor may establish that the third-  
6 party payor is subject to the jurisdiction of another  
7 agency of the state, any subdivision of the state, or  
8 the federal government, by providing to the insurance  
9 commissioner the appropriate certificate, license, or  
10 other document issued by the agency which permits or  
11 qualifies the third-party payor to provide those  
12 services.

13 Sec. \_\_\_\_ . NEW SECTION. 513A.4 EXAMINATION.

14 A third-party payor unable to establish under  
15 section 513A.3 that the third-party payor is subject  
16 to the jurisdiction of another agency of the state,  
17 any subdivision of the state, or the federal  
18 government, shall submit to an examination by the  
19 insurance commissioner to determine the organization  
20 and solvency of the third-party payor or the entity,  
21 and to determine whether or not the third-party payor  
22 complies with the applicable provisions of state law.

23 Sec. \_\_\_\_ . NEW SECTION. 513A.5 SUBJECT TO STATE  
24 LAWS.

25 A third-party payor unable to establish that the  
26 third-party payor is subject to the jurisdiction of  
27 another agency of the state, any subdivision of the  
28 state, or the federal government, is subject to all  
29 appropriate provisions of Title XX regarding the  
30 conduct of the business of the third-party payor.

31 Sec. \_\_\_\_ . NEW SECTION. 513A.6 DISCLOSURE.

32 A production agency or administrator which  
33 advertises, sells, transacts, or administers the  
34 coverage in this state as defined in section 513A.2  
35 and which is required to submit to an examination by  
36 the insurance commissioner under section 513A.4,  
37 shall, if the coverage is not fully insured or  
38 otherwise fully covered by an admitted life or  
39 disability insurer, nonprofit hospital service plan,  
40 or nonprofit health care plan, advise every purchaser,  
41 prospective purchaser, and covered person of the lack  
42 of insurance or other coverage.

43 An administrator which advertises or administers  
44 the coverage in this state as defined in section  
45 513A.2 and which is required to submit to an  
46 examination by the insurance commissioner under  
47 section 513A.4, shall advise any production agency of  
48 the elements of the coverage, including the amount of  
49 stop-loss insurance in effect."

50 3. Page 8, by inserting after line 6, the

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1 following:

2 "Sec. \_\_\_\_ . NEW SECTION. 514C.6 UNIFORMITY OF  
3 TREATMENT -- EMPLOYEE WELFARE BENEFIT PLANS.

4 1. A statutory provision to mandate a health care  
5 coverage or service, or to mandate the offering of a  
6 health care coverage or service, applies to all state-  
7 regulated third-party payors and to employee welfare  
8 benefit plans described in 29 U.S.C. § 1001 et seq.

9 However, if an employee welfare benefit plan subject  
10 to federal regulation is not subject to a  
11 substantially similar requirement, the statutory  
12 provision does not apply to a state-regulated third-  
13 party payor until the employee welfare benefit plans  
14 are subject to a substantially similar standard under  
15 federal regulations as determined by the commissioner.

16 2. For purposes of this section unless the context  
17 otherwise requires, a third-party payor means:

18 a. An accident and sickness insurer, subject to  
19 chapter 509 or 514A.

20 b. A nonprofit health service corporation, subject  
21 to chapter 514.

22 c. A health maintenance organization, subject to  
23 chapter 514B.

24 d. Any other entity engaged in the business of  
25 insurance, risk transfer, or risk retention, which is  
26 subject to the jurisdiction of the commissioner.

27 Sec. \_\_\_\_ . Section 514G.7, subsection 2, Code 1991,  
28 is amended by adding the following new paragraph:

29 NEW PARAGRAPH. d. Be issued to an individual  
30 without obtaining one or more of the following:

31 (1) A report of a physical examination.

32 (2) An assessment of functional capacity.

33 (3) An attending physician's statement.

34 (4) Copies of medical records.

35 Sec. \_\_\_\_ . Section 514G.7, subsection 4, paragraph  
36 a, subparagraph (1), Code 1991, is amended by adding  
37 the following new subparagraph subdivisions:

38 NEW SUBPARAGRAPH SUBDIVISION. (a) Effective July  
39 1, 1991, any holder of a long-term care insurance  
40 policy, which is not noncancelable or guaranteed  
41 renewable, was issued before July 1, 1989, and  
42 conditions eligibility for benefits on a requirement  
43 of prior hospitalization, shall, unless it has  
44 previously been offered by the insurer, be offered by  
45 the insurer a rider or endorsement that waives the  
46 requirement of prior hospitalization. If the rider or  
47 endorsement results in a concomitant increase in  
48 premium during the policy term, then it must be agreed  
49 to in writing and signed by the insured to become  
50 effective.

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1 NEW SUBPARAGRAPH SUBDIVISION. (b) The rider or  
2 endorsement under subparagraph subdivision (a) shall  
3 be subject to the insurer's underwriting guidelines as  
4 proof of insurability at the time of application for  
5 the rider or endorsement.

6 NEW SUBPARAGRAPH SUBDIVISION. (c) Effective July  
7 1, 1991, any holder of a noncancelable or guaranteed  
8 renewable long-term care insurance policy issued  
9 before July 1, 1989, which conditions eligibility for  
10 benefits on a requirement of prior hospitalization,  
11 shall, unless the holder has previously been notified  
12 by the insurer, be notified by the insurer in writing  
13 prior to or at the time of delivery of the next  
14 premium statement of the existence of the condition  
15 and that new policies issued by any insurance carrier  
16 may not condition benefits on a requirement of prior  
17 hospitalization. The insurer shall not solicit the  
18 replacement of the noncancelable or guaranteed  
19 renewable policy at the same time as the delivery of  
20 notice under this subparagraph subdivision.

21 Sec. \_\_\_\_ . Section 514G.7, subsection 4, paragraph  
22 d, Code 1991, is amended to read as follows:

23 d. A long-term care insurance policy which  
24 conditions shall not condition eligibility for  
25 noninstitutional benefits on the prior receipt of  
26 institutional care ~~shall-not-require-a-prior~~  
27 ~~institutional-stay-of-more-than-thirty-days-for-which~~  
28 ~~benefits-are-paid.~~

29 Sec. \_\_\_\_ . NEW SECTION. 514G.10 LONG-TERM CARE  
30 CONSUMER GUIDE.

31 An insurer offering a long-term care insurance  
32 policy to any person shall provide to the applicant  
33 the current long-term care insurance consumer guide  
34 prescribed by the insurance division of the department  
35 of commerce. The commissioner of insurance may by  
36 reference adopt or permit the use of the long-term  
37 care insurance consumer guide developed by the  
38 national association of insurance commissioners, the  
39 blue cross and blue shield association, or the health  
40 insurance association of America. Delivery of the  
41 long-term care insurance consumer guide shall be made  
42 if a policy is advertised, solicited, or issued as a  
43 policy as defined in this chapter, or if it is subject  
44 to this chapter, regardless of the label applied by  
45 the insurer. Except in the case of direct response  
46 insurers, delivery of the long-term care insurance  
47 consumer guide shall be made to the applicant at the  
48 time of application, and acknowledgement of receipt of  
49 the long-term care insurance consumer guide shall be  
50 obtained by the insurer. A direct response insurer

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Page 5

1 shall deliver the long-term care insurance consumer  
2 guide to the applicant at the time the policy is  
3 delivered. An insurance company required to  
4 distribute the guide shall reimburse the state for all  
5 costs associated with the guide."

6 4. Page 11, by inserting after line 10, the  
7 following:

8 "Sec. 1002. Section 516A.2, Code 1991, is amended  
9 to read as follows:

10 516A.2 CONSTRUCTION -- MINIMUM COVERAGE.

11 1. Except with respect to a policy containing both  
12 underinsured motor vehicle coverage and uninsured or  
13 hit-and-run motor vehicle coverage, nothing contained  
14 in this chapter shall be construed as requiring forms  
15 of coverage provided pursuant hereto, whether alone or  
16 in combination with similar coverage afforded under  
17 other automobile liability or motor vehicle liability  
18 policies, to afford limits in excess of those that  
19 would be afforded had the insured thereunder been  
20 involved in an accident with a motorist who was  
21 insured under a policy of liability insurance with the  
22 minimum limits for bodily injury or death prescribed  
23 in subsection 10 of section 321A.1. Such forms of  
24 coverage may include terms, exclusions, limitations,  
25 conditions, and offsets which are designed to avoid  
26 duplication of insurance or other benefits.

27 To the extent that Hernandez v. Farmers Insurance  
28 Company, 460 N.W.2d 842 (Iowa 1990), provided for  
29 interpolicy stacking of uninsured or underinsured  
30 coverages in contravention of specific contract or  
31 policy language, the general assembly declares such  
32 decision abrogated and declares that the enforcement  
33 of the antistacking provisions contained in a motor  
34 vehicle insurance policy does not frustrate the  
35 protection given to an insured under section 516A.1.

36 2. Pursuant to chapter 17A, the commissioner of  
37 insurance shall, by January 1, 1992, adopt rules to  
38 assure the availability, within the state, of motor  
39 vehicle insurance policies, riders, endorsements, or  
40 other similar forms of coverage, the terms of which  
41 shall provide for the stacking of uninsured and  
42 underinsured coverages with any similar coverage which  
43 may be available to an insured.

44 3. It is the intent of the general assembly that  
45 when more than one motor vehicle insurance policy is  
46 purchased by or on behalf of an injured insured and  
47 which provides uninsured, underinsured, or hit-and-run  
48 motor vehicle coverage to an insured injured in an  
49 accident, the injured insured is entitled to recover  
50 up to an amount equal to the highest single limit for

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Page 6

1 uninsured, underinsured, or hit-and-run motor vehicle  
2 coverage under any one of the above described motor  
3 vehicle insurance policies insuring the injured person  
4 which amount shall be paid by the insurers according  
5 to any priority of coverage provisions contained in  
6 the policies insuring the injured person."

7 5. Page 12, by inserting after line 29, the  
8 following:

9 "Sec. \_\_\_\_ . Section 1001 of this Act is effective  
10 upon the enactment by the Seventy-fourth General  
11 Assembly of an appropriation of \$10,000 to the  
12 insurance division of the department of commerce for  
13 the implementation of that section."

14 6. Page 12, by inserting after line 29, the  
15 following:

16 "Sec. \_\_\_\_ . Section 1002 of this Act applies to all  
17 causes of action accruing on or after July 1, 1991,  
18 and to those accruing before July 1, 1991, which are  
19 filed on or after September 15, 1991."

20 7. By renumbering, relettering, or redesignating  
21 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-3988 FILED APRIL 30, 1991

*House Concurred 5/1/91 (p. 1962)*

DRIVING A - CH  
BRAMMER  
METCALF

HSR 235

Commerce

SENATE/HOUSE FILE 634  
BY (PROPOSED DEPARTMENT OF  
COMMERCE/INSURANCE DIVISION  
BILL)

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

A BILL FOR

1 An Act relating to regulation of foreign and domestic insurers  
2 licensed to do business in this state by amending provisions  
3 relating to administration of the tax on foreign insurance  
4 companies, amending certain filing requirements, filing fees,  
5 and the deposit of those fees by the insurance division,  
6 providing for the suspension of an insurer's license for  
7 certain violations, providing for the approval of certain  
8 policies or forms prior to their offering by an insurer,  
9 making modifications to certain meeting and license renewal  
10 requirements and providing for the Act's applicability.

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

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1 Section 1. NEW SECTION. 507C.20A REDOMESTICATION OF  
2 FOREIGN INSURER.

3 The commissioner may petition the court for an order  
4 redomesticating a foreign insurer which is the subject of a  
5 liquidation or other delinquency order in a reciprocal state.  
6 Following notice as prescribed by the court and a hearing, the  
7 court may sell the corporation as an entity, together with any  
8 of its licenses, free and clear from the claims or interests  
9 of all claimants, creditors, policyholders, and stockholders  
10 of the corporation under liquidation or other delinquency  
11 proceedings, wherever located. The sale may be made on terms  
12 and conditions the court deems appropriate. The proceeds of  
13 the sale, less court costs and the commissioner's expenses in  
14 effectuating the sale, shall become part of the assets of the  
15 liquidation or other estate in the reciprocal state.

16 Sec. 2. Section 507C.33, subsection 1, Code 1991, is  
17 amended by adding the following new paragraph after paragraph  
18 a and relettering existing paragraph b:

19 NEW PARAGRAPH. b. Notwithstanding paragraph "a", the  
20 agent, broker, premium finance company, or other person, is  
21 not liable for uncollected unearned premium of the insurer. A  
22 presumption exists that premium as shown on the books of the  
23 insurer is collected and the burden is upon the agent, broker,  
24 premium finance company, or other person to demonstrate by a  
25 preponderance of the evidence that the unearned premium was  
26 not actually collected.

27 Sec. 3. Section 508.15, Code 1991, is amended to read as  
28 follows:

29 508.15 VIOLATION BY FOREIGN COMPANY.

30 Companies organized and chartered by the laws of a foreign  
31 state or country, failing to file the evidence of investment  
32 and statement within the time fixed, or failing to timely file  
33 any financial statement required by rule of the commissioner  
34 of insurance, shall forfeit and pay ~~the sum of three~~ five  
35 hundred dollars, to be collected in an action in the name of

1 pursuant to those chapters. The notice shall inform the  
2 insurer that it is unlawful for the insurer to issue the form  
3 or use it in connection with any policy, if the commissioner  
4 finds upon review of the form, either of the following:

5 a. The benefits provided are unreasonable in relation to  
6 the premium charged.

7 b. The form contains a provision which is unjust, unfair,  
8 inequitable, misleading, deceptive, or which encourages  
9 misrepresentation of the policy.

10 2. In a notice provided under subsection 1, the  
11 commissioner shall specify the reasons for disapproval and  
12 state that a hearing will be granted within twenty days after  
13 request in writing by the insurer.

14 Sec. 8. NEW SECTION. 514A.15 WITHDRAWAL OF APPROVAL.

15 The commissioner may at any time, after opportunity for  
16 hearing, withdraw the commissioner's previously given approval  
17 of any such form on any of the grounds stated in section  
18 514A.14. It shall be unlawful for the insurer to issue a form  
19 or use the form in connection with any policy after the  
20 effective date of the withdrawal of approval. The notice of  
21 any hearing granted under this paragraph shall specify the  
22 matters to be considered at the hearing. Any decision  
23 affirming disapproval or directing withdrawal of approval  
24 under this section shall be in writing and shall specify the  
25 reasons for the disapproval or withdrawal of approval.

26 Sec. 9. Section 515.26, Code 1991, is amended to read as  
27 follows:

28 515.26 DIRECTORS.

29 The affairs of a company organized as provided by this  
30 chapter shall be managed by a number of directors, of not less  
31 than five nor more than twenty-one, all of whom, in case of a  
32 stock company, shall be stockholders, or, in case of a mutual  
33 company, be policyholders, or before the company shall effect  
34 insurance, be subscribers for stock or for insurance as the  
35 case may be. ~~When the paid-up capital for a stock company, or~~

1 the-subscriptions-for-insurance-for-a-mutual-company, shall  
2 have-been-obtained, the-incorporators-or-directors-in-charge  
3 of-the-business shall-give-at-least-ten-days' written notice  
4 by-mail-to-stockholders-or-subscribers, as-the-case-may-be, of  
5 a-meeting-of-the-stockholders-or-subscribers, for-the-election  
6 of-directors, and-such-meeting shall-be-held-within-thirty  
7 days-after-the-paid-up-capital-or-subscriptions-have-been  
8 secured.--The-directors-then-elected shall-continue-in-office  
9 until-their-successors-have-been-elected-and-qualified.

10 Sec. 10. Section 515.65, Code 1991, is amended to read as  
11 follows:

12 515.65 CERTIFICATE REFUSED -- ADMINISTRATIVE PENALTY.

13 The commissioner of insurance shall withhold the  
14 commissioner's certificate or permission of authority to do  
15 business from a company neglecting or failing to comply with  
16 this chapter. In addition, a company organized or authorized  
17 under this chapter which fails to file the annual statement  
18 referred to in section 515.63 in the time required shall pay  
19 and forfeit an administrative penalty in an amount of three  
20 one hundred dollars for each day the failure continues to be  
21 collected in the name of the state for ~~the use of the state~~  
22 general deposit in the insurance revolving fund. The  
23 company's right to transact further new business in this state  
24 shall immediately cease until the company has fully complied  
25 with this chapter.

26 Sec. 11. Section 515.77, Code 1991, is amended to read as  
27 follows:

28 515.77 CERTIFICATE TO FOREIGN COMPANY.

29 When any a foreign company has fully complied with the  
30 requirements of law and become entitled to do business, the  
31 commissioner of insurance shall issue to such the company a  
32 certificate of that fact, which certificate shall be renewed  
33 annually on the first day of May June, if the commissioner is  
34 satisfied that the capital, securities, and investments of  
35 such the company remain unimpaired, and the company has

1 complied with the provisions of law applicable thereto to the  
 2 company. ~~Provided, however~~ However, the commissioner shall  
 3 not grant or continue authority to transact insurance in this  
 4 state as to any an insurer the management of which is found by  
 5 the commissioner, after a hearing ~~held thereon~~ is provided, in  
 6 which the commissioner shall establish and consider any prior  
 7 criminal records or any other matters, to be untrustworthy, or  
 8 so lacking in insurance experience as to make the proposed  
 9 operation hazardous to the insurance-buying public; or which,  
 10 after a hearing ~~held thereon~~ is provided, the commissioner has  
 11 good reason to believe is affiliated directly or indirectly  
 12 through ownership, control, reinsurance transactions, or other  
 13 insurance or business relations, with any a person or persons  
 14 whose business operations are or have been marked, to the  
 15 detriment of policyholders or stockholders or investors or  
 16 creditors or of the public, by manipulation or dissipation of  
 17 assets, or manipulation of accounts, or of reinsurance, or by  
 18 similar injurious actions.

19 Sec. 12. Section 515.89, Code 1991, is amended to read as  
 20 follows:

21 515.89 REVOCATION OF CERTIFICATE OF FOREIGN COMPANY.

22 The commissioner of insurance ~~shall be authorized to~~ may  
 23 examine into the condition and affairs of any insurance  
 24 company, as provided for in this chapter, doing business in  
 25 this state, not organized under its laws, or cause such  
 26 examination to be made by some a person or persons appointed  
 27 by the commissioner having no interest in any insurance  
 28 company; and ~~when if it shall appear~~ appears to the  
 29 commissioner's satisfaction that the affairs of any such a  
 30 company are in an unsound condition or that a company has  
 31 failed to maintain the capital and surplus required by section  
 32 515.69, the commissioner shall revoke or suspend the  
 33 certificates granted in its behalf, ~~and cause a notification~~  
 34 ~~thereof to be published in some newspaper of general~~  
 35 ~~circulation, published at the seat of government, and no agent~~

1 or-agents-of-such-company-after-such-notice-shall-issue  
2 policies-or-renew-any-previously-issued.

3 Sec. 13. NEW SECTION. 515.89A SUSPENSION AND SUMMARY  
4 SUSPENSION.

5 As a result of a violation of Title XX by a foreign or  
6 domestic insurer, the commissioner may do one or more of the  
7 following:

8 1. After a hearing provided pursuant to chapter 17A, order  
9 the suspension of the license or authority to transact the  
10 business of insurance within the state.

11 2. Upon three days' notice, if the commissioner has reason  
12 to believe that there is imminent substantial risk to an  
13 insurer's solvency, order the insurer to appear before the  
14 commissioner and show cause why its license or authority to do  
15 insurance business within the state should not be suspended.  
16 At the hearing to show cause, the commissioner may summarily  
17 suspend the license or authority of the insurer to do business  
18 within the state.

19 3. Summarily order an insurer to cease and desist from a  
20 violation, anticipated violation, or suspected violation of  
21 Title XX, if a hearing is provided pursuant to chapter 17A  
22 within thirty days of the summary cease and desist order.

23 Sec. 14. Section 682.11, subsection 1, Code 1991, is  
24 amended to read as follows:

25 1. ~~Any-company-engaged-in-the-business-of-becoming-surety~~  
26 ~~upon-bonds~~ The commissioner of insurance shall annually file,  
27 with the clerk of the district court of any each county in  
28 ~~which-the-company-will-do-business,-a-certificate-from-the~~  
29 ~~commissioner-of-insurance-that-the-company-has-complied-with~~  
30 ~~the-law-and-is-authorized-to-do-business~~ a complete list of  
31 the corporate sureties to whom the commissioner has issued a  
32 current certificate of authority to transact the business of a  
33 surety in this state.

34 Sec. 15. Section 682.13, Code 1991, is amended to read as  
35 follows:

1 682.13 RECORD BY CLERK.

2 The clerk shall keep a book, properly indexed, in which  
3 shall be recorded all such certificates annual lists from the  
4 commissioner of insurance and subsequent notices of  
5 revocations.

6 Sec. 16. 1990 Iowa Acts, chapter 1234, section 76, is  
7 amended to read as follows:

8 SEC. 76. Sections 515A.1 through 515A.19, Code 1989, are  
9 repealed effective July 1, ~~1992~~ 1993.

10 Sec. 17. Section 515.23, Code 1991, is repealed.

11 Sec. 18. APPLICABILITY. Section 2 of this Act applies to  
12 any insurer subject to an order under section 507C.18 issued  
13 on or after the effective date of this Act.

14 EXPLANATION

15 Section 1 provides that the commissioner may redomesticate  
16 a foreign insurer which is the subject of a liquidation or  
17 other delinquency order in a reciprocal state for the purpose  
18 of selling the assets of the corporation. The proceeds, less  
19 court costs and the expenses of the commissioner, become part  
20 of the assets of the liquidation or other estate in the  
21 reciprocal state.

22 Section 2 provides that an agent, broker, premium finance  
23 company, or other person is not liable for uncollected  
24 unearned premium related to an insolvency.

25 Section 3 changes the fine for late filing of an annual  
26 statement by a foreign insurer from \$300 to \$500. It further  
27 directs the fine to be deposited into the insurance revolving  
28 fund. A continuing violation is subject to an additional  
29 penalty of \$100 per day.

30 Section 4 authorizes the commissioner to suspend an  
31 insurer's license as a penalty for violation of chapter 507B,  
32 510, or 513A. The section further authorizes summary and  
33 emergency suspensions, provided an opportunity for hearing is  
34 provided following the emergency or summary order.

35 Section 5 increases fees for certain filings made by

1 benevolent associations with the division of insurance. The  
2 fee for filing amendments to the association's articles of  
3 incorporation would increase from \$10 to \$20. The annual fee  
4 would be increased on a sliding scale depending upon the size  
5 of the association. The maximum annual fee under this section  
6 would be \$300.

7 Sections 6 through 8 adopt the model accident and health  
8 policy regulatory law to require filing and prior approval of  
9 individual accident and health policies. This section permits  
10 the commissioner to reject any policy or rider if the  
11 commissioner finds that the benefits provided are unreasonable  
12 in relation to the premium, or if it contains a provision  
13 which is unjust, unfair, inequitable, misleading, deceptive,  
14 or subject to misrepresentation.

15 Section 9 strikes language governing notice of a meeting of  
16 the shareholders of a stock insurer at which directors are  
17 elected.

18 Section 10 would change the fine for late filing of an  
19 annual statement by a domestic insurer from a flat \$300 to  
20 \$100 for each day the filing is late. It further directs the  
21 fine to be deposited into the insurance revolving fund.

22 Section 11 amends the annual renewal date of a foreign  
23 insurer's license from May 1, to June 1, to conform with  
24 changes to license renewal dates for other insurers enacted in  
25 1990.

26 Section 12 provides that a foreign insurer's license may be  
27 revoked or suspended for failing to maintain the statutorily  
28 required capital and surplus. It also eliminates the  
29 requirement of publishing notice of the revocation of a  
30 foreign insurer's license in a newspaper of general  
31 circulation.

32 Section 13 authorizes the commissioner to suspend an  
33 insurer's license as a penalty for violation of chapter 507B,  
34 510, or 513A. The section further authorizes emergency and  
35 summary suspensions, provided an opportunity for hearing is

1 provided following the emergency or summary order.

2 Sections 14 and 15 remove the requirement that a surety  
3 company file a copy of its certificate of authority from the  
4 commissioner of insurance with the clerk of the district court  
5 in each county in which the surety company will do business.  
6 In place of filing individual certificates of authority the  
7 commissioner will provide an annual list of admitted sureties  
8 to all district court clerks. The commissioner will continue  
9 to provide notice to district court clerks of any revocations  
10 of sureties' authority.

11 Section 16 amends the 1990 loss cost Act to extend until  
12 July 1, 1993, the repeal of the existing rate filing system  
13 for workers' compensation.

14 Section 17 repeals Iowa Code section 515.23. Both sections  
15 are grandfather clauses or transition provisions for insurers  
16 organized prior to 1924.

17 Section 18 provides an applicability date.

18 BACKGROUND STATEMENT

19 PROVIDED BY THE AGENCY

20 Section 1 expands the ability of the commissioner to sell  
21 the corporate shell of an insolvent insurer to include the  
22 corporate shell of a foreign insurer. The sale of an  
23 insolvent shell allows realization of the value of the  
24 insurer's licenses for the benefit of policyholders and other  
25 creditors and has been successful in practice with domestic  
26 insurers.

27 Section 3 amends the civil penalty for late filings of  
28 annual reports by foreign insurers from \$300, to \$500. An  
29 additional \$100 per day penalty applies to continuing  
30 violations. This will maintain the pressure to expedite a  
31 filing even if it is already late. The section also directs  
32 the penalty to the division's revolving fund to conform with  
33 the codification in 1990 of the deposit of all civil penalties  
34 collected by the division to the revolving fund.

35 Section 4 would authorize the commissioner to suspend an

1 insurer's license as a penalty for certain violations of the  
2 insurance code. Current language refers only to revocation,  
3 but actual practice has been to impose suspensions. The  
4 section further authorizes summary suspensions with certain  
5 procedural protections, provided an opportunity for hearing is  
6 provided. This section improves the commissioner's ability to  
7 respond to threatened violations and increases the flexibility  
8 of administrative responses to violations. Summary authority  
9 is held by other financial regulators, like the banking  
10 commissioner, and is particularly useful when the damage may  
11 be irreparable if an order must await a hearing. This allows  
12 the order to be issued and effective immediately, with a  
13 subsequent hearing to determine the appropriateness of the  
14 summary order, assuring constitutional due process.

15 Section 5 increases certain fees paid by benevolent  
16 associations to more accurately reflect the costs to the  
17 division of insurance to process the filings and adequately  
18 regulate benevolent associations. The current fee for annual  
19 filings of three dollars per association is particularly low  
20 in light of the professional staff time required to review the  
21 financials. The sliding scale for the annual filing fee is  
22 intended to minimize the impact of increased fees upon  
23 particularly small benevolent associations.

24 Sections 6 through 8 adopt the model accident and health  
25 policy regulatory law to require filing and prior approval of  
26 individual accident and health policies. This amendment  
27 permits the commissioner to reject any policy or rider if the  
28 commissioner finds that the benefits provided are unreasonable  
29 in relation to the premium, or if it contains a provision  
30 which is unjust, unfair, inequitable, misleading, deceptive,  
31 or subject to misrepresentation. This section clarifies the  
32 authority which the commissioner currently exercises over  
33 individual insurance policy forms.

34 Section 9 strikes language which governs notice of a  
35 shareholder meeting of a stock insurer at which directors are

1 elected, as an anachronism in light of the provisions of the  
2 new Iowa model business corporation Act, enacted in 1989  
3 covering the same subject. The later-enacted general  
4 corporation chapter governs the issue. Elimination of the  
5 conflicting prior language minimizes confusion and marginally  
6 shortens the code.

7 Section 10 amends the civil penalty for late filings of  
8 annual reports by domestic insurers from \$300 to \$100 for each  
9 additional day the filing is late. This will maintain the  
10 pressure to expedite a filing even if it is already late. The  
11 section also directs the penalty to the division's revolving  
12 fund to conform with the codification in 1990 of the deposit  
13 of all civil penalties collected by the division to the  
14 revolving fund.

15 Section 11 amends the license renewal date for foreign  
16 insurers from May 1 to June 1 to conform with changes to other  
17 insurer's license renewal dates enacted in 1990, primarily to  
18 provide for license renewal after the division's receipt of  
19 certain reports shared between insurance regulators.

20 Section 12 provides for the revocation or suspension of a  
21 foreign insurer's license for failing to maintain the  
22 statutory minimum capital and surplus. It also eliminates the  
23 requirement that notice of the revocation be published in a  
24 newspaper of general circulation. Publication has not been  
25 the procedure of the division for some time and agents are  
26 protected by the revoked insurer being required by the  
27 division to notify its agents of the revocation.

28 Section 13 would authorize the commissioner to suspend an  
29 insurer's license as a penalty for certain violations of the  
30 insurance code. Current language refers only to revocation,  
31 but actual practice has been to impose suspensions. The  
32 section further authorizes summary suspensions, provided an  
33 opportunity for hearing is provided. This section improves  
34 the commissioner's ability to respond to threatened violations  
35 and increases the flexibility of administrative responses to

1 violations. Summary authority is held by other financial  
2 regulators, like the banking commissioner, and is particularly  
3 useful when the damage may be irreparable if an order must  
4 await a hearing. This allows the order to be issued and  
5 effective immediately, with a subsequent hearing to determine  
6 the appropriateness of the summary order, assuring  
7 constitutional due process.

8 The division currently must copy and mail the previously  
9 reviewed, approved, filed, and issued certificate of authority  
10 to the surety company for later filing in each county in which  
11 a surety does business. In the insurance context this dual  
12 filing of certificates of authority is an unnecessary  
13 duplication. The current statute requires duplication of  
14 filing space and labor, and provides no increase in functional  
15 public access. Surety companies are a specialized class of  
16 insurers, and the division of insurance is the logical  
17 repository for such certificates as for all other insurance  
18 categories. Additionally the enforcement authority to revoke  
19 the certificate of authority or employ sanctions against a  
20 nonadmitted surety company remains with the commissioner and  
21 is not shared by or transferred to the county clerks, so no  
22 penalty provision requires the clerks to possess the actual  
23 certificate. The county clerks do refer to such surety  
24 filings in connection with restricting acceptance of  
25 additional bonds form agents or companies with outstanding  
26 bonds on which claims have not been paid. For this purpose it  
27 is the information itself which is important for the clerks to  
28 receive, and not the form of the information. Sections 14 and  
29 15 provide the same essential information in the form of an  
30 annual list of admitted surety companies delivered to all  
31 district court clerks. By eliminating the preparation of  
32 multiple certificates of authority for filing with various  
33 clerks of court, this bill would reduce the work load upon  
34 insurance division staff form a repetitive task, freeing time  
35 for more effective employment in the supervision of companies

1 and enforcement of Iowa insurance law.

2 Section 16 amends the 1990 insurance services office loss  
3 cost rate filing Act to extend until July 1, 1993, the repeal  
4 of the existing rate filing system for workers' compensation.  
5 When the ISO loss cost rate filing system was adopted for most  
6 lines of property and casualty insurance, workers'  
7 compensation was excluded in expectation of a workers'  
8 compensation specific loss cost model from the national  
9 association of insurance commissioners (NAIC). A model was  
10 expected perhaps as early as 1991, but it has now been  
11 delayed, probably until late 1992. Section 16 prevents the  
12 possibility of having no currently applicable rate filing and  
13 examination law granting the commissioner authority to  
14 supervise workers' compensation rates. The NAIC loss cost  
15 model will be offered for adoption as soon as it is available.

16 Section 17 repeals a transition clause or grandfather  
17 clause for insurers organized prior to 1924. All existing  
18 companies under chapter 515 that predate 1924 have elected to  
19 comply with the current requirements of chapter 515 and the  
20 transition provisions are now unnecessary, surplus verbiage in  
21 the code.

22 Section 18 provides for the applicability of the Act.

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HOUSE FILE 634

AN ACT

RELATING TO THE REGULATION OF THE BUSINESS OF INSURANCE, AMENDING CERTAIN FILING REQUIREMENTS, FILING FEES, AND THE DEPOSIT OF THOSE FEES BY THE INSURANCE DIVISION, PROVIDING FOR THE PRIOR REVIEW AND APPROVAL OF CERTAIN POLICY FORMS AND RATES PRIOR TO ISSUANCE OR DELIVERY, MAKING MODIFICATIONS TO CERTAIN MEETING AND LICENSE RENEWAL REQUIREMENTS, PROVIDING ADMINISTRATIVE PENALTIES, AND PROVIDING FOR THE ACT'S APPLICABILITY.

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

Section 1. NEW SECTION. 505.13A AVAILABILITY OF CERTAIN RATING INFORMATION.

1. The division shall provide to any person requesting publicly available information relating to the financial condition of any insurance company licensed to do business in the state, including, but not limited to, the following:
  - a. Current ratings issued by a private rating organization.
  - b. Information on how to obtain such information from various sources.
  - c. Information on the state insurance guaranty funds.
2. The provision of such information by the division shall not be the basis to impose liability upon the division or any employee of the division. Information provided under this section is not an endorsement or guaranty of any insurance company.

Sec. 2. NEW SECTION. 507C.20A REDOMESTICATION OF FOREIGN INSURER.

The commissioner may petition the court for an ancillary receivership or for an order redomesticating a foreign insurer which is the subject of a liquidation or other delinquency order in a reciprocal state. Only the corporate charter and rights to the licenses under such charter shall be redomesticated to Iowa. All claims against the foreign insurer shall remain a part of and be administered through the reciprocal state liquidation or other delinquency proceeding. Following notice as prescribed by the court and a hearing, the court may sell the corporation as an entity, together with any of its licenses, free and clear from the claims or interests of all claimants, creditors, policyholders, and stockholders of the corporation under liquidation or other delinquency proceedings, wherever located. The sale may be made on terms and conditions the court deems appropriate. The proceeds of the sale, less court costs, attorney fees, broker's fees, and the commissioner's expenses in effectuating the sale, shall become part of the assets of the liquidation or other estate in the reciprocal state.

Sec. 3. Section 507C.33, subsection 1, Code 1991, is amended by adding the following new paragraph after paragraph a and relettering existing paragraph b:

NEW PARAGRAPH. b. Notwithstanding paragraph "a", the agent, broker, premium finance company, or other person, is not liable for uncollected unearned premium of the insurer. A presumption exists that the premium as shown on the books of the insurer is collected and the burden is upon the agent, broker, premium finance company, or other person to demonstrate by a preponderance of the evidence that the unearned premium was not actually collected. For purposes of this paragraph, "unearned premium" means that portion of an insurance premium covering the unexpired term of the policy or the unexpired period of the policy period.

Sec. 4. Section 508.7, Code 1991, is amended to read as follows:

508.7 LOANS TO OFFICERS.

Except as permitted in section sections 508.8 and 508.8A, the capital or other funds shall not be loaned directly or indirectly to an officer, director, stockholder, or employee of the company or directly or indirectly to a relative of an officer or director of the company.

Sec. 5. NEW SECTION. 508.8A LOANS TO EMPLOYEES.

1. A life insurance company having a ratio of statutory surplus to admitted assets of at least four percent may make, acquire, and hold loans to employees, officers, and directors under the following terms and conditions:

a. The company may make a mortgage loan on real property owned by an employee of the company which is to serve as the employee's dwelling, provided the company is regularly and actively involved in making residential mortgage loans to the public.

b. The company may acquire a mortgage loan on real property owned by an employee of the company which is to serve as the employee's dwelling, provided the company acquiring such loan is regularly and actively involved in acquiring residential mortgage loans not involving employees from sources in the secondary market.

c. The company may acquire a mortgage loan on real property owned by an employee, officer, or director which is included in a portfolio of mortgages initiated by others and acquired by the life insurance company. The mortgage loans in any such acquired portfolio of mortgage loans must satisfy both of the following conditions:

(1) More than seventy-five percent of the dollar value of the mortgage loans must be for real property that is owned by persons who are not employees, officers, or directors of the company.

(2) More than seventy-five percent of the mortgage loans must be for real property that is owned by persons who are not employees, officers, or directors of the company.

d. The company may continue to hold a mortgage loan on real estate which is assumed by an employee, officer, or director if the mortgage was originally properly made or acquired by the life insurance company, provided that all terms and conditions of the mortgage loan remain unchanged and the mortgage loan is serviced in accordance with customary servicing practices of prudent lending institutions.

e. The company may continue to hold a mortgage on real estate owned by an officer or director which was properly made or acquired by the company before the officer or director became an officer or director of the company, provided that all terms and conditions of the mortgage loan remain unchanged and the mortgage loan is serviced in accordance with customary servicing practices of prudent lending institutions.

2. As used in this section, "employee" does not include officers or directors of a life insurance company.

Sec. 6. Section 508.15, Code 1991, is amended to read as follows:

508.15 VIOLATION BY FOREIGN COMPANY.

Companies organized and chartered by the laws of a foreign state or country, failing to file the evidence of investment and statement within the time fixed, or failing to timely file any financial statement required by rule of the commissioner of insurance, shall forfeit and pay the sum of three five hundred dollars, to be collected in an action in the name of the state and paid to the treasurer of state for deposit in the general fund of the state as provided in section 505.7, and their right to transact further new business in this state shall immediately cease until the requirements of this chapter have been fully complied with. The commissioner may give notice to a company which has failed to file within the time fixed that the company is in violation of this section and if

the company fails to file the evidence of investment and statement within ten days of the date of the notice the company shall forfeit and pay the additional sum of one hundred dollars for each day the failure continues, to be paid to the state treasurer for deposit in the general fund of the state as provided in section 505.7.

Sec. 7. NEW SECTION. 508.15A SUSPENSION AND SUMMARY SUSPENSION.

The commissioner may do one or more of the following:

1. For a violation of Title XX, after a hearing provided pursuant to chapter 17A, order the suspension of the license or authority to transact the business of insurance within the state.
2. Upon three days' notice, if the commissioner has reason to believe that there is imminent substantial risk to an insurer's solvency, order the insurer to appear before the commissioner and show cause why its license or authority to do insurance business within the state should not be suspended. At the hearing to show cause, the commissioner may summarily suspend the license or authority of the insurer to do business within the state.
3. Summarily order an insurer to cease and desist from a violation, anticipated violation, or suspected violation of chapter 507B, 510, or 513A, if a hearing is provided pursuant to chapter 17A within thirty days of the summary cease and desist order.

Sec. 8. Section 510.7, subsection 1, as enacted by 1991 Iowa Acts, Senate File 518, is amended to read as follows:

510.7 PENALTIES AND LIABILITIES.

1. If the commissioner finds, after a hearing conducted in accordance with chapter 17A, that any person has violated one or more provisions of this chapter, the commissioner may order do one or more of the following:
  - a. For each separate violation, order the imposition of an administrative penalty of not more than ten thousand dollars.

b. Revocation Order the revocation or suspension of the producer's license.

c. Reimbursement Bring a civil suit seeking reimbursement by the managing general agent of the insurer, the rehabilitator, or the liquidator of the insurer for any losses incurred by the insurer caused by a violation of this chapter committed by the managing general agent.

Sec. 9. Section 510A.4, subsection 1, as enacted by 1991 Iowa Acts, Senate File 518, is amended to read as follows:

1. a. If the commissioner has reason to believe that a controlling producer has committed or is committing an act which could be determined to be a violation, as defined in section 510A.2, the commissioner shall serve upon the controlling producer in the manner provided by chapter 17A, a statement of the charges and notice of a hearing to be conducted in accordance with chapter 17A.

~~b. At such hearing, the commissioner must establish that the controlling producer engaged in a violation, as defined in section 510A.2. The controlling producer shall have an opportunity to be heard and to present evidence rebutting the charges and to establish that the insolvency of the controlled insurer arose out of events not attributable to the violation. The decision, determination, or order of the commissioner is subject to judicial review pursuant to chapter 17A.~~

b. At such hearing the commissioner shall determine whether the controlling producer engaged in a violation, as defined in section 510A.2. The controlling producer shall have an opportunity to be heard and to present evidence rebutting the alleged violations. The final action of the commissioner is subject to judicial review pursuant to chapter 17A.

c. Upon the commissioner's finding of a violation by a controlling producer, the commissioner may bring a civil suit seeking reimbursement from the controlling producer as provided in paragraph "d". In the suit, the controlling

producer shall have the burden of establishing that the insolvency of the controlled insurer arose out of events not attributable to the violation.

e d. Upon a finding, pursuant to this section, that the controlling producer committed a violation and the controlling producer failed to establish that the violation did not substantially contribute to the insolvency, the controlling producer shall reimburse the state guaranty funds, created pursuant to chapter 515B for all payments made for losses, loss adjustment, and administrative expenses on the business placed by the producer in excess of gross earned premiums and investment income earned on premiums and loss reserves for such business.

d e. This section does not affect the right of the commissioner to impose any other penalties provided for under Title XX.

Sec. 10. Section 512A.5, Code 1991, is amended to read as follows:

512A.5 FEES TO COMMISSIONER.

~~There~~ The following fees shall be paid to the commissioner for services required under the provisions of this chapter the following fees, which shall be accounted for by the commissioner in the same manner as other fees received in the discharge of the duties of the office:

1. For filing and examination of amendments to the articles of incorporation for organization in this state and the accompanying general plan of operation of any benevolent association, and the issuing of the permission to do business, ten twenty dollars.

2. For filing an annual statement of a benevolent association, and issuing the renewal of the permission required by law to authorize continuance in business, three twenty-five dollars per existing unit, not to exceed three hundred dollars in the aggregate.

Sec. 11. NEW SECTION. 513A.1 PURPOSE.

The purpose of this chapter is to give the commissioner jurisdiction over third-party payors of health care benefits; to indicate how a third-party payor of health care benefits may show the jurisdiction to which the third-party payor is subject, to allow for examinations by the commissioner if the third-party payor of health care benefits is unable to establish that a third-party payor is subject to another jurisdiction, to make a third-party payor of health care benefits subject to the laws of this state if the third-party payor cannot show that it is subject to another jurisdiction, and to disclose to purchasers of such health care benefits whether or not the plans are fully insured.

Sec. 12. NEW SECTION. 513A.2 AUTHORITY AND JURISDICTION OF COMMISSIONER.

Except as provided in this chapter, a third-party payor providing coverage in this state for medical, surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric expenses, whether the coverage is by direct payment, reimbursement, or otherwise, is presumed to be subject to the jurisdiction of the commissioner of insurance, unless the person shows that while providing such services the person is subject to the jurisdiction of another agency of the state or the federal government.

Sec. 13. NEW SECTION. 513A.3 HOW TO SHOW JURISDICTION.

A third-party payor may establish that the third-party payor is subject to the jurisdiction of another agency of the state, any subdivision of the state, or the federal government, by providing to the insurance commissioner the appropriate certificate, license, or other document issued by the agency which permits or qualifies the third-party payor to provide those services.

Sec. 14. NEW SECTION. 513A.4 EXAMINATION.

A third-party payor unable to establish under section 513A.3 that the third-party payor is subject to the

jurisdiction of another agency of the state, any subdivision of the state, or the federal government, shall submit to an examination by the insurance commissioner to determine the organization and solvency of the third-party payor or the entity, and to determine whether or not the third-party payor complies with the applicable provisions of state law.

Sec. 15. NEW SECTION. 513A.5 SUBJECT TO STATE LAWS.

A third-party payor unable to establish that the third-party payor is subject to the jurisdiction of another agency of the state, any subdivision of the state, or the federal government, is subject to all appropriate provisions of Title XX regarding the conduct of the business of the third-party payor.

Sec. 16. NEW SECTION. 513A.6 DISCLOSURE.

A production agency or administrator which advertises, sells, transacts, or administers the coverage in this state as defined in section 513A.2 and which is required to submit to an examination by the insurance commissioner under section 513A.4, shall, if the coverage is not fully insured or otherwise fully covered by an admitted life or disability insurer, nonprofit hospital service plan, or nonprofit health care plan, advise every purchaser, prospective purchaser, and covered person of the lack of insurance or other coverage.

An administrator which advertises or administers the coverage in this state as defined in section 513A.2 and which is required to submit to an examination by the insurance commissioner under section 513A.4, shall advise any production agency of the elements of the coverage, including the amount of stop-loss insurance in effect.

Sec. 17. NEW SECTION. 514A.13 FILING REQUIREMENT -- PRIOR APPROVAL.

A policy of insurance against loss or expense from sickness or from the bodily injury or death by accident of the insured shall not be issued or delivered to any person in this state and an application, rider, or endorsement shall not be used in

connection with the policy until a copy of the policy form and of the classification of risks and the premium rates, or, in the case of cooperatives or assessment companies the estimated costs pertaining to the policy have been filed with and approved by the commissioner.

A filing is deemed to be approved unless disapproved by the commissioner within thirty days of receipt of the filing by the commissioner.

Sec. 18. NEW SECTION. 514A.14 DISAPPROVAL OF FILING.

1. The commissioner shall notify an insurer which has filed a policy form pursuant to section 514A.13 that does not comply with this chapter or chapter 514D, or rules adopted pursuant to those chapters. The notice shall inform the insurer that it is unlawful for the insurer to issue the form or use it in connection with any policy, if the commissioner finds upon review of the form, either of the following:

- a. The benefits provided are unreasonable in relation to the premium charged.
- b. The form contains a provision which is unjust, unfair, inequitable, misleading, deceptive, or which encourages misrepresentation of the policy.

2. In a notice provided under subsection 1, the commissioner shall specify the reasons for disapproval and state that a hearing will be granted within twenty days after request in writing by the insurer.

Sec. 19. NEW SECTION. 514A.15 WITHDRAWAL OF APPROVAL.

The commissioner may at any time, after opportunity for hearing, withdraw the commissioner's previously given approval of any such form on any of the grounds stated in section 514A.14. It shall be unlawful for the insurer to issue a form or use the form in connection with any policy after the effective date of the withdrawal of approval. The notice of any hearing granted under this paragraph shall specify the matters to be considered at the hearing. Any decision affirming disapproval or directing withdrawal of approval

under this section shall be in writing and shall specify the reasons for the disapproval or withdrawal of approval.

Sec. 20. NEW SECTION. 514C.6 UNIFORMITY OF TREATMENT -- EMPLOYER WELFARE BENEFIT PLANS.

1. A statutory provision to mandate a health care coverage or service, or to mandate the offering of a health care coverage or service, applies to all state-regulated third-party payors and to employee welfare benefit plans described in 29 U.S.C. § 1001 et seq. However, if an employee welfare benefit plan subject to federal regulation is not subject to a substantially similar requirement, the statutory provision does not apply to a state-regulated third-party payor until the employee welfare benefit plans are subject to a substantially similar standard under federal regulations as determined by the commissioner.

2. For purposes of this section unless the context otherwise requires, a third-party payor means:

- a. An accident and sickness insurer, subject to chapter 509 or 514A.
- b. A nonprofit health service corporation, subject to chapter 514.
- c. A health maintenance organization, subject to chapter 514B.
- d. Any other entity engaged in the business of insurance, risk transfer, or risk retention, which is subject to the jurisdiction of the commissioner.

Sec. 21. Section 514G.7, subsection 2, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Be issued to an individual without obtaining one or more of the following:

- (1) A report of a physical examination.
- (2) An assessment of functional capacity.
- (3) An attending physician's statement.
- (4) Copies of medical records.

Sec. 22. Section 514G.7, subsection 4, paragraph a, subparagraph (1), Code 1991, is amended by adding the following new subparagraph subdivisions:

NEW SUBPARAGRAPH SUBDIVISION. (a) Effective July 1, 1991, any holder of a long-term care insurance policy, which is not noncancelable or guaranteed renewable, was issued before July 1, 1989, and conditions eligibility for benefits on a requirement of prior hospitalization, shall, unless it has previously been offered by the insurer, be offered by the insurer a rider or endorsement that waives the requirement of prior hospitalization. If the rider or endorsement results in a concomitant increase in premium during the policy term, then it must be agreed to in writing and signed by the insured to become effective.

NEW SUBPARAGRAPH SUBDIVISION. (b) The rider or endorsement under subparagraph subdivision (a) shall be subject to the insurer's underwriting guidelines as proof of insurability at the time of application for the rider or endorsement.

NEW SUBPARAGRAPH SUBDIVISION. (c) Effective July 1, 1991, any holder of a noncancelable or guaranteed renewable long-term care insurance policy issued before July 1, 1989, which conditions eligibility for benefits on a requirement of prior hospitalization, shall, unless the holder has previously been notified by the insurer, be notified by the insurer in writing prior to or at the time of delivery of the next premium statement of the existence of the condition and that new policies issued by any insurance carrier may not condition benefits on a requirement of prior hospitalization. The insurer shall not solicit the replacement of the noncancelable or guaranteed renewable policy at the same time as the delivery of notice under this subparagraph subdivision.

Sec. 23. Section 514G.7, subsection 4, paragraph d, Code 1991, is amended to read as follows:

d. A long-term care insurance policy which conditions shall not condition eligibility for noninstitutional benefits on the prior receipt of institutional care ~~shall not require a prior institutional stay of more than thirty days for which benefits are paid.~~

Sec. 24. NEW SECTION. 514G.10 LONG-TERM CARE CONSUMER GUIDE.

An insurer offering a long-term care insurance policy to any person shall provide to the applicant the current long-term care insurance consumer guide prescribed by the insurance division of the department of commerce. The commissioner of insurance may by reference adopt or permit the use of the long-term care insurance consumer guide developed by the national association of insurance commissioners, the blue cross and blue shield association, or the health insurance association of America. Delivery of the long-term care insurance consumer guide shall be made if a policy is advertised, solicited, or issued as a policy as defined in this chapter, or if it is subject to this chapter, regardless of the label applied by the insurer. Except in the case of direct response insurers, delivery of the long-term care insurance consumer guide shall be made to the applicant at the time of application, and acknowledgement of receipt of the long-term care insurance consumer guide shall be obtained by the insurer. A direct response insurer shall deliver the long-term care insurance consumer guide to the applicant at the time the policy is delivered. An insurance company required to distribute the guide shall reimburse the state for all costs associated with the guide.

Sec. 25. Section 515.26, Code 1991, is amended to read as follows:

515.26 DIRECTORS.

The affairs of a company organized as provided by this chapter shall be managed by a number of directors, of not less than five nor more than twenty-one, all of whom, in case of a

stock company, shall be stockholders, or, in case of a mutual company, be policyholders, or before the company shall effect insurance, be subscribers for stock or for insurance as the case may be. ~~When the paid-up capital for a stock company, or the subscriptions for insurance for a mutual company, shall have been obtained, the incorporators or directors in charge of the business shall give at least ten days' written notice by mail to stockholders or subscribers, as the case may be, of a meeting of the stockholders or subscribers, for the election of directors, and such meeting shall be held within thirty days after the paid-up capital or subscriptions have been secured. The directors then elected shall continue in office until their successors have been elected and qualified.~~

Sec. 26. Section 515.65, Code 1991, is amended to read as follows:

515.65 CERTIFICATE REFUSED -- ADMINISTRATIVE PENALTY.

The commissioner of insurance shall withhold the commissioner's certificate or permission of authority to do business from a company neglecting or failing to comply with this chapter. In addition, a company organized or authorized under this chapter which fails to file the annual statement referred to in section 515.63 in the time required shall pay and forfeit an administrative penalty in an amount of three five hundred dollars to be collected in the name of the state for the use of the state deposit in the general fund of the state as provided in section 505.7. The company's right to transact further new business in this state shall immediately cease until the company has fully complied with this chapter. The commissioner may give notice to a company which has failed to file within the time required that the company is in violation of this section and if the company fails to file the evidence of investment and statement within ten days of the date of the notice the company shall forfeit and pay the additional sum of one hundred dollars for each day the failure continues, to be paid to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

Sec. 27. Section 515.77, Code 1991, is amended to read as follows:

515.77 CERTIFICATE TO FOREIGN COMPANY.

When any a foreign company has fully complied with the requirements of law and become entitled to do business, the commissioner of insurance shall issue to such the company a certificate of that fact, which certificate shall be renewed annually on the first day of May June, if the commissioner is satisfied that the capital, securities, and investments of such the company remain unimpaired, and the company has complied with the provisions of law applicable thereto to the company. ~~Provided; however~~ However, the commissioner shall not grant or continue authority to transact insurance in this state as to any an insurer the management of which is found by the commissioner, after a hearing held thereon is provided, in which the commissioner shall establish and consider any prior criminal records or any other matters, to be untrustworthy, or so lacking in insurance experience as to make the proposed operation hazardous to the insurance-buying public; or which, after a hearing held thereon is provided, the commissioner has good reason to believe is affiliated directly or indirectly through ownership, control, reinsurance transactions, or other insurance or business relations, with any a person or-persons whose business operations are or have been marked, to the detriment of policyholders or stockholders or investors or creditors or of the public, by manipulation or dissipation of assets, or manipulation of accounts, or of reinsurance, or by similar injurious actions.

Sec. 28. Section 515.89, Code 1991, is amended to read as follows:

515.89 REVOCATION OF CERTIFICATE OF FOREIGN COMPANY.

The commissioner of insurance shall-be-authorized-to may examine into the condition and affairs of any insurance company, as provided for in this chapter, doing business in this state, not organized under its laws, or cause such

examination to be made by some a person or-persons appointed by the commissioner having no interest in any insurance company; and when if it shall-appear appears to the commissioner's satisfaction that the affairs of any-such a company are in an unsound condition or that a company has failed to maintain the capital and surplus required by section 515.69, the commissioner shall revoke or suspend the certificates granted in its behalf, and-cause-a-notification thereof-to-be-published-in-some-newspaper-of-general circulation, published-at-the-seat-of-government, and-no-agent or-agents-of-such-company-after-such-notice-shall-issue policies-or-renew-any-previously-issued.

Sec. 29. NEW SECTION. 515.89A SUSPENSION AND SUMMARY SUSPENSION.

The commissioner may do one or more of the following:

1. For a violation of Title XX, after a hearing provided pursuant to chapter 17A, order the suspension of the license or authority to transact the business of insurance within the state.

2. Upon three days' notice, if the commissioner has reason to believe that there is imminent substantial risk to an insurer's solvency, order the insurer to appear before the commissioner and show cause why its license or authority to do insurance business within the state should not be suspended. At the hearing to show cause, the commissioner may summarily suspend the license or authority of the insurer to do business within the state.

3. Summarily order an insurer to cease and desist from a violation, anticipated violation, or suspected violation of chapter 507B, 510, or 513A, if a hearing is provided pursuant to chapter 17A within thirty days of the summary cease and desist order.

Sec. 30. Section 516A.2, Code 1991, is amended to read as follows:

516A.2 CONSTRUCTION -- MINIMUM COVERAGE.

1. Except with respect to a policy containing both underinsured motor vehicle coverage and uninsured or hit-and-run motor vehicle coverage, nothing contained in this chapter shall be construed as requiring forms of coverage provided pursuant hereto, whether alone or in combination with similar coverage afforded under other automobile liability or motor vehicle liability policies, to afford limits in excess of those that would be afforded had the insured thereunder been involved in an accident with a motorist who was insured under a policy of liability insurance with the minimum limits for bodily injury or death prescribed in subsection 10 of section 321A.1. Such forms of coverage may include terms, exclusions, limitations, conditions, and offsets which are designed to avoid duplication of insurance or other benefits.

To the extent that Hernandez v. Farmers Insurance Company, 460 N.W.2d 842 (Iowa 1990), provided for interpolicy stacking of uninsured or underinsured coverages in contravention of specific contract or policy language, the general assembly declares such decision abrogated and declares that the enforcement of the antistacking provisions contained in a motor vehicle insurance policy does not frustrate the protection given to an insured under section 516A.1.

2. Pursuant to chapter 17A, the commissioner of insurance shall, by January 1, 1992, adopt rules to assure the availability, within the state, of motor vehicle insurance policies, riders, endorsements, or other similar forms of coverage, the terms of which shall provide for the stacking of uninsured and underinsured coverages with any similar coverage which may be available to an insured.

3. It is the intent of the general assembly that when more than one motor vehicle insurance policy is purchased by or on behalf of an injured insured and which provides uninsured, underinsured, or hit-and-run motor vehicle coverage to an insured injured in an accident, the injured insured is entitled to recover up to an amount equal to the highest

single limit for uninsured, underinsured, or hit-and-run motor vehicle coverage under any one of the above described motor vehicle insurance policies insuring the injured person which amount shall be paid by the insurers according to any priority of coverage provisions contained in the policies insuring the injured person.

Sec. 31. Section 521C.11, subsection 1, paragraph c, as enacted by 1991 Iowa Acts, Senate File 518, is amended to read as follows:

c. If a violation was committed by the reinsurance intermediary, a civil action brought by the commissioner seeking restitution by the reinsurance intermediary to the insurer, reinsurer, rehabilitator, or liquidator of the insurer or reinsurer for the net losses incurred by the insurer or reinsurer attributable to the violation.

Sec. 32. 1991 Iowa Acts, Senate File 518, section 63, is amended to read as follows:

SEC. 33. Sections 10 through 13, the producer controlled property and casualty insurer Act, division II of this Act, take effect July 1, 1991. An insurer or producer subject to division II of this Act shall not continue, renew, or initiate a contract, or place business on or after July 1, 1991, unless in compliance with division II of this Act, regardless of the date on which the original contract was entered into between the parties. The commissioner shall have the authority to suspend enforcement of sections 10 through 13 of this Act until the earlier of July 1, 1992, or affirmative action of the national association of insurance commissioners to require enforcement of the Act as a condition of accreditation. If the national association of insurance commissioners rescinds the model producer controlled property and casualty insurer Act or materially amends the Act, the commissioner shall submit the repeal or revisions in a division prefiled bill for consideration by the general assembly.

Sec. 33. Section 682.11, subsection 1, Code 1991, is amended to read as follows:

1. ~~Any company engaged in the business of becoming surety upon bonds~~ The commissioner of insurance shall annually file, with the clerk of the district court of any each county in which the company will do business, a certificate from the commissioner of insurance that the company has complied with the law and is authorized to do business a complete list of the corporate sureties to whom the commissioner has issued a current certificate of authority to transact the business of a surety in this state.

Sec. 34. Section 682.13, Code 1991, is amended to read as follows:

682.13 RECORD BY CLERK.

The clerk shall keep a book, properly indexed, in which shall be recorded all such certificates annual lists from the commissioner of insurance and subsequent notices of revocations.

Sec. 35. 1990 Iowa Acts, chapter 1234, section 76, is amended to read as follows:

SEC. 76. Sections 515A.1 through 515A.19, Code 1989, are repealed effective July 1, 1992 1993.

Sec. 36. Section 515.23, Code 1991, is repealed.

Sec. 37. APPLICABILITY. Section J of this Act applies to any insurer subject to an order under section 507C.18 issued on or after the effective date of this Act.

Sec. 38. Section 1 of this Act is effective upon the enactment by the Seventy-fourth General Assembly of an appropriation of \$10,000 to the insurance division of the department of commerce for the implementation of that section.

Sec. 39. Section 30 of this Act applies to all causes of action accruing on or after July 1, 1991, and to those accruing before July 1, 1991, which are filed on or after September 15, 1991.

Sec. 40. The Code editor shall remove all references to chapter 513A in this Act and make other related conforming changes, if chapter 513A in this Act is not enacted by the general assembly during the 1991 regular session.

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ROBERT C. ARNOULD  
Speaker of the House

\_\_\_\_\_  
JOE J. WELSH  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 634, Seventy-fourth General Assembly.

\_\_\_\_\_  
JOSEPH O'HERN  
Chief Clerk of the House

Approved May 28, 1991

\_\_\_\_\_  
TERRY E. BRANSTAD  
Governor